
STATUTORY INSTRUMENTS

1987 No. 1969

The Income Support (Transitional) Regulations 1987

PART II

TRANSITIONAL PROTECTION

Total benefit income

9.—(1) In this Part a person's total benefit income in his first benefit week means, subject to paragraphs (2) to (5) and (7), and regulation 13(1) (special provisions for persons in residential care and nursing homes), the aggregate of the amount of any of the following benefits or payments to which he or his partner was, or both were, entitled in respect of that week—

- (a) supplementary benefit;
- (b) family income supplement;
- (c) child benefit;
- (d) any benefit under the Social Security Act;
- (e) war disablement pension;
- (f) war widow's pension;
- (g) any payment made under a scheme made under the Industrial Injuries and Diseases (Old Cases) Act 1975(1);
- (h) statutory maternity pay under Part V of the Act;
- (i) statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982(2);
- (j) any payment made otherwise than in accordance with any of the Acts under which the benefits or payments specified in sub-paragraphs (a) to (g) are made under arrangements made by the Secretary of State with the consent of the Treasury which is charged to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of any benefit or payment specified in those sub-paragraphs are charged.

(2) Where a change of circumstances takes effect in a person's second benefit week which, had it taken effect in his first benefit week, would have resulted in a lesser amount of supplementary benefit being payable in respect of that week, the amount of supplementary benefit to be taken into account for the purpose of calculating his total benefit income in his first benefit week shall be the amount (if any) that would have been payable had the change of circumstances taken effect in that week.

(3) If a former beneficiary's requirements for the purpose of calculating his entitlement to supplementary benefit in respect of his first benefit week include an amount in respect of housing requirements under Part IV of the Requirements Regulations to which he is entitled by virtue of regulation 14(4) of those Regulations (housing requirements) and, in a case to which sub-paragraph (a) of that provision applies, if in that week he has been absent from his home for 52 weeks or more, the amount of supplementary benefit taken into account for the purpose of calculating

(1) 1975 c. 16.
(2) 1982 c. 24.

his total benefit income in that benefit week shall be reduced by the amount of those housing requirements.

(4) If, in respect of his first benefit week, a former beneficiary who is entitled to supplementary benefit in respect of that benefit week is also entitled to housing benefit in the form of a rate rebate, his total benefit income in that benefit week shall be increased by—

- (a) if he is a single claimant aged under 25, £1.00;
- (b) in any other case, £1.30.

(5) Where a claimant, other than one whose requirements were modified under regulation 10 (2) or (3) of the Requirements Regulations (modifications of normal requirements in special cases), is—

- (a) a member of a couple and either he or his partner has been in hospital immediately before 11th April 1988 for at least 6, but not more than 9, weeks; or
- (b) a lone parent who immediately before that date has been in hospital for at least 6 weeks,

the amount of supplementary benefit to be taken into account for the purpose of calculating his total benefit income in his first benefit week shall be the amount (if any) that would have been payable had his requirements fallen to be determined in accordance with paragraph 2 of Schedule 3 to the Requirements Regulations (modifications in the case of patients).

(6) In this Part a person's total benefit income in relation to his second and any subsequent benefit week means, subject to paragraph (7) and regulation 13(1) (persons in residential care and nursing homes), the aggregate of the following amounts—

- (a) the amount of any income support, family credit and child benefit to which he or his partner is, or both are, entitled in respect of that week;
- (b) where he or his partner is, or both are, entitled in respect of that week to any benefit or payment specified in paragraph (1)(d) to (i), the amount of the weekly rate of that benefit to which he is normally entitled as increased, if appropriate, by any order made by the Secretary of State under section 63 of the Act with effect from 11th April 1988;
- (c) any payment referred to in paragraph (1)(j) which he or his partner receives, or both receive, in respect of that week.

(7) The amount of any of the benefits specified in sub-paragraphs (a) to (c) of this paragraph shall, to the extent that it is disregarded for the purpose of calculating a person's resources under the Supplementary Benefit (Resources) Regulations 1981(3) or a person's income under the General Regulations, be disregarded for the purpose of calculating a person's total benefit income in his first, second or any subsequent benefit week—

- (a) mobility allowance;
- (b) mobility supplement; and
- (c) attendance allowance.

