
STATUTORY INSTRUMENTS

1995 No. 829

The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995

PART II

MISCELLANEOUS CONSEQUENTIAL AMENDMENTS

Amendment of the Overlapping Benefits Regulations and Savings

14.—(1) The Overlapping Benefits Regulations shall be amended in accordance with the following provisions of this regulation.

(2) Regulation 3 is hereby revoked.

(3) After paragraph (2) of regulation 4 (adjustment of personal benefit under Parts II and III of the Contributions and Benefits Act where other personal benefit under those Parts or graduated retirement benefit is payable) there shall be inserted the following paragraph—

“(2A) Paragraph (1) shall not require an adjustment of widow’s pension reduced in accordance with section 39(4) of the Contributions and Benefits Act only by reference to long-term incapacity benefit calculated in accordance with section 40(5)(b) of that Act.”.

(4) Subject to the provisions of paragraph (11) below, in paragraph (5)(b) of regulation 6 (adjustments of personal benefit under Chapters I and II of Part II of the Act by reference to industrial injuries benefits and benefits not under the Act, and adjustments of industrial injuries benefits)—

- (a) the words “or invalidity benefit” shall be omitted;
- (b) head (i) shall be omitted.

(5) At the end of paragraph (3) of regulation 9 (adjustment of dependency benefit in respect of an adult dependant where other dependency benefit is payable) there shall be added the words “or to a person entitled to an increase of incapacity benefit under regulation 9(1)(d) of the Social Security (Incapacity Benefit—Increases for Dependants) Regulations 1994 who satisfies the requirements of paragraph (3)(a) of that regulation”.

(6) In regulation 10 (adjustment of dependency benefit where certain personal benefit is payable)

- (a) at the end of paragraph (3) there shall be added the words “or to a person entitled to an increase of incapacity benefit under regulation 9(1)(d) of the Social Security (Incapacity Benefits—Increases for Dependants) Regulations 1994 who satisfies the requirements of paragraph (3)(a) of that regulation”;
- (b) in paragraph (4) after the words “sickness benefit” where they first appear there shall be inserted the words “but not incapacity benefit”.

(7) In regulation 14 (provisions for adjusting benefit for part of a week)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) Where an adjustment falls to be made under these regulations for a part of a week, benefit shall be deemed to be payable—

- (a) at a daily rate equal to one-seventh of the appropriate weekly rate for each day of the week in respect of any benefit (whether under the Contributions and Benefits Act or otherwise) except when maternity benefit and unemployment benefit falls to be adjusted; or
 - (b) at a daily rate equal to one-sixth of the appropriate weekly rate for each day of the week except Sunday where maternity benefit or unemployment benefit falls to be adjusted.”
- (b) in paragraph (2) the words “sickness benefit, invalidity benefit or severe disablement allowance” shall be omitted.
- (8) In Schedule 1 (personal benefits which are required to be adjusted by reference to benefits not under Chapters I and II of Part II of the Act)—
- (a) in paragraph 1 of column (1) for the words “sickness benefit” there shall be substituted the words “short-term incapacity benefit”;
 - (b) in paragraph 4 of column (1) for the words “invalidity benefit” there shall be substituted the words “incapacity benefit”;
 - (c) in paragraph 6 of column (1) after the words “Invalidity benefit” there shall be added the words “or an increase in the rate of incapacity benefit in accordance with regulation 10(1) of the Social Security (Incapacity Benefit) Regulations 1994(1)”.
- (9) Where before the appointed day regulation 3 of the Overlapping Benefits Regulations (special provisions for widow’s benefit and invalidity pension) applied to a widow; and—
- (a) on or after that day she remains entitled to either a widowed mother’s allowance or a widow’s pension; and
 - (b) she is either a transitional case for the purposes of Part IV of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995(2) or, has an award of long-term incapacity benefit by virtue of regulation 19 or 20 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995; and
 - (c) she is under pensionable age.
- regulation 3 of the Overlapping Benefits Regulations shall continue to apply to her as if the revocation made by paragraph (2) above had not been made subject to the modifications made in paragraph (10) below.
- (10) Where paragraph (9) applies regulation 3 of the Overlapping Benefits Regulations shall be modified so that—
- (a) for the words “invalidity pension in each place where they occur” there shall be substituted the words “long-term incapacity benefit”; and
 - (b) for sub-paragraph (a) of paragraph (2) there shall be substituted the following sub-paragraph
 - “(a) an amount equal to either the basic rate of long-term incapacity benefit referred to in regulation 18(1)(a) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 paid in a transitional case or an award of widow’s basic pension calculated by reference to section 44(1) of the Contributions and Benefits Act or an amount equal to the greater of them”;
 - (c) in sub-paragraph (b) of paragraph (2) for the words “two additional pensions” there shall be substituted the words “incapacity benefit payable at the additional rate in accordance with regulation 18(1)(b) of the Social Security (Incapacity Benefit) (Transitional) Regulations

(1) S.I.1994/2946.

(2) S.I. 1995/301.

1995 and widow's pension determined in accordance with section 44(3)(b) of the Contributions and Benefits Act”.

(11) Notwithstanding the amendment made by paragraph (4) above, where in a transitional case long-term incapacity benefit falls to be adjusted by reference to a benefit within column (2) of Schedule 1 to the Overlapping Benefits Regulations, that benefit shall be adjusted on or after the appointed day as if the words “or invalidity benefit” had not been omitted from regulation 6 of those Regulations.