
STATUTORY INSTRUMENTS

1995 No. 987

**The Social Security (Incapacity for Work)
Miscellaneous Amendments Regulations 1995**

Amendment of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995

3.—(1) The Social Security (Incapacity Benefit) (Transitional) Regulations 1995(1) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 13(2)(b) (special provisions for persons entitled to short-term incapacity benefit on termination of a period engaged in training for work) for the words “within a period” there shall be substituted the words “occurring in whole or in part in a period”.

(3) After regulation 17 there shall be inserted the following regulation—

“Awards of incapacity benefit in cases where periods of interruption of employment and periods of incapacity for work link

17A. Where a person had been entitled to invalidity benefit in a period of interruption of employment occurring in whole or in part in a period not exceeding 57 days immediately before the appointed day and becomes entitled to an award of incapacity benefit on the basis that a day of incapacity for work on or after the appointed day forms part of a period of incapacity for work beginning before the appointed day, that award shall have effect as if it were an award of long-term incapacity benefit.”.

(4) For regulation 18(9) (definition of transitional cases) there shall be substituted the following paragraph—

“(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.”.

(5) In regulation 20(2)(b) (special provisions for persons entitled to long-term incapacity benefit on termination of a period engaged in training for work) for the words “which arose within a period” there shall be substituted the words “occurring in whole or in part in a period”.

(6) In regulation 22(1)(b)(ii) (effect of entitlement to guaranteed minimum pensions on payment of the additional rate element in a transitional case of long-term incapacity benefit) for the word “pension” there shall be substituted the words “guaranteed minimum pension”.

(7) In regulation 25(2)(c), (d) and (f), (3)(c) and (d), (4) and (5) (further provisions for dependants in respect of the application of old saving provisions) after each place where the words “Social Security” appear, there shall be inserted the word “Benefit”.

(8) After regulation 28 there shall be inserted the following regulation—

“Transitional provision for entitlement to severe disablement allowance where a person has been engaged in training for work

28A. For the purposes of entitlement to severe disablement allowance where a person—

- (a) at any time in a period of not more than 57 days immediately before the appointed day attends a training course of the type specified in regulation 7(1)(f) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983(2); and
- (b) was entitled to severe disablement allowance 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; and
- (c) becomes incapable of work within a period of 57 days after the last day of attendance on a training course,

he shall be treated as incapable of work and disabled for the days falling within the periods referred to in paragraphs (a), (b) and (c) notwithstanding that he may have been capable of work on any of those days.”

(9) In regulation 31(application of the new tests of incapacity for work)—

- (a) in paragraph (4) for the letter “(h)” there shall be substituted the letter “(k)”;
- (b) in paragraph (5)—
 - (i) in head (ii) of sub-paragraph (a) for the words “was not capable” there shall be substituted the words “was incapable”;
 - (ii) in sub-paragraph (c) after the words “the appointed day” there shall be inserted the words “and the spell of incapacity for work which is running at the appointed day continues;”;
 - (iii) in sub-paragraph (h) for head (vii) there shall be substituted the following head—

“(vii) manifestations of severe and progressive immune deficiency states characterised by the occurrence of severe constitutional disease or opportunistic infections or tumour formation;”.
 - (iv) after sub-paragraph (h) there shall be added the following sub-paragraphs—
 - “(i) a person who was in receipt of a payment of an increase of disablement pension by virtue of section 104 of the 1992 Act and regulation 19 of the Social Security (General Benefit) Regulations 1982 (increase of disablement pension for constant attendance)(3) at a rate greater than that specified in paragraph 2(a) or at the rate specified in paragraph 2(b) of Part V of Schedule 4 to the 1992 Ac(4) immediately before the appointed day and continues to be in receipt of such payment;
 - (j) a person who was in receipt of a payment of constant attendance allowance by virtue of article 14(1)(b) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(5) immediately before the appointed day and continues to be in receipt of such payment;
 - (k) a person who was in receipt of a payment of an increase of constant attendance allowance at a rate payable by virtue of article 14 of, and paragraph 3(a) of Schedule 3 to, the Personal Injuries (Civilians) Scheme 1983(6) immediately before the appointed day and continues to be in receipt of such payment.”.

(2) S.I. 1983/1598; regulation 7(1)(f) was amended by the Employment Act 1989 (c. 38), Schedule 5 paragraphs 1 and 4 and S.I. 1991/387.

(3) S.I. 1982/1408.

(4) The rates specified in Schedule 4, Part V, paragraph 2 were increased by article 3 of the Social Security Benefits Up-Rating Order 1995 (S.I. 1995/559).

(5) S.I. 1983/883; relevant amending instrument is 1994/772.

(6) S.I. 1983/686; relevant amending instrument is 1994/715.

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