
STATUTORY INSTRUMENTS

1995 No. 626

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit
(Miscellaneous Amendments) (No. 2) Regulation 1995**

Made - - - - 8th March 1995
Laid before Parliament 10th March 1995
Coming into force in accordance with regulation 1(1)

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 123(1)(d) and (e), 130(4), 131(10), 135(1), 136(5)(a), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1) and sections 127(1) and (2), 128(1) and (2), and 189(1), (4) and (5) of the Social Security Administration Act 1992(2), and section 12(1) and (3) of the Social Security (Incapacity for Work) Act 1994(3), and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned(4), and after agreement by the Social Security Advisory Committee(5) that certain proposals within regulations 4, 6, 7, 8, 12, 14 and 17 of these Regulations should not be referred to it, and by this instrument which contains regulations consequential on, and which is otherwise made before the end of the period of 6 months beginning with the coming into force of, the Social Security (Incapacity of Work) Act 1994(6), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No. 2) Regulations 1995 and shall come into force—

- (a) for the purposes of regulations 1, 2, 11, 13 and 18, on 1st April 1995;
- (b) for the purposes of regulations 5 and 9—

(1) 1992 c. 4 sections 123(1)(e) and 131 of the Social Security Contributions and Benefits Act 1992 were substituted by the Local Government Finance Act 1992 (c. 14), section 103 and 118 and Schedule 9, paragraphs 1(1) and 4; section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “pre-scribed”.

(2) 1992 c. 5; section 128(1), 128(2) and 189 of the Social Security Administration Act 1992 were amended to have effect with respect to council tax benefit by the Local Government Finance Act 1992, section 103 and Schedule 9, paragraphs 18(1), 18(2) and 24, Section 61A was inserted by the Social Security (Incapacity of Work) Act 1994 (c. 18), section 6(2).

(3) 1994 c. 18; section 12 came into force on 18th November 1994.

(4) See the Social Security Administration Act 1992 (c. 5), section 176(1).

(5) See the Social Security Administration Act 1992 (c. 5), section 173(1)(b).

(6) See the Social Security Administration Act 1992 (c. 5), section 173(5).

- (i) in any case where rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof, on 1st April 1995, and
 - (ii) in any other case, on 3rd April 1995;
 - (c) for the purposes of regulations 10, 15, 16 and 19, on 13th April 1995; and
 - (d) for the purposes of the remainder, on 17th April 1995.
- (2) In these Regulations—
- (a) “the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(7);
 - (b) “the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(8); and
 - (c) “the Supply of Information Regulations” means the Housing Benefit (Supply of Information) Regulations 1988(9).

Amendment of regulation 2 of the Housing Benefit Regulations

2. In regulation 2(1) of the Housing Benefit Regulations (interpretation), after the definition of “the Act” there shall be inserted the following definition—

““adjudication officer” means an officer appointed in accordance with section 38(1) of the Administration Act 1992(10);”.

Amendment of regulation 11 of the Housing Benefit Regulations

3. In regulation 11(3) of the Housing Benefit Regulations (restrictions on unreasonable payments), after sub-paragraph (b), there shall be inserted the following sub-paragraph—

“(bb) is treated as capable of work in accordance with regulations made under section 171E of the Contributions and Benefits Act(11); or”.

Amendment of regulation 21A of the Housing Benefit Regulations

4.—(1) Regulation 21A of the Housing Benefit Regulations(12) (treatment of child care charges) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (4)—

(a) after sub-paragraph (a), there shall be inserted the following sub-paragraphs—

“(aa) the claimant’s applicable amount would include a disability premium or a higher pensioner premium on account of the other member’s incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Contributions and Benefits Act;

(ab) the claimant (within the meaning of regulation 2) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods

(7) S.I. 1992/1814, to which there are amendments not relevant to this regulation.

(8) S.I. 1987/1971, to which there are amendments not relevant to this regulation.

(9) S.I. 1988/662; amended by S.I. 1988/1843, 1994/1925 and 2137.

(10) 1992 c. 5.

(11) 1992 c. 4 Section 171E was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 6.

(12) Regulation 21A was inserted by S.I. 1994/1924.

separated by a break of not more than 56 days shall be treated as one continuous period;”;

(b) in sub-paragraph (b) for head (i) there shall be substituted the following head—

“(i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Contributions and Benefits Act(13);”.

(3) At the end there shall be inserted the following paragraph—

“(5) For the purposes of paragraph (4), once paragraph (4)(ab) applies to the claimant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.”.

