
STATUTORY INSTRUMENTS

2005 No. 3360

The Social Security (Hospital In-Patients) Regulations 2005

Amendment of the Income Support (General) Regulations 1987

- 4.—(1) The Income Support (General) Regulations 1987 are amended as follows.
- (2) In regulation 21 (special cases)—
- (a) omit paragraph (2) (periods for which a person has been a patient), and
 - (b) in paragraph (3) (interpretation) in the definition of “patient”, for “the Social Security (Hospital In-Patients) Regulations 1975” substitute “regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005^{M1}”.
- (3) In Schedule 2 (applicable amounts), in paragraph 12(1) (additional condition for the Higher Pensioner and Disability Premiums)—
- (a) in sub-paragraph (b)(ii)(bb)^{M2} before “364 days” insert “subject to paragraphs 2A and 2B of Schedule 7,”, and
 - (b) in sub-paragraph (d)^{M3} for “1(a), (b), (c)(ii) or (d)(ii)” substitute “2A or 2B”.
- (4) In Schedule 3^{M4} (housing costs), in paragraph 18(7) (non-dependant deductions) in sub-paragraph (g)^{M5} for heads (i) and (ii) substitute—
- “(i) “patient” has the meaning given in paragraph 3(13)(b) and “prisoner” has the meaning given in regulation 21(3); and
 - (ii) in calculating a period of 52 weeks as a patient, any two or more distinct periods separated by one or more intervals each not exceeding 28 days shall be treated as a single period; or”.
- (5) In Schedule 7 (applicable amounts in special cases)—
- (a) under the heading “Patients”, omit paragraphs 1 and 2 in columns (1) and (2),
 - (b) for paragraph 2A^{M6} substitute—
- (i) in column (1)—

“2A. A claimant who is detained, or liable to be detained, under—

- (a) section 45A of the Mental Health Act 1983^{M7} (hospital and limitation directions) or section 59A of the Criminal Procedure (Scotland) Act 1995^{M8} (hospital direction); or
- (b) section 47 of the Mental Health Act 1983^{M9} (removal to hospital of persons serving sentences of imprisonment, etc.) or section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment for mental disorder),

but not if his detention continues after the date which the Secretary of State certifies or Scottish Ministers certify would have been the earliest date on which he could have been released in respect of, or from, the prison sentence if he had not been detained in hospital.”, and

- (ii) in column (2) “**2A.** Nil.”, and
- (c) after paragraph 2A—
 - (i) in column (1) insert “ **2B.** Subject to paragraph 2A, a single claimant who has been a patient for a continuous period of more than 52 weeks or, where the claimant is one of a couple, the other member of the couple has been a patient for a continuous period of more than 52 weeks. ”, and
 - (ii) in column (2) insert “ **2B.** The amount applicable under regulation 17(1) less any amount applicable by virtue of paragraphs 10 or 11 and 12, or paragraph 13A of Schedule 2. ”.
- (6) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings) omit paragraph 38 ^{M10} (transitional resettlement benefit for patients).

Marginal Citations

- M1** [S.I. 2005/3360](#).
- M2** Sub-paragraph (b) was substituted by [S.I. 1995/482](#) and amended by [S.I. 1995/2303](#).
- M3** Sub-paragraph (d) was amended by [S.I. 2002/3019](#) and 2004/1141.
- M4** [Schedule 3](#) was substituted by [S.I. 1995/1613](#).
- M5** Sub-paragraph (g) was amended by [S.I. 2003/1195](#) and 2004/2327.
- M6** [Paragraph 2A](#) was inserted by [S.I. 1990/547](#) and amended by [S.I. 1998/563](#) and 2005/522.
- M7** [1983 c. 20](#); [section 45A](#) was inserted by the [Crime \(Sentences\) Act 1997 \(c. 43\)](#), [section 46](#), and amended by the [Criminal Justice Act 2003 \(c. 44\)](#), [Schedule 32](#), [paragraphs 37](#) and [39](#) and [Schedule 37](#), Part 7.
- M8** [1995 c. 46](#); [section 59A](#) was inserted by the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp13\)](#), [Schedule 4](#), [paragraph 8\(6\)](#).
- M9** [Section 47](#) was amended by the [Crime \(Sentences\) Act 1997](#), [section 49\(3\)](#).
- M10** [Paragraph 38](#) was added by [S.I. 1988/663](#).

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Hospital In-Patients) Regulations 2005, Section 4.