
STATUTORY INSTRUMENTS

1995 No. 310

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

PART IV

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

Rate of long-term incapacity benefit in transitional cases

18.—(1) Subject to paragraph (7), in transitional cases, the weekly rate of long-term incapacity benefit shall consist of—

- (a) a basic rate of an amount equal to the rate of long-term incapacity benefit specified in Schedule 4, Part I, paragraph 2A, of the 1992 Act^{M1};
- (b) where an additional pension was paid or payable with invalidity benefit immediately before the appointed day, an additional rate of an amount equal to the rate paid or payable as an additional pension with invalidity benefit immediately before the appointed day; and that amount shall be referred to as the additional rate;
- (c) where an invalidity allowance was payable [^{F1}pursuant to subsection (3) of section 34] of the 1992 Act immediately before the appointed day, an amount equal to the appropriate rate specified in paragraph (2); and that amount shall be referred to as a transitional invalidity allowance.

(2) The appropriate rate referred to in paragraph (1)(c) is—

- (a) where the higher rate of invalidity allowance was payable immediately before the appointed day, [^{F2}£26.60]
- (b) where the middle rate of invalidity allowance was payable immediately before the appointed day, [^{F3}£17.10]
- (c) where the lower rate of invalidity allowance was payable immediately before the appointed day, [^{F4}£8.55]

(3) The transitional invalidity allowance shall be up-rated in accordance with the provisions of Part X of the Administration Act (review and alteration) as if that allowance were a sum specified in section 150(1)(a)(i), (2)(a) and (3)(a) of that Act.

(4) In a transitional case, where for any period a person is entitled to an award of long-term incapacity benefit which includes the additional rate and a transitional invalidity allowance, for that period the relevant amount shall be deducted from the appropriate weekly rate of the transitional invalidity allowance ^{F5}....

(5) In paragraph (4) “the relevant amount” means an amount equal to the additional rate reduced by the amount of any reduction in the weekly rate of incapacity benefit made by virtue of regulation 22.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Social Security (Incapacity Benefit)(Transitional) Regulations 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(6) Where the rate of long-term incapacity benefit includes a transitional invalidity allowance no increase shall become payable by virtue of regulations made under section 30B(7) of the 1992 Act^{M2}.

(7) In a transitional case where a person attained pensionable age before the appointed day and is not more than 5 years over that age, he shall continue to be entitled to long-term incapacity benefit until he reaches 5 years over pensionable age [^{F6}or until the first day on which he is entitled to retirement pension, whichever date is the earlier,] payable at the rate at which the basic pension referred to in section 44(4) of the 1992 Act^{M3} is payable.

(8) In determining the rate of long-term incapacity benefit in a transitional case where paragraph (7) applies, any increase of the following descriptions shall be disregarded—

- (a) if he is also entitled to a transitional invalidity allowance under paragraph (1)(c), any increase under section 47(1) or 50(2) of the 1992 Act^{M4};
- (b) any increase (for married women) under section 53(2) of, or (for deferred retirement) under Schedule 5 to, the 1992 Act;
- (c) any increase (for dependants) under section 80, 83 or 85 of the 1992 Act; and
- (d) any increase (for Category A or Category B pensioners) under section 150 of the Administration Act (annual up-rating) of the sums mentioned in subsection (1)(e) of that section.

[^{F7}(9) For the purposes of Part IV a “transitional case” means a case where a person is entitled to an award of long-term incapacity benefit by virtue of regulation 17 or 17A.]

Textual Amendments

- F1** Words in reg. 18(1)(c) substituted (6.1.1997) by [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#), regs. 1(1), **3(4)(a)**
- F2** Sum in [Reg. 18\(2\)\(a\)](#) substituted (coming into force in accordance with art. 1(4) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2023 \(S.I. 2023/316\)](#), arts. 1(3)(h), **18(1)(a)** (with art. 18(2))
- F3** Sum in [Reg. 18\(2\)\(b\)](#) substituted (coming into force in accordance with art. 1(4) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2023 \(S.I. 2023/316\)](#), arts. 1(3)(h), **18(1)(b)** (with art. 18(2))
- F4** Sum in [Reg. 18\(2\)\(c\)](#) substituted (coming into force in accordance with art. 1(4) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2023 \(S.I. 2023/316\)](#), arts. 1(3)(h), **18(1)(c)** (with art. 18(2))
- F5** Word in reg. 18(4) omitted (6.1.1997) by virtue of [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#), regs. 1(1), **3(4)(b)**
- F6** Words in reg. 18(7) inserted (6.1.1997) by [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#), regs. 1(1), **3(4)(c)**
- F7** [Reg. 18\(9\)](#) substituted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#), regs. 1(2), **3(4)**

Marginal Citations

- M1** Paragraph 2A in Part I of Schedule 4 was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(2) of the Social Security (Incapacity for Work) Act 1994.
- M2** Section 30B(7) was inserted into the Social Security Contributions and Benefits Act 1992 by section 2(1) of the Social Security (Incapacity for Work) Act 1994.
- M3** Section 44(4) of the Social Security Contributions and Benefits Act 1992 was amended by section 11 of, and Schedule 1, paragraph 11 to, the Social Security (Incapacity for Work) Act 1994.
- M4** Section 47 of the Social Security Contributions and Benefits Act 1992 was amended by section 11 of, and paragraph 13 of Schedule 1 to, the Social Security (Incapacity for Work) Act 1994.

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Changes and effects yet to be applied to :

- reg. 18(2)(a) sum substituted by [S.I. 2024/242 art. 17\(1\)\(a\)](#)
- reg. 18(2)(b) sum substituted by [S.I. 2024/242 art. 17\(1\)\(b\)](#)
- reg. 18(2)(c) sum substituted by [S.I. 2024/242 art. 17\(1\)\(c\)](#)