
STATUTORY INSTRUMENTS

1995 No. 829

SOCIAL SECURITY

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

<i>Made</i>	- - - -	<i>21st March 1995</i>
<i>Laid before Parliament</i>		<i>23rd March 1995</i>
<i>Coming into force</i>	- -	<i>13th April 1995</i>

The Secretary of State for Social Security, in exercise of powers conferred by section 86A(1) of the Social Security Contributions and Benefits Act 1992⁽¹⁾, section 12(1) of the Social Security (Incapacity for Work) Act 1994⁽²⁾ and of all other powers enabling him in that behalf by this instrument, which is made before the end of the period of 6 months from the coming into force of those enactments⁽³⁾ and with the consent of the Treasury to regulation 22⁽⁴⁾, hereby makes the following Regulations:

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995 and shall come into force on 13th April 1995.

(2) In these Regulations—

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1986⁽⁵⁾;

(1) 1992 c. 4. Section 86A was inserted by section 2(5) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

(2) 1994 c. 18.

(3) See section 173(5)(a) of the Social Security Administration Act 1992 (c. 5). This provides that regulations made before the end of 6 months from the coming into force of the enactment under which they are made are not required to be referred to the Social Security Advisory Committee.

(4) See section 189(8) of the Social Security Administration Act 1992 (c. 5).

(5) S.I.1986/2218.

“the Airmen’s Benefits Regulation” means the Social Security (Airmen’s Benefits) Regulations 1975(6);

“the appointed day” means 13th April 1995;

“the Computation of Earnings Regulations” means the Social Security Benefit (Computation of Earnings) Regulations 1978(7)

“the Contributions Regulations” means the Social Security (Contributions) Regulations 1979(8);

“the Credits Regulations” means the Social Security (Credits) Regulations 1975(9);

“the General Benefit Regulations” means the Social Security (General Benefit) Regulations 1982(10);

“the Graduated Retirement Benefit (No. 2) Regulations” means the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978(11);

“the Hospital In-Patients Regulations” means the Social Security (Hospital In-Patients) Regulations 1975(12);

“the Increases for Dependants Regulations” means the Social Security Incapacity Benefit Increases for Dependants) Regulations 1994(13);

“the Invalid Care Allowance Regulations” means the Social Security (Invalid Care Allowance) Regulations 1976(14);

“the Mariners' Benefits Regulations” means the Social Security (Mariners' Benefits) Regulations 1975(15);

“the Married Women and Widows Special Provisions Regulations” means the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974(16);

“the Overlapping Benefits Regulations” means the Social Security (Overlapping Benefits) Regulations 1979(17);

“the Payments on account, Overpayments and Recovery Regulations” means the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(18);

“the Persons Abroad Regulations” means the Social Security Benefit (Persons Abroad) Regulations 1975(19);

“the Persons Residing Together Regulations” means the Social Security Benefit (Persons Residing Together) Regulations 1977(20);

“the Recoupment Regulations” means the Social Security (Recoupment) Regulations 1990(21);

(6) S.I. 1975/494.

(7) S.I. 1978/1698. The relevant amending instruments are S.I. 1979/359, 1984/1303, 1984/1697, 1989/1642, 1989/1690, 1990/2208 and 1992/300.

(8) S.I. 1979/591. The relevant amending instruments are S.I. 1987/413, 1987/2111 and 1993/2094.

(9) S.I. 1975/556. The relevant amending instruments are S.I. 1977/788, 1978/409, 1982/96, 1983/197, 1987/414, 1987/687, 1988/1545 and 1991/387.

(10) S.I. 1982/1408.

(11) S.I. 1978/393.

(12) S.I. 1975/555. The relevant amending instruments are S.I. 1983/186, 1984/1303, 1984/1699 and 1987/31.

(13) S.I. 1994/2945.

(14) S.I. 1976/1409.

(15) S.I. 1975/529. The relevant amending instruments are S.I. 1977/788, 1982/96, 1987/414, 1988/1545 and 1989/627.

(16) S.I. 1974/2010. The relevant amending instruments are S.I. 1978/508 and 1989/893.

(17) S.I. 1979/597. The relevant amending instruments are S.I. 1980/1927, 1982/1173, 1983/186, 1984/1303, 1991/387, 1991/2742 and 1992/3194.

(18) S.I. 1988/664. The relevant amending instruments are S.I. 1988/688, 1988/1725, 1989/136 and 1991/2742.

(19) S.I. 1975/563. The relevant amending instruments are S.I. 1983/186, 1984/1303, 1986/1545 and 1994/268.

(20) S.I. 1977/956. The relevant amending instruments are S.I. 1983/186 and 1984/1303.

(21) S.I. 1990/322. The relevant amending instruments are S.I. 1991/2742 and 1994/730.

“the Redundant Mineworkers Payments Orders” means the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1983(22), the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1984(23) and the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1986(24);

“the Social Fund (Recovery) Regulations” means the Social Fund (Recovery by Deductions from Benefits) Regulations 1988(25);

“the Statutory Maternity Pay Regulations” means the Statutory Maternity Pay (General) Regulations 1986(26);

“the Statutory Sick Pay Regulations” means the Statutory Sick Pay (General) Regulations 1982(27);

“the Unemployment, Sickness and Invalidity Benefits Regulations” means the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983(28);

“the Widow’s and Widower’s Invalidity Pensions Regulations” means the Social Security (Widow’s and Widower’s Invalidity Pensions) Regulations 1978(29).

