
STATUTORY INSTRUMENTS

1994 No. 2139

The Income-related Benefits Schemes (Miscellaneous Amendments) (No.5) Regulations 1994

Amendment of regulation 19 of the Income Support Regulations

24.—(1) Regulation 19 of the Income Support Regulations (applicable amounts for persons in residential care homes and nursing homes)⁽¹⁾ shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1ZB)(a) at the end there shall be added the following new head—

“(iii) was not in that week entitled to income support, but was residing with his partner as a member of a couple on the relevant date where the partner was a person to whom head (i) or (ii) applies; or”.

(3) In paragraph (1ZE) at the beginning there shall be inserted the words “In England and Wales,”.

(4) After paragraph (1ZE) there shall be inserted the following new paragraph—

“(1ZEA) Where, in Scotland, a person would have had a preserved right by virtue of paragraph (1ZB)(a)(ii) or (1ZC) but for the provisions of paragraph (1ZE) as it originally had effect, that person shall be treated from the date this regulation has effect in respect of him as though the first two paragraphs referred to continued to have effect in his case.”.

(5) after paragraph (1ZM) the following paragraphs shall be added—

“(1ZN) Where a person—

- (a) on 31st March 1993 was a member of a couple and his partner acquired a preserved right under paragraph (1ZB)(a)(i);
- (b) before 3rd October 1994 ceased to be a member of a couple; and
- (c) between 31st March 1993 and 3rd October 1994 has been living in a residential care home or a nursing home,

he shall be treated for the purposes of this regulation as having a preserved right from 3rd October 1994.

(1ZO) Subject to paragraph (1ZG), where a person would have been living in a residential care home or nursing home on 31st March 1993 but for an absence which, including that day, does not exceed—

- (a) where the person was before his absence a temporary resident in the home, 4 weeks; or
- (b) where the person was before his absence a permanent resident in the home, 13 weeks; or
- (c) where throughout the period of absence the person was a patient, 52 weeks,

(1) Paragraph (1ZA) was inserted in regulation 19 by S.I.1991/1033 regulation 2, paragraphs (1ZB) to (1ZJ) were inserted by S.I. 1992/3147 regulation 3(1)(b), relevant amending instrument S.I. 1993/2119, paragraphs (1ZK) and (1ZL) were inserted by S.I. 1993/2119 regulation 9 and paragraph (1ZM) was inserted by S.I. 1994/527 regulation 2.

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and the provisions of paragraph (1ZN) would have applied to him but for that absence, he shall be treated as having a preserved right from 3rd October 1994.

(1ZP) Where a person is treated as having a preserved right in accordance with paragraphs (1ZK), (1ZN) or (1ZO) above, paragraph (1ZG) shall apply to that person as if he had acquired a preserved right under paragraph (1ZB).

(1ZQ) Where a person to whom paragraph (1ZO) refers is absent from a residential care home or nursing home in the period from 31st March 1993 to 3rd October 1994 for a period which exceeds a period to which paragraph (1ZO) refers and which is appropriate in his case, he shall cease to be treated as having a preserved right.”.