(8) In this Part references to a person's income in a benefit week subsequent to his first benefit week are references to his income, and the income of any member of his family which would be treated as his under section 22(5) of the Act, calculated under Part V of the General Regulations (income and capital).

Transitional addition

10.—(1) Except in a case to which regulation 11 or 12 applies (special provisions for patients and persons in board and lodging accommodation or hostels) and subject to the following provisions of this Part, where—

(3) S.I.1981/1527.

- (a) a former beneficiary was entitled to supplementary benefit in respect of his first benefit week; and
- (b) either—
 - (i) he is awarded income support in respect of his second benefit week; or
 - (ii) he is not entitled to income support in respect of that week only because his applicable amount calculated in accordance with the General Regulations does not exceed his income; and
- (c) his total benefit income in his second benefit week is less than his total benefit income in his first benefit week,

he shall be entitled to a transitional addition.

(2) Subject to regulation 12(2), 13(5) or 14 (special provision for persons in residential care or nursing homes and reduction and termination of transitional and personal expenses addition), and except in a case to which paragraph (3) applies, the amount of the transitional addition to which a former beneficiary is entitled under paragraph (1) shall be the difference between his total benefit income in his first and second benefit weeks.

(3) Subject to regulation 14 the amount of the transitional addition applicable to a former beneficiary who in respect of his first benefit week was entitled to a domestic assistance addition of £10 or more shall be the amount (if any) obtained by subtracting from his total benefit income in his first benefit week the amount of his domestic assistance addition, the sum determined under paragraph (4) and, where applicable, (5).

(4) The sum for the purposes of paragraph (3) shall be—

- (a) in a case where in his second benefit week a severe disability premium is applicable to the former beneficiary for the purpose of calculating his applicable amount under Part IV of the General Regulations (applicable amounts), his total benefit income in his second benefit week less the amount of that premium;
- (b) in any other case, his total benefit income in his second benefit week.

(5) If the amount of the former beneficiary's domestic assistance addition is less than the amount of his severe disability premium, the sum for the purposes of paragraph (3) shall be the amount of the difference between the addition and the premium.

Special provisions for patients

11.—(1) Where, immediately before 11th April 1988—

- (a) a claimant was a member of a married or unmarried couple for the purposes of paragraph 3(1) of Schedule 1 to the Supplementary Benefits Act 1976 or a spouse of a polygamous marriage; and
- (b) he or any partner was entitled to supplementary benefit; and
- (c) he was not himself a patient but any partner of his had been a patient for a period of 52 weeks or more,

he shall, subject to regulations 12 to 14 and 16 (special cases and reduction and termination of, and persons not entitled to, transitional additions), be entitled to a transitional addition calculated in accordance with paragraph (2).

(2) Subject to regulation 14, the amount of the transitional addition to which a claimant is entitled under paragraph (1) shall be the amount (if any) obtained by subtracting from his total benefit income in his first benefit week the amount of his total benefit income in his second benefit week.

(3) In this regulation, references to a claimant's partner are references to the person who, immediately before 11th April 1988 was the other member of a married or unmarried couple for the

purposes of paragraph 3(1) of Schedule 1 to the Supplementary Benefits Act 1976 or was a spouse to whom the former beneficiary was polygamously married.

Special provisions for persons in board and lodging accommodation and hostels

12.—(1) Where a claimant is temporarily absent for a period of less than 13 weeks which includes his first and second benefit weeks from his board and lodging accommodation or his hostel and, in the case of board and lodging accommodation was immediately before his absence entitled to an increase under regulation 9(7) of the Requirements Regulations⁽⁴⁾ (modifications of requirements of boarders), he shall, notwithstanding regulation 14 (reduction and termination of transitional addition), on his return to that accommodation be entitled to a transitional addition of an amount equal to the difference between—

- (a) the amount that his total benefit income in his first benefit week would have been had he been entitled in respect of that week to supplementary benefit on the basis that he was in that board and lodging accommodation or hostel; and, if less,
- (b) the amount of his total benefit income in the first complete benefit week in respect of which his applicable amount for the purpose of calculating his entitlement to income support is to be calculated under Schedule 5 to the General Regulations (applicable amounts for persons in board and lodging accommodation and hostels).

