
STATUTORY INSTRUMENTS

1987 No. 1969

The Income Support (Transitional) Regulations 1987

PART I

TRANSITIONAL ARRANGEMENTS

Claims for income support made before 11th April 1988

3.—(1) A claim for income support may be made on or after 14th March 1988 and before 11th April 1988, and a claim for supplementary benefit made during that period may be treated in addition as a claim for income support.

(2) Paragraph (1) and regulation 4 (deeming of claims for income support by former beneficiaries) shall not apply in the case of a person affected by a trade dispute (that is to say a person in respect of whom the applicable amount or a proportion of the applicable amount falls to be disregarded by virtue of section 23 of the Act).

(3) Subject to the provisions of this regulation, any claim for income support made or treated as made in accordance with paragraph (1) may be determined before 11th April 1988 in accordance with the Act and Regulations made under that Act as if those provisions were in force.

(4) Any claim made or treated as made in accordance with paragraph (1) shall be treated as made for a period commencing on 11th April 1988.

(5) A decision which is given awarding income support on such a claim as is referred to in paragraph (1)—

- (a) may award the benefit from 11th April 1988 if it appears probable that the conditions for entitlement to income support for the person who made that claim will be satisfied;
- (b) shall be subject to the conditions for entitlement being so satisfied on the date from which the benefit is awarded;
- (c) may be reviewed if any question arises as to the satisfaction of those conditions.

Deeming of claims for income support by former beneficiaries

4.—(1) Notwithstanding the provisions of section 165A of the Social Security Act(1),, but subject to regulation 3(2) (persons affected by a trade dispute), in the case of a former beneficiary or a former housing benefit supplement recipient it shall not be a condition of entitlement to income support for a period commencing in the week beginning 11th April 1988 that he makes a claim for such benefit and the provisions of the Act and Regulations made thereunder shall apply, subject to the following provisions of this Part, as if a claim for that benefit had been duly made by the former beneficiary or the former housing benefit supplement recipient in respect of a period commencing on the first day of his second benefit week.

(2) Where by virtue of paragraph (1) a person's entitlement to income support falls to be determined as if a claim for it had been duly made, the claimant's entitlement in respect of a period

(1) Section 165A applied by the Act, Schedule 10, paragraph 48.

commencing in the week beginning 11th April 1988 may nevertheless be determined at an earlier date if the claimant is entitled to supplementary benefit at the date of the determination; and any such claim shall be determined in accordance with the Act and Regulations made under that Act as if those provisions were in force.

(3) A decision which is given awarding income support on a determination made under this regulation—

- (a) may award the benefit from the first day of his second benefit week if it appears probable that the conditions for entitlement to income support will be satisfied;
- (b) shall be subject to the conditions for entitlement being so satisfied on the date from which the benefit is awarded;
- (c) may be reviewed if any question arises as to the satisfaction of those conditions.

Questions deemed to have been determined and treatment of income

5.—(1) Where, for a period commencing on or after 11th April 1988, it appears that the entitlement of a former beneficiary to income support, or the amount of such benefit to which he is entitled, depends upon the determination of any question by an adjudicating authority and such a question has been so determined in respect of that former beneficiary's entitlement to supplementary benefit immediately before 11th April 1988, that question shall be deemed to have been so determined for the purposes of the said entitlement to income support.

(2) For the purposes of determining a claimant's entitlement to income support for a period commencing on or after 11th April 1988, any earnings paid before that date on the termination or interruption of—

- (a) the claimant's employment shall be taken into account in accordance with Part V of the General Regulations (income and capital) as if that Part were in force at the date of the termination or interruption of the employment and, except in the case of a claimant who was not treated as engaged in remunerative full-time work within the meaning of regulation 9(1)(a) of the Supplementary Benefit (Conditions of Entitlement) Regulations 1981(2) (circumstances in which persons are to be treated as engaged in remunerative full-time work), the claimant shall be treated as being engaged in remunerative work for that part of the period (if any), falling on or after 11th April 1988, for which those earnings are to be taken into account;
- (b) the employment of the partner of a former beneficiary, except where the partner was engaged in that employment for less than 30 hours per week, shall notwithstanding the revocation of the Supplementary Benefit (Resources) Regulations 1981(3), be taken into account in accordance with those Regulations as if they were still in force.