Amendment of regulation 35 of the Housing Benefit Regulations

5.—(1) Regulation 35 of the Housing Benefit Regulations(14) (notional income) shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (4) there shall be inserted the following paragraph—

“(4A) Where a claimant is in receipt of sickness benefit or invalidity pension up to and including 12th April 1995, the appropriate authority shall treat the claimant as possessing incapacity benefit—

(i) in a case in which the claimant’s weekly amount of eligible rent falls to be calculated in accordance with regulation 69(2)(b) (calculation of weekly amounts), from 1st April 1995 to 12th April 1995;

(ii) in any other case, from 3rd April 1995 to 12th April 1995,

at the rate at which incapacity benefit is payable to him from 13th April 1995.”.

(3) In paragraph (6), for the words “paragraphs (1) to (4)” there shall be substituted the words “paragraphs (1) to (4A)”.

Amendment of regulation 48A of the Housing Benefit Regulations

6.—(1) Regulation 48A of the Housing Benefit Regulations(15) (full-time students to be treated as not liable to make payments in respect of a dwelling) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2), after sub-paragraph (b) there shall be inserted the following sub-paragraphs—

“(ba) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Contributions and Benefits Act;

(bb) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIII A of the Contributions and Benefits Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;”.

(3) After paragraph (2) there shall be inserted the following paragraph—

(13) 1992 c. 4, Section 30A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 1(1). Schedule 4, Part I, paragraph 2 was amended by section 2(2) of that Act.

(14) S.I. 1987/1971; relevant amending instruments are S.I. 1988/1971, 1990/127, 546, 1991/1175, 1599, 1992/1101, 2148, 1993/317, 963, 1249 and 1994/578.

(15) Regulation 48A was inserted by S.I. 1990/1549, and amended by S.I. 1990/1657, 1991/235 and 1992/432.

“(2A) For the purpose of paragraph (2), once paragraph (2)(bb) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.”.

Amendment of regulation 51 of the Housing Benefit Regulations

7.—(1) Regulation 51 of the Housing Benefit Regulations(16)(student’s eligible rent) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (c) of paragraph (2)—

(a) the word “either” shall be omitted;

(b) at the end of the sub-paragraph there shall be inserted the following heads—

“(iii) his applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Contributions and Benefits Act; or

(iv) he is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, or work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;”.

(3) At the end there shall be added the following paragraph—

“(3) For the purposes of paragraph (2), once paragraph (2)(c)(iv) applies to a student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.”.

Amendment of Schedule 2 to the Housing Benefit Regulations

8.—(1) Paragraph 12 of Schedule 2 to the Housing Benefit Regulations(17) (applicable amounts) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (1)(a)(i)—

(a) for the words “an invalidity pension” there shall be substituted the words “long-term incapacity benefit”;

(b) for the words “in the case of invalidity pension” there shall be substituted the words “in the case of long-term incapacity benefit”.

(3) In sub-paragraph (1)(a)(ii) for the words “invalidity pension” there shall be substituted the words “long-term incapacity benefit”.

(4) For head (b) of sub-paragraph (1), there shall be substituted the following head—

“(b) the claimant—

(i) is incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act(18) (incapacity for work), and

(16) Regulation 51 was amended by S.I. 1991/235, 387 and 1993/1540.

(17) Paragraph 12 was amended by S.I. 1988/1971, 1990/546, 1991/2742 and 1994/2137.

(18) 1992 c. 4. Part XIIA was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 5 and 6(1).

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(aa) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of the Contributions and Benefits Act(19), 196 days;

(bb) in any other case, 364 days.”.

(5) In sub-paragraph (3) for the words “for the purposes of the provisions specified in that provision” there shall be substituted the words “or to be incapable of work”.

(6) For sub-paragraph (6), there shall be substituted the following—

“(6) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.

(7) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Contributions and Benefits Act(20) (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.”.

Amendment of Schedule 4 to the Housing Benefit Regulations

9. In Schedule 4 to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) after paragraph 55(21) there shall be added the following paragraph—

“56. Where a claimant, to whom regulation 35(4A) applies, is in receipt of sickness benefit or invalidity pension up to and including 12th April 1995, and incapacity benefit on 13th April 1995, that sickness benefit or invalidity pension, as the case may be, to the extent that it is payable in respect of the period between 1st or 3rd April 1995, as the case may be, and 12th April 1995.”.

Amendment of the Supply of Information Regulations

10.—(1) The Supply of Information Regulations(22) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1)(23) (information to be supplied by the Secretary of State to an appropriate authority)—

(a) in sub-paragraph (k) for the words “sub-paragraphs (a) to (j), (l) or (m)” there shall be substituted the words “any of the foregoing or following sub-paragraphs of this paragraph”;

(b) after sub-paragraph (m) there shall be added the following sub-paragraphs—

“(n) that a determination has been made that a claimant or any partner of his—

(i) is, or is to be treated as, capable or incapable of work in accordance with the provisions of, and regulations made under, Part XIII A of the Contributions and Benefits Act 1992(24) (incapacity for work),

(19) Section 30B was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18) section 2.