(2) If a claimant becomes entitled to a transitional addition under paragraph (1) he shall cease to be entitled to any transitional addition to which he would, but for this provision, be entitled under regulation 10 (transitional addition) while not in board and lodging accommodation or a hostel.

(3) Where a claimant who is in board and lodging accommodation or a hostel and who is entitled to a transitional addition under paragraph (1) or regulation 10 (transitional addition) temporarily leaves his board and lodging accommodation or a hostel for a period of 8 weeks or less or, if he becomes a patient, for a period of 14 weeks or less and, in the case of board and lodging accommodation he is entitled to an increase under paragraph 7 of Schedule 5 to the General Regulations, any increase in his applicable amount for the purpose of calculating his entitlement to income support on his return to that accommodation shall be disregarded for the purpose of regulation 14(1) (reduction in transitional addition).

(4) Regulation 14(3) (re-entitlement to a transitional addition after periods of 8 weeks or less) shall apply to a claimant who is in board and lodging accommodation and entitled to an increase under paragraph 7 of Schedule 5 to the General Regulations, or in a hostel and who, in either case was immediately before the period of 8 weeks, entitled to a transitional addition under paragraph (1) or regulation 10 notwithstanding that the amount of the transitional addition to which he is entitled is less than £10.

Special provisions for persons in residential care and nursing homes

13.—(1) For the purpose of calculating the total benefit income of a former beneficiary who is in a residential care or nursing home, where in his first benefit week an allowance for personal expenses is applicable under regulation 9(17)(e) of the Requirements Regulations⁽⁵⁾ (personal expenses for boarders)—

- (a) in that benefit week, the amount of that allowance shall be deducted from the amount of supplementary benefit to which he is entitled in respect of that week; and
- (b) in his second benefit week, the amount in respect of personal expenses applicable in his case under paragraph 13 of Schedule 4 to the General Regulations (applicable amounts of

(4) S.I. 1983/1399; the relevant amending instruments are S.I. 1985/1835 and 1986/1292.

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

persons in residential care or nursing homes) shall be deducted from the amount of income support to which he is entitled in respect of that week.

(2) Subject to paragraph (3) and to regulation 16(1) (persons not entitled to personal expenses addition), a former beneficiary to whom paragraph (1) applies shall be entitled, in addition to any transitional addition to which he may be entitled under paragraph (5) or regulation 10 (transitional addition), to a personal expenses addition of an amount equal to the difference between the amount of the allowance for personal expenses under regulation 9(17)(e) of the Requirements Regulations referred to in paragraph (1) and, if less, the amount of the allowance for personal expenses referred to in paragraph (1)(b).

(3) The amount of the personal expenses addition under paragraph (2) shall be reduced by the amount of any increase in the amount in respect of personal expenses referred to in paragraph (1)(b).

(4) Subject to paragraphs (5) and (8), a claimant who ceases to reside or, if he is a member of a family, who and whose family cease to reside, in a residential care or nursing home except in the circumstances specified in paragraph 16 or 18 of column (1) of Schedule 7 to the General Regulations (applicable amounts in special cases), shall cease to be entitled to any transitional addition and personal expenses addition under this Part.

(5) Notwithstanding regulation 14 (reduction and termination of transitional and personal expenses addition), where a claimant is temporarily absent from his residential care or nursing home for a period which includes his first and second benefit weeks, he shall be entitled on his return to a residential care or nursing home to a transitional addition of an amount equal to the difference between—

- (a) the amount that his total benefit income in his first benefit week would have been had he been entitled in respect of that week to supplementary benefit calculated on the basis that he was a boarder in that residential care or nursing home for that week; and, if less,
- (b) the amount of his total benefit income in the first complete week in respect of which his applicable amount for the purpose of calculating his entitlement to income support is to be calculated in accordance with Schedule 4 to the General Regulations (applicable amounts for claimants in residential care and nursing homes).

