
STATUTORY INSTRUMENTS

1987 No. 1969

The Income Support (Transitional) Regulations 1987

PART II

TRANSITIONAL PROTECTION

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 ^{M1} (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 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), [F¹(6) or (8)] 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 ^{F2}..., shall cease to be entitled to any transitional addition and personal expenses addition under this Part [F³except where he ceases or, as the case may be, he and his family cease, to reside in the home in the circumstances specified in paragraph 16 or 18 of column (1) of Schedule 7 to the General Regulations (applicable amounts in special cases) and he intends or, as the case may be, they intend to return to the home].

(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 [F⁴first or second benefit week (or both)], 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,

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- (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 ^{F5}—

- (a) a transitional addition equal to the amount to which he was entitled immediately before his period of temporary absence less, if his applicable amount would have increased had he not been absent, the amount of the increase; and for the purposes of this sub-paragraph, any increase in the amount of personal expenses where a personal expenses addition is in payment shall be disregarded;
- (b) a personal expenses addition equal to the amount to which he was entitled immediately before his period of temporary absence less, if the amount of personal expenses applicable in his case under paragraph 13 of Schedule 4 to the General Regulations would have increased had he not been absent, the amount of that increase.]

(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.

Textual Amendments

- F1** Words in reg. 13(3) inserted (11.4.1988) by [The Income Support \(Transitional\) Amendment Regulations 1988 \(S.I. 1988/521\)](#), **regs. 1(1)**, 8(a)
- F2** Words in reg. 13(4) omitted (11.4.1988) by [The Income Support \(Transitional\) Amendment Regulations 1988 \(S.I. 1988/521\)](#), **regs. 1(1)**, 8(b)(i)
- F3** Words in reg. 13(4) added (11.4.1988) by [The Income Support \(Transitional\) Amendment Regulations 1988 \(S.I. 1988/521\)](#), **regs. 1(1)**, 8(b)(ii)
- F4** Words in reg. 13(5) substituted (11.4.1988) by [The Income Support \(Transitional\) Amendment Regulations 1988 \(S.I. 1988/521\)](#), **regs. 1(1)**, 8(c)
- F5** Reg. 13(8)(a)(b) substituted for words (11.4.1988) by [The Income Support \(Transitional\) Amendment Regulations 1988 \(S.I. 1988/521\)](#), **regs. 1(1)**, 8(c)

Marginal Citations

- M1** [S.I. 1983/1399](#); the relevant amending instrument is [S.I. 1985/1835](#).

Changes to legislation:

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Changes and effects yet to be applied to :

- Instrument applied by [1997 c. 27 s. 8Sch.2](#) Note 1(2)