(20) Section 30B was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 2.

(21) Paragraph 55 was added by S.I. 1994/2137.

(22) S.I. 1988/662.

(23) Regulation 2(1) was amended by S.I. 1988/1843, 1992/432, 1994/1925 and 2137.

(24) 1992 c. 4. Part XIII A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 5 and 6.

- (ii) falls to be disqualified for any period in accordance with regulations made under section 171E of that Act,
- (iii) is terminally ill within the meaning of section 30B(4) of the Contributions and Benefits Act;
- (o) the period for which a claimant or any partner of his falls to be disqualified, or is treated as capable of work, in accordance with regulations made under section 171E of the Contributions and Benefits Act;
- (p) the number of days, or such period, as may be required, in respect of which a determination is made for the purposes of sub-paragraph (n)(i) or (iii);
- (q) the rate at which a claimant or any partner of his is receiving incapacity benefit;
- (r) any further information required for the purposes of determining—
 - (i) the treatment of a claimant’s child care charges under regulation 21A of the Housing Benefit Regulations(25) (treatment of child care charges),
 - (ii) the treatment of a full-time student in respect of a dwelling under regulation 48A of the Housing Benefit Regulations(26) (full-time students to be treated as not liable to make payments in respect of a dwelling),
 - (iii) the calculation of a student’s eligible rent under regulation 51 of the Housing Benefit Regulations(27) (eligible rent), or
 - (iv) a person’s applicable amount under paragraph 11 of Schedule 2 to the Housing Benefit Regulations(28) (disability premium),

where that person is incapable, or treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIA of the Contributions and Benefits Act.”.

(3) In regulation 3(1) (information to be supplied by an authority to the Secretary of State), after paragraph (c) there shall be inserted the following paragraph—

“(d) that, a claimant was entitled to housing benefit on 1st December 1993, his applicable amount included the disability premium on account of his own incapacity on 12th April 1995 and, he is age 58 or over on 13th April 1995.”.

Amendment of regulation 2 of the Council Tax Benefit Regulations

11. In regulation 2(1) of the Council Tax Benefit Regulations (interpretation), after the definition of “the 1992 Act” there shall be inserted the following definition—

““adjudication officer” means an officer appointed in accordance with section 38(1) of the Administration Act 1992(29);”.

Amendment of regulation 13A of the Council Tax Benefit Regulations

12.—(1) Regulation 13A of the Council Tax Benefit Regulations(30) (treatment of child care charges) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (4)—

(a) after sub-paragraph (a), there shall be inserted the following sub-paragraphs—

(25) Regulation 21A was inserted by S.I. 1994/1924.

(26) Regulation 48A was inserted by S.I. 1990/1549 and further amended by S.I. 1990/1657, 1991/235 and 1992/432.

(27) Regulation 51 was amended by S.I. 1991/235, 287 and 1993/1540.

(28) Paragraph 12 was amended by S.I. 1988/1971, 1990/546 and 1991/2742.

(29) 1992 c. 5.

(30) Regulation 13A was inserted by S.I. 1994/1924.

- “(aa) the claimant’s applicable amount would include a disability premium or a higher pensioner premium on account of the other member’s incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Contributions and Benefits Act 1992;
- (ab) the claimant (within the meaning of regulation 2) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;”;
- (b) in sub-paragraph (b), for head (i) there shall be substituted the following head—
- “(i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Contributions and Benefits Act 1992(31);”.
- (3) At the end there shall be inserted the following paragraph—
- “(5) For the purpose of paragraph (4), once paragraph (4)(ab) applies to the claimant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.”.

Amendment of regulation 26 of the Council Tax Benefit Regulations

13.—(1) Regulation 26 of the Council Tax Benefit Regulations(32) (notional income shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (4) there shall be inserted the following paragraph—

“(4A) Where a claimant is in receipt of sickness benefit or invalidity pension up to and including 12th April 1995, the appropriate authority shall treat the claimant as possessing incapacity benefit from 1st April 1995 or the first Monday in April 1995, whichever date the appropriate authority shall select to apply in its area, to 12th April 1995 at the rate at which incapacity benefit is payable to him from 13th April 1995.”.

(3) In paragraph (6), for the words “paragraphs (1) to (3)” there shall be substituted the words “paragraphs (1) to (4A)”.