(6) A claimant to whom paragraph (5) applies and to whom in respect of his first benefit week an allowance for personal expenses would have been applicable under regulation 9(17)(e) of the Requirements Regulations shall also be entitled to a personal expenses addition of an amount equal to the difference between the amount that his personal expenses allowance would have been in respect of his first benefit week and, if less, the amount in respect of personal expenses applicable under paragraph 13 of Schedule 4 to the General Regulations.

(7) If a claimant becomes entitled to a transitional addition under paragraph (5) he shall cease to be entitled to any transitional addition to which he would, but for this provision, be entitled under regulation 10 (transitional addition) while not in a residential care or nursing home.

(8) Notwithstanding regulation 14 (reduction and termination of transitional and personal expenses addition), where a claimant is temporarily absent from his residential care or nursing home for a period after his second benefit week (whether or not he thereby ceases to be entitled to income support), he shall be entitled on his return to a residential care or nursing home to a transitional addition or personal expenses addition or both equal to the amount to which he was entitled immediately before his period of temporary absence.

(9) For the purposes of paragraphs (5), (8) and (10) a claimant is temporarily absent only if the period of his temporary absence does not exceed—

- (a) in the case of a person who is of pensionable age, 52 weeks; or
- (b) in any other case, 13 weeks.

(10) Where a claimant—

- (a) was in receipt of supplementary benefit as a boarder in a residential care or nursing home within the meaning of regulation 9 of the Requirements Regulations (boarders) and immediately before 11th April 1988 his requirements fell to be determined in accordance with paragraph (17)(a) to (e) or (i) to (k) of that regulation (protected amounts); or
- (b) would have satisfied the conditions in sub-paragraph (a) above but for his being temporarily absent from such a home,

and he ceases to be entitled to income support and a transitional addition or personal expenses addition or both, he shall notwithstanding regulation 14, if he becomes re-entitled to income support, become re-entitled to such an addition of the same amount as he would have been entitled to had he not ceased to be entitled to income support, provided that he has continued since that date to be resident in a residential care or nursing home.

(11) Where—

- (a) the claimant's partner has died; and
- (b) immediately before his death the partner was entitled to a transitional addition or personal expenses addition or both under this Part; and
- (c) after the partner's death the claimant has continued to be a resident in the same accommodation as he and his partner occupied immediately before the partner's death,

the claimant shall be entitled to a transitional addition or personal expenses addition or both equal to one-half of the amount to which his partner was entitled immediately before his death.

Reduction and termination of transitional and personal expenses addition

14.—(1) The amount of a claimant's transitional addition shall be reduced—

- (a) if, in respect of any benefit week subsequent to his second benefit week, he is entitled to income support as well as a transitional addition and his applicable amount under Part IV of the General Regulations increases, by the amount of that increase;
- (b) if, in respect of any benefit week subsequent to his second benefit week, he is entitled only to a transitional addition, by the amount of any increase in his income.
- (c) if, in respect of any benefit week subsequent to his second benefit week, he is entitled only to a transitional addition and personal expenses addition under regulation 13(2) (special provision for persons in residential care or nursing homes), by the amount of any increase in his income;
- (d) if, in respect of any benefit week subsequent to his second benefit week he becomes entitled to income support as a result of an increase in his applicable amount under Part IV of the General Regulations and immediately before that increase he was entitled only to a transitional addition, by the amount of that increase less the amount by which his income exceeded his applicable amount prior to that increase;
- (e) if, in respect of any benefit week subsequent to his second benefit week he ceases to be entitled to income support because his income exceeds his applicable amount, by the amount by which his income exceeds the applicable amount.

(2) A claimant shall cease to be entitled to a transitional addition if—

- (a) in the case of a claimant who is entitled to income support as well as a transitional addition—
 - (i) subject to regulation 15(4) (special transitional addition), he ceases to be entitled to income support for a reason other than that his applicable amount under Part IV of the General Regulations (applicable amounts) does not exceed his income; or
 - (ii) the amount of his transitional addition is reduced to nil by virtue of paragraph (1); or
- (b) in the case of a claimant to whom paragraph (1)(b), (c) or (e) applies—

