
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 35

**The Social Security (Incapacity Benefit)
(Transitional) Regulations (Northern Ireland) 1995**

PART III

**PROVISIONS FOR THE TRANSITION TO
INCAPACITY BENEFIT FROM SICKNESS BENEFIT**

Transitional awards of short-term incapacity benefit

11.—(1) Where a person is entitled to sickness benefit immediately before the appointed day, that award of sickness benefit shall have effect on or after the appointed day as if it were an award of short-term incapacity benefit; and such an award shall be referred to in these regulations as a transitional award of short-term incapacity benefit.

(2) A person shall cease to be entitled to a transitional award of short-term incapacity benefit under paragraph (1)—

- (a) when the period of incapacity for work comes to an end;
- (b) after 364 days of entitlement to short-term incapacity benefit in a period of incapacity for work; or
- (c) if he was entitled to sickness benefit under section 102(1) (sickness benefit in respect of industrial injury) immediately before the appointed day, when the incapacity for work is no longer as a result of a personal injury of the kind mentioned in section 94(1) (right to industrial injuries benefit),

whichever first occurs.

(3) Subject to regulations 29 to 32, a person's entitlements a transitional award of short-term incapacity benefit shall be subject to him being incapable of work as determined in accordance with Part XIIA of the Contributions and Benefits Act(2) (incapacity for work).

(4) Where a person ceases by virtue of paragraph (2)(b) to be entitled to a transitional award of short-term incapacity benefit he is, subject to him being incapable of work as determined in accordance with Part XIIA of the Contributions and Benefits Act, entitled to long-term incapacity benefit in the same period of incapacity for work on which he is under pensionable age.

Special provisions for persons entitled to short-term incapacity benefit on termination of employment after a period of entitlement to disability working allowance

12. Where a person who was entitled to a transitional award of short-term incapacity benefit becomes entitled to the higher rate of short-term incapacity benefit by virtue of section 30C(5)(3) (days and periods of incapacity for Work) and the rate of that benefit is less than the rate at which the

(1) Section 102 is repealed by Schedule 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(2) Part XIIA is inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(3) Section 30C is inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

transitional award of incapacity benefit would have been payable had he not ceased to be entitled to that award (incapacity benefit shall be payable at the latter rate until—

- (a) in the case where transitional award included an increase under regulation 15(1), the conditions in regulation 15(3) are no longer satisfied; or
- (b) in any other case, the rate of short-term incapacity benefit under section 30B (rate) together with any increase under section 86A(4) (increase for adult dependents) equals or exceeds that rate.

Special provisions for persons entitled to short-term incapacity benefit on termination of a period engaged in training for work

13.—(1) Where a person who was entitled to a transitional award of short-term incapacity benefit becomes entitled to the higher rate of short-term incapacity benefit by virtue of section 30C(6) and the rate of that benefit is less than the rate at which the transitional award of incapacity benefit would have been payable had he not ceased to be entitled to that award, incapacity benefit shall be payable at the latter rate until—

- (a) in the case where the transitional award included an increase under regulation 15(1), the conditions in regulation 15(3) are no longer satisfied; or
- (b) in any other case, the rate of short-term incapacity benefit under section 30B together with any increase under section 86A equals or exceeds that rate.

(2) Where a person—

- (a) at any time in a period of not more than 57 days immediately before the appointed day or at any time in a period of not more than 57 days immediately after the appointed day, attends a training course of the type specified in regulation 7(1)(f) of the Unemployment, Sickness and Invalidity Benefit Regulations (days when a person is attending a training course not to be treated as days of incapacity for work);
- (b) had been entitled to sickness benefit in a period of interruption of employment within a period not exceeding 57 days prior to the first day of attendance on the training course;
- (c) within a period not exceeding 57 days beginning on the day after the last day of attendance on the training course becomes entitled to incapacity benefit by virtue of section 30A (entitlement), 40 or 41 (long-term incapacity benefit for widows or widowers)(5); and
- (d) the rate of short-term incapacity benefit is less than the rate at which a transitional award of short-term incapacity benefit would have been payable had the period of entitlement to sickness benefit referred to in sub-paragraph (b) been running at the appointed day,

incapacity benefit shall be payable at the latter rate until, in the case where the transitional award would have included an increase under regulation 15(1), the conditions in regulation 15(3) are no longer satisfied, and in any other case, the rate of short-term incapacity benefit under section 30B together with any increase under section 86A equals or exceeds that rate.

(3) For the purpose of paragraph (2), the days referred to as days of attendance on a training course in that paragraph shall be treated as days of incapacity for work.