(3) Except in the case of earnings to which paragraph (2) applies or would, but for the exception specified in sub-paragraph (b) thereof, apply, where in the case of a former beneficiary to whom regulation 4 applies a payment of income would, but for this paragraph, fall to be treated as paid under regulation 31(1)(a) of the General Regulations (date on which income treated as paid) before the first day of the benefit week in which he is first entitled to income support, that payment shall be treated as paid on that day and any part of the payment which has been taken into account in determining the former beneficiary's entitlement to supplementary benefit shall, notwithstanding Part V of the General Regulations, be disregarded in determining his entitlement to income support.

(4) Where an adjudicating authority has determined that payment of an amount of supplementary benefit awarded to a former beneficiary for a period immediately preceding 11th April 1988 should

(2) S.I.1981/1526.

(3) S.I. 1981/1527, as amended by S.I. 1982/1125, 1126, 1127, 1983/503, 1240, 1984/1102, 1985/614, 1246, 1835, 1986/1292, 1293, 1987/17, 659, 660, 1325.

be paid to another person or body, such determination shall be deemed also to have been made for the purposes of income support to which the former beneficiary is entitled on or after 11th April 1988.

(5) For the purpose of the application of paragraph 14 of Schedule 4 to the General Regulations (applicable amounts of persons in residential care and nursing homes), or paragraph 12 of Schedule 5 to those Regulations (applicable amounts of persons in board and lodging accommodation), to a former beneficiary in respect of whom income support becomes payable for a period immediately following a period in respect of which supplementary benefit was payable, the expression “close relative” shall, for so long as he continues to be entitled without interruption to income support, be given the meaning assigned to it immediately before 11th April 1988 by regulation 2 of the Requirements Regulations⁽⁴⁾ (interpretation).

Appointments for former beneficiaries unable to act

6. Where the Secretary of State has made an appointment under regulation 26 of the Supplementary Benefit (Claims and Payments) Regulations 1981⁽⁵⁾ (persons unable to act) of a person to exercise any right to which a former beneficiary may be entitled under the Supplementary Benefits Act 1976 and to receive and deal on his behalf with any sums payable to that former beneficiary under or by virtue of that Act, and such appointment has not, before 11th April 1988, been revoked by the Secretary of State or terminated by the resignation of the person appointed, that appointment shall be deemed, for the purposes of income support for that former beneficiary, to be an appointment made under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act).

Transitional payments for former beneficiaries

7.—(1) Where a former beneficiary is entitled to income support on the first day of his second benefit week—

- (a) he shall, notwithstanding the repeal or revocation of any enactment, be entitled to and be paid supplementary benefit for the period commencing on 11th April 1988 and ending with the day 6 days after the first day of his first benefit week except where that benefit week commences on 4th April 1988;
- (b) if the former beneficiary is a person to whom income support is payable in arrears, he shall also be entitled to a transitional payment of income support in respect of a period of, or two consecutive periods of, 7 days determined in accordance with paragraph (2).

(2) For the purposes of paragraph (1)(b)—

- (a) in the case of a former beneficiary who is an unemployed person whose supplementary benefit had been paid by means of a book of serial orders or who is not an unemployed person, the transitional payment shall be in respect of the period of 7 days commencing with the day following the last day in respect of which supplementary benefit is payable in his case;
- (b) in any other case, the transitional payment shall be in respect of two consecutive periods of 7 days commencing with the day following the last day in respect of which supplementary benefit is payable in his case.