Amendment of regulation 40 of the Council Tax Benefit Regulations

14.—(1) Regulation 40 of the Council Tax Benefit Regulations (students who are excluded from entitlement to council tax benefit) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3), after sub-paragraph (b) there shall be inserted the following sub-paragraphs—

“(ba) whose applicable amount would include the disability but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Contributions and Benefits Act 1992;

(31) 1992 c. 4. Section 30A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18) (“the 1994 Act”), section 1(1). Schedule 4, Part I, paragraph 2 of the Social Security Contributions and Benefits Act 1992 (c. 4) was amended by section 2(2) of the 1994 Act.

(32) Regulation 26 was amended by S.I. 1993/688, 963, 1249 and 1994/578.

- (bb) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;”.
- (3) After paragraph (3) there shall be inserted the following paragraph—
- “(3A) For the purposes of paragraph (3), once paragraph (3)(bb) applies to a full-time student if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.”.

Amendment of regulation 92 of the Council Tax Benefit Regulations

15. In regulation 92(1) of the Council Tax Benefit Regulations⁽³³⁾ (information to be supplied by the Secretary of State to an appropriate authority)—

- (a) in sub-paragraph (k) for the words “sub-paragraphs (a) to (j), (l) or (m) above” there shall be substituted the words “any of the foregoing or following sub-paragraphs of this paragraph”;
- (b) after paragraph (m) there shall be added the following sub-paragraphs—
- “(n) that a determination has been made that a person or any partner of his—
- (i) is, or is to be treated as, capable or incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act 1992⁽³⁴⁾(incapacity for work),
- (ii) falls to be disqualified for any period in accordance with regulations made under section 171E of that Act,
- (iii) is terminally ill within the meaning of section 30B(4) of the Contributions and Benefits Act;
- (o) the period for which a person or any partner of his falls to be disqualified, or is treated as capable of work, in accordance with regulations made under section 171E of the Contributions and Benefits Act 1992;
- (p) the number of days, or such period, as may be required, in respect of which a determination is made for the purposes of sub-paragraph (n)(i) or (iii);
- (q) the rate at which a person or any partner of his is receiving incapacity benefit;
- (r) any further information required for the purposes of determining—
- (i) the treatment of a person’s child care charges under regulation 13A⁽³⁵⁾ (treatment of child care charges),
- (ii) the treatment of a student’s entitlement to council tax benefit under regulation 40 (students who re excluded from entitlement to council tax benefit),
- (iii) a person’s applicable amount under paragraph 12 of Schedule 1 (disability premium),

⁽³³⁾ Regulation 92 was amended by S.I. 1993/688, 1994/1925 and 2137.

⁽³⁴⁾ 1992 c. 4. Part XIIA was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 5 and 6.

⁽³⁵⁾ Regulation 13A was inserted by S.I. 1994/1924.

where that person is incapable, or treated as incapable, of work in accordance with the provisions of, and regulations made under, Part XIIA of the Contributions and Benefits Act 1992.”.

Amendment of regulation 93 of the Council Tax Benefit Regulations

16. After regulation 93(1)(c) (information to be supplied by an appropriate authority to the Secretary of State) there shall be inserted the following paragraph—

- “(d) that, a person was entitled to council tax benefit on 1st December 1993, his applicable amount included the disability premium on account of his own incapacity on 12 April 1995 and, he is aged 58 or over on 13th April 1995.”.

Amendment of Schedule 1 to the Council Tax Benefit Regulations

17.—(1) Paragraph 13 of Schedule 1 to the Council Tax Benefit Regulations(**36**) (applicable amounts) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (1)(a)(i)—

- (a) for the words “an invalidity pension” there shall be substituted the words “long-term incapacity benefit”;
- (b) for the words “in the case of invalidity pension” there shall be substituted the words “in the case of long-term incapacity benefit”.

(3) In sub-paragraph (1)(a)(ii) for the words “invalidity pension” there shall be substituted the words “long-term incapacity benefit”.

(4) For head (b) of sub-paragraph (1), there shall be substituted the following head—

“(b) the claimant—

- (i) is incapable of work in accordance with the provisions of and regulations made under, Part XIIA of the Contributions and Benefits Act(**37**) (incapacity for work), and
- (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
- (aa) in the case of a claimant who is terminally ill within the meaning of section 30B(4) of the Contributions and Benefits Act(**38**), 196 days;
- (bb) in any other case, 364 days”.

(5) In sub-paragraph (3) for the words “for the purposes of the provisions specified in that provision” there shall be substituted the words “or to be incapable of work”

(6) For sub-paragraph (6) there shall be substituted the following—

“(6) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.