(4) Section 86A is inserted by Article 4(4) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(5) Section 30A is inserted by Article 3(1) of, and sections 40 and 41 are substituted by paragraphs 8 and 9 respectively of Schedule 1 to, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

Contribution conditions for short-term incapacity benefit in respect of an industrial injury

14.—(1) Where a person was entitled to sickness benefit under section 102 immediately before the appointed day, the contribution conditions as specified in paragraph 2 of Part I of Schedule 3(6) shall be taken to be satisfied—

- (a) for the purposes of entitlement to a transitional award of the higher rate of short-term incapacity benefit in respect of that industrial injury;
- (b) for the purposes of entitlement to the lower or higher rate of short-term incapacity benefit where—
 - (i) he ceased to be entitled to a transitional award as a consequence of regulation 11(2)(c), and
 - (ii) no more than 57 days after he ceased to be so entitled, he became incapable of work as a result of the personal injury in respect of which the transitional award referred to in head (i) was payable;
- (c) for the purposes of entitlement to short-term incapacity benefit by virtue of section 30C(5) or (6) where he becomes incapable of work as a result of the personal injury in respect of which a transitional award of incapacity benefit was made.

(2) Where a person is entitled to incapacity benefit by virtue of paragraph (1)(b), the rate at which incapacity benefit is payable shall be the rate at which a transitional award of short-term incapacity benefit would have been payable had he been entitled to a transitional award of short-term incapacity benefit; and these regulations shall apply as if the award of incapacity benefit were a transitional award of short-term incapacity benefit.

Increase in rate of a transitional award of short-term incapacity benefit for adult dependents

15.—(1) Subject to paragraph (7), where at any time during a period of 56 days immediately before the appointed day—

- (a) an increase of sickness benefit under Part IV of the Contributions and Benefits Act (increases for dependents) was, payable to a person for a spouse who was an adult dependent; and
- (b) on the appointed day he becomes entitled to a transitional award of short-term incapacity benefit under regulation 11,

an amount equal to that increase shall be payable.

(2) Where in the tax year 1994-1995, the amounts specified in column (3) of paragraph 1A of Part IV, of Schedule 4(7) are increased by an order under section 132 of the Administration Act(8), the increase payable under paragraph (1) shall likewise be increased by an equal amount; and thereafter an increase payable under paragraph (1) shall be an amount equal to the appropriate amount specified in column (3) of paragraph 1A of Part IV of Schedule 4.

(3) Subject to the following provisions, an increase under paragraph (1) shall continue to be payable provided that—

- (a) the spouse is residing with the beneficiary; or
- (b) the beneficiary is contributing to the maintenance of his spouse at the weekly rate equal to or greater than the rate of the increase.

(6) Paragraph 2 is amended by Articles 3(2) and 5(2) of, and paragraph 38(2) of Schedule 1 to, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(7) Paragraph 1A is inserted by Article 4(5) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(8) Section 132 is amended by paragraph 41 of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49)

(4) The provisions in Part I (general) and Part III (adults), except for regulation 9(1)(a) and (b) of Part 111, of the Increases for Dependants Regulations shall apply to an increase under paragraph (1) as they apply to an increase made by virtue of section 86A.

(5) A person shall cease to be entitled to an increase under paragraph (1) when no increase of sickness benefit or short-term incapacity benefit has been paid or payable for a period of at least 57 continuous days.

(6) In calculating the period referred to in paragraph (5) the days of entitlement to disability working allowance or the days of attendance on a training course of a type referred to in section 30C(6) or regulation 13(2) shall not be taken into account.

(7) Where a person is entitled to an increase under paragraph (1) and section 30B(4) applies to him, the amount of the increase shall be equal to the rate specified in column (3) of paragraph 2 of Part IV of Schedule 4(9).

(8) In a case where paragraph (7) applied, the increase shall continue to be payable if, when the transitional award of short-term incapacity benefit is terminated, he immediately becomes entitled to long-term incapacity benefit under section 30A(5) and he continues to satisfy the conditions in section 30B(4)(a) and (b); and this regulation shall continue to apply to that increase.

(9) Where a person becomes entitled to an increase under paragraph (1), he shall not be entitled to an adult dependency increase to which he would, but for this provision, be entitled under the Increases for Dependants Regulations.

Transitional provision for the treatment of earnings in respect of increases of short-term incapacity benefit for dependents

16. Where—

- (a) on or after the appointed day no increase of short-term Incapacity Benefit is payable for—
 - (i) an adult dependent as a consequence of regulation 5 (attribution of earnings) or regulation 10 (earnings rules for increases for adult dependents) of the Increases for Dependants Regulations, or
 - (ii) a child dependent as a consequence of section 80(3) and (4)(10) and regulation 5 of the Increases for Dependants Regulations; and
- (b) the earnings which caused there to be no payment of an increase in paragraph (a) had already resulted in no payment of an increase before the appointed day,

a payment of an increase shall be made as if the provisions in the Contributions and Benefits Act in force immediately before the appointed day continued to have the effect in respect of those earnings and as if the Order and regulations 5 and 10 of the Increase for Dependants Regulations had not come into operation.

(9) Paragraph 2 is substituted by Article 4(5) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994
 (10) See Article 8 of [S.R. 1994 No. 74](#)