- (i) subject to regulation 15(4), he would no longer, if he claimed, be entitled to income support for a reason other than that his applicable amount under Part IV of the General Regulations does not exceed his income; or
 - (ii) the amount of his transitional addition is reduced to nil by virtue of paragraph (1).
- (3) A claimant who either—
- (a) has ceased to be entitled to income support but remained entitled to a transitional addition; or
 - (b) has ceased to be entitled to income support and a transitional addition,

and immediately before he so ceased he was entitled to a transitional addition of £10 or more shall, if he becomes re-entitled to income support within a period of 8 weeks of his ceasing to be so entitled, in the benefit week in which he becomes re-entitled, be re-entitled to a transitional addition of an amount equal to the amount of the transitional addition to which he was previously entitled subject to any reduction in that amount which would have occurred under paragraph (1)(a) had he remained entitled to that addition.

- (4) A claimant who, was entitled only to a transitional addition of £10 or more and who has ceased to be entitled to such an addition—
- (a) for a reason other than that his income exceeds his applicable amount; or
 - (b) because his income exceeds his applicable amount and the amount of his transitional addition,

shall, if within a period of 8 weeks neither the reason in sub-paragraph (a) nor (b) applies to him, be re-entitled to a transitional addition of an amount equal to the amount by which his total benefit income in his first benefit week exceeds his income in the benefit week in which neither sub-paragraph applies to him, or the amount to which he was previously entitled, whichever is the lower.

(5) The amount of a claimant's personal expenses addition shall be reduced if, in any benefit week, he is entitled only to a personal expenses addition, by the amount of any increase in his income.

- (6) A claimant shall cease to be entitled to a personal expenses addition if—
- (a) in the case of a claimant who is entitled to income support as well as a personal expenses addition—
 - (i) he ceases to be entitled to income support for a reason other than that his applicable amount under Part IV of the General Regulations (applicable amounts) does not exceed his income; or
 - (ii) the amount of his personal expenses addition is reduced to nil by virtue of paragraph (5) or regulation 13(3).
 - (b) in the case of a claimant who is entitled only to a personal expenses addition—
 - (i) he would no longer, if he claimed, be entitled to income support for a reason other than that his applicable amount under Part IV of the General Regulations does not exceed his income; or
 - (ii) the amount of his personal expenses addition is reduced to nil by virtue of paragraph (5) or regulation 13(3).

Special transitional addition

15.—(1) Subject to regulation 16 (persons not entitled to transitional additions), where the amount of a claimant's domestic assistance addition in respect of his first benefit week is £10 or more and is greater than the amount (if any) of the severe disability premium for the purpose of calculating his applicable amount under Part IV of the General Regulations (applicable amounts), he shall be

entitled to a special transitional addition of an amount equal to the difference between his domestic assistance addition and the severe disability premium.

(2) Where a claimant is not entitled to income support or a transitional addition, the amount of a special transitional addition under paragraph (1) to which he is entitled shall be reduced by the amount of any increase in his income.

(3) Subject to paragraph (4) a claimant shall cease to be entitled to a special transitional addition under paragraph (1) if—

- (a) he ceases to be entitled to income support for a reason other than that his applicable amount under Part IV of the General Regulations (applicable amounts) does not exceed his income; or
- (b) his applicable amount for the purposes of calculating his entitlement to income support falls to be determined under Schedule 4 to, or paragraphs 1 to 4, 13 and 18 of Schedule 7 to, the General Regulations (applicable amounts for persons in residential care and nursing homes or residential accommodation or hospital patients).

(4) Where a claimant ceases to be entitled to a special transitional addition—

- (a) by virtue of paragraph (3)(a) he shall be re-entitled to such an addition of the same amount as previously if, within 8 weeks of ceasing to be so entitled, he becomes re-entitled to income support or a transitional addition under regulation 14(3);
- (b) by virtue of paragraph (3)(b) he shall be re-entitled to such an addition of the same amount as previously if, within 8 weeks of his applicable amount falling to be determined under the provisions of the General Regulations referred to in paragraph (3)(b), he becomes entitled to income support on the basis that those provisions do not apply.

Persons not entitled to transitional additions

16.—(1) A person without accommodation shall not be entitled to a transitional addition, personal expenses addition or a special transitional addition.

(2) A person who is in board and lodging accommodation or a hostel shall not be entitled to a special transitional addition.