(6A) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Contributions and Benefits Act 1992(**39**) (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity

(36) Paragraph 13 was amended by S.I. 1993/688 and 1994/2137.

(37) 1992 c. 4. Part XIIA was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 5 and 6(1).

(38) Section 30B was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 2.

(39) Section 30B was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 2.

benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.”

Amendment of Schedule 4 to the Council Tax Benefit Regulations

18. In Schedule 4 to the Council Tax Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) after paragraph 54(40) there shall be added the following paragraph—

“**55.** Where a claimant, to whom regulation 26(4)(A) applies, is in receipt of sickness benefit or invalidity pension up to and including 12th April 1995, and incapacity benefit on 13th April 1995, that sickness benefit or invalidity pension, as the case may be, to the extent that it is payable in respect of the period between 1st or 3rd April 1995, as the case may be, and 12th April 1995.”.

Transitional provisions

19.—(1) Where, on 12th April 1995, the disability premium was applicable to a claimant by virtue of paragraph 12(1)(b) of Schedule 2 to the Housing Benefit Regulations or paragraph 13(1)(b) of Schedule 1 to the Council Tax Benefit Regulations, as in force on that date, the disability premium shall continue to be applicable to that claimant from 13th April 1995 and for so long as he is incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the Social Security Contributions and Benefits Act 1992(41) (incapacity for work).

(2) Paragraph (1) shall not apply to a claimant who ceases to be incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the Social Security Contributions and Benefits Act 1992 (incapacity for work) for a period of more than 56 continuous days.

(3) Where, in any period immediately preceding 13th April 1995, the circumstances mentioned in paragraph 12(6) of Schedule 2 to the Housing Benefit Regulations, or paragraph 13(6) of Schedule 1 to the Council Tax Benefit Regulations, as in force on 12th April 1995, applied to a claimant to whom the disability premium was not applicable, that claimant shall be treated for the purposes of regulations 21A(4)(ab), 48A(2)(bb) and 51(2)(c)(iv) of, and paragraph 12(1)(b) of Schedule 2 to, the Housing Benefit Regulations or regulations 13A(4)(ab) and 40(3)(bb) of, and paragraph 13(1)(b) of Schedule 1 to, the Council Tax Benefit Regulations, as the case may be, as if he had been incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the Social Security Contributions and Benefits Act 1992 (incapacity for work) throughout that period.

Saving

20. Where the higher pensioner premium was applicable to a claimant on, or at any time during the 56 days immediately preceding, 12th April 1995 by virtue of paragraph 12(1)(a)(ii) of Schedule 2 to the Housing Benefit Regulations, or paragraph 13(1)(a)(ii) of Schedule 1 to the Council Tax Benefit Regulations, as in force on that date, paragraph 12 of Schedule 2 to the Housing Benefit Regulations, or paragraph 13 of Schedule 1 to the Council Tax Benefit Regulations, shall continue to apply in that claimant’s case, as the case may be, as if regulations 8 or 17 of these Regulations had not been made.

(40) Paragraph 54 was added by S.I. 1994/2137.

(41) 1992 c. 4. Part XIIA was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 5.

Signed by authority of the Secretary of State for Social Security.

8th March 1995

William Hague
Minister of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Housing Benefit (General) Regulations 1987 (S.I.1987/1971), the Housing Benefit (Supply of Information) Regulations 1988 (S.I. 1988/662), and the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814).

The amendments are consequential on the coming into force of the Social Security (Incapacity for Work) Act 1994, which replaces sickness and invalidity benefits with incapacity benefit, and provides for a new test of incapacity for work. The regulations make the following amendments.

With respect to housing benefit and council tax benefit,

- (a) they extend the qualifying period for the disability premium on grounds of incapacity for work from 28 weeks to 364 days, except for claimants who are terminally ill and they provide that the qualifying period may be broken by intervals of up to 56 days (regulations 8 and 17);
- (b) they specify further the information which the Secretary of State may supply to a local authority, and the information which the local authority shall supply to the Secretary of State (regulations 10,15 and 16);
- (c) they make additional minor consequential, transitional and saving amendments (regulations 2 to 8,9,11 to 14 and 18 to 20).

These Regulations, except parts of regulations 4,6,7,8,12,14 and 17 are made pursuant to section 12 of the Social Security (Incapacity for Work) Act 1994 and are made before the end of the period of six months beginning with the date that provision came into force (18th November 1994). Accordingly they are exempted by section 173(5)(a) of the Social Security Contributions and Benefits Act 1992 from reference to the Social Security Advisory Committee.

These Regulations do not impose a charge on businesses.