(3) The amount of the transitional payment in respect of any such period shall be equal to the amount of income support payable in arrears for the benefit week or, in the case of a claimant whose entitlement to income support is for a period of less than a benefit week the amount which would have been payable had he been entitled to income support for the benefit week, commencing in the same calendar week as the period of seven days in respect of which the transitional payment is made.

(4) S.I. 1983/1399; the relevant amending instrument is S.I. 1985/1835.

(5) S.I. 1981/1525.

(4) The transitional payment shall be made in advance and, in a case to which paragraph (2)(b) applies, the transitional payment may be made in two instalments if it appears to the Secretary of State to be appropriate in the circumstances of the particular case.

(5) In calculating the income of a former beneficiary for the purpose of determining his entitlement to income support in respect of any day for which that benefit becomes payable to him in arrears there shall be disregarded any supplementary benefit or any transitional payment payable to him under this regulation.

(6) Where a former beneficiary is not entitled to income support on the first day of his second benefit week he shall, notwithstanding the repeal or revocation of any enactment, be entitled to and be paid supplementary benefit for the period commencing on 11th April 1988 and ending with the day 6 days after the first day of his first benefit week except where that benefit week commences on 4th April 1988.

Treatment for income support purposes of periods relating to supplementary benefit

8.—(1) For the purpose of determining under regulation 4(1) of the General Regulations (temporary absence from Great Britain) whether a claimant is entitled to income support during a period of absence, that provision shall be construed as though there were inserted immediately after the words “entitled to income support” the words “or supplementary benefit”.

(2) For the purpose of determining under regulation 21(4)(b)(ii) of the General Regulations (special cases) whether a local authority has accepted in relation to a former beneficiary the responsibility therein referred to for a period of not less than 2 years immediately before that person attained pensionable age, that provision shall be construed as though there were inserted immediately after the words “under and by virtue of that regulation” the words “or under or by virtue of the Supplementary Benefits Act 1976”.

(3) Where, in relation to supplementary benefit for a former beneficiary in respect of a period immediately before 11th April 1988, his normal requirements fell to be reduced by virtue of regulation 8 of the Requirements Regulations (actual or notional unemployment benefit disqualification), regulation 22 of the General Regulations (reduction of applicable amount in cases of voluntary unemployment) shall apply to the calculation of that former beneficiary’s applicable amount on 11th April 1988 with the modification that the relevant period specified in paragraph (6) of that regulation shall be reduced by the number of whole benefit weeks corresponding to the number of such weeks immediately preceding that date during which his normal requirements had been so reduced.

(4) For the purpose of determining whether, in any case, the additional condition for higher pensioner premium or disability premium, specified in paragraph 12(1)(b) of Schedule 2 to the General Regulations (applicable amounts), is satisfied for any period before 24th October 1988, that provision shall be construed as though there were inserted therein, immediately after the reference to the Social Security Act, a reference to the Supplementary Benefits Act 1976.

(5) For the purposes of paragraph 7 of Schedule 3 to the General Regulations (housing costs) any reference to income support shall be construed as if it included a reference to supplementary benefit and in sub-paragraph (2)(a) of that paragraph references to a claimant’s income and applicable amount shall be construed as if they included references to his resources and requirements determined for the purposes of entitlement to supplementary benefit.

(6) Where, in relation to supplementary benefit for a former beneficiary in respect of a period immediately before 11th April 1988, his housing requirements fell to be restricted by virtue of regulation 20 or 21 of the Requirements Regulations (special cases and restrictions where amounts are excessive)–

- (a) paragraph 10 of Schedule 3 to the General Regulations (housing costs) shall apply to the calculation of that former beneficiary’s applicable amount in his second benefit week

with the modification that the references in paragraph 10(2)(a) and (6) of that Schedule to income support shall be construed as if they included a reference to supplementary benefit; and

- (b) in computing the 8 week period referred to in paragraph 10(2)(c) of that Schedule any week falling before 11th April 1988 which is within that 8 week period and during which supplementary benefit was payable shall be treated as a week in which income support was payable.