PART II

MISCELLANEOUS CONSEQUENTIAL AMENDMENTS

Amendment of the Married Women and Widows Special Provisions Regulations

2. In regulation 3 of the Married Women and Widows Special Provisions Regulations (modifications, in relation to widows, of provisions with respect to unemployment and sickness benefit, maternity allowance and Category A retirement pension)—

- (a) in the heading and in paragraph (1)(a) and (b) for the words “sickness benefit” there shall be substituted the words “short-term incapacity benefit”;
- (b) in paragraph (5)(a) and (b) for the words “sickness benefit wherever they occur” there shall be substituted the words “short-term incapacity benefit”.

Amendment of the Airmen’s Benefits Regulations

3. In regulation 2 of the Airmen’s Benefits Regulations (removal of disqualification in the case of airmen for receiving benefit while absent from Great Britain)—

- (a) in paragraph (1) for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”;
- (b) in paragraph (2) for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”.

(22) S.I. 1983/506. The relevant amending instrument is S.I. 1989/1201.

(23) S.I. 1984/457. The relevant amending instrument is S.I. 1989/1201.

(24) S.I. 1986/625. The relevant amending instrument is S.I. 1989/1201.

(25) S.I. 1988/35.

(26) S.I. 1986/1960. The relevant amending instruments are S.I. 1988/532 and 1990/622.

(27) S.I. 1982/894.

(28) S.I. 1983/1598. The relevant amending instruments are S.I. 1986/484, 1988/689, 1988/1674, 1989/872, 1989/1324, 1989/1642, 1990/1487, 1992/285, 1992/585 and 1994/1101.

(29) S.I. 1978/529.

Amendment of the Mariners' Benefits Regulations

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

(2) In regulation 4 (removal of disqualification for receiving benefit by reason of absence from Great Britain) for the words “sickness benefit, invalidity benefit in both places where they occur” there shall be substituted the words “incapacity benefit”.

(3) In regulation 5 (evidence of unemployment or incapacity) for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”.

(4) In regulation 6(2) (special provisions relating to days of unemployment or incapacity for work in the case of mariners and share fishermen employed on board any ships or vessels) for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”.

Amendment of the Hospital In-Patients Regulations

5.—(1) The Hospital In-Patients Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In Schedule 1 (beneficiary to be regarded as having a dependant if any of these benefits is or would be payable) after paragraph (c) there shall be inserted the following paragraph—

“(ca) incapacity benefit where a beneficiary would satisfy the conditions for an increase of sickness or invalidity benefit in respect of such a dependant had the provisions of the Social Security Contributions and Benefits Act 1992 and regulations made under them relating to such benefits and to such an increase which applied on 12th April 1995 been still in force.”

(3) In Schedule 2 (personal benefits) for the words “Sickness benefit and Invalidity benefit” there shall be substituted the words “Incapacity benefit”.

Amendment of the Credits Regulations

6.—(1) The Credits Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation) after the definition of charity there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;”.

(3) In regulation 8(1) (credits on termination of full-time education, training or apprenticeship) for the words “sickness benefit” there shall be substituted the words “short-term incapacity benefit”.

(4) In regulation 9 (credits for unemployment or incapacity for work)—

(a) for paragraph (5) there shall be substituted the following paragraph—

“(5) Subject to paragraph (8), in this regulation except for paragraph (9)(f) a “day of incapacity for work in relation to any person” means any day which—

- (a) was a day of incapacity for work under section 30C of the Contributions and Benefits Act⁽³⁰⁾ (incapacity benefit: days and periods of incapacity for work);
- (b) would have been such a day had he claimed short-term incapacity benefit or maternity allowance within the prescribed time;

(30) Section 30C is inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994.

- (c) was a day of incapacity for work for the purposes of statutory sick pay under section 151 of the Contributions and Benefits Act and fell within a period of entitlement under section 153 of that Act.”;
- (b) in paragraph (8) for the words “paragraph 5(b) or (d)” there shall be substituted the words “paragraph (5)”.
- (c) in paragraph (9)—
 - (i) for the words “sickness benefit” where they first occur and where they occur in sub-paragraphs (a), (c) and (f) there shall be substituted the words “short-term incapacity benefit”;
 - (ii) in sub-paragraph (b) for the words “invalidity pension under section 15 of the Act” there shall be substituted the words “short-term incapacity benefit at the higher rate and long-term incapacity benefit”;
 - (iii) in sub-paragraph (f) for the words “paragraph (5)(d)” there shall be substituted the words “paragraph (5)(c)”;
 - (iv) sub-paragraph (g) shall be omitted.

Amendment of the Persons Abroad Regulations

7. In regulation 2 of the Persons Abroad Regulations (modification of the Act in relation to sickness benefit, invalidity benefit, severe disablement allowance, unemployment supplement and maternity allowance)—

- (a) in the heading for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”;
- (b) in paragraph (1)(bb) for the words “sickness benefit and invalidity benefit” there shall be substituted the words “incapacity benefit”;
- (c) in paragraph (1A)(b) for the words “sickness benefit and invalidity benefit” there shall be substituted the words “incapacity benefit”;
- (d) in paragraph (1B)(a)(ii) for the words “sickness benefit and invalidity benefit” there shall be substituted the words “incapacity benefit”;
- (e) paragraphs (3) and (4) shall be omitted;
- (f) in paragraphs (5)(a) for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”.

Amendment of the Invalid Care Allowance Regulations

8.—(1) The Invalid Care Allowance Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 14 (application of the Social Security (General Benefit) Regulations 1974 to invalid care allowance)—

- (a) in the heading for the words “the Social Security (General Benefit) Regulations 1974” there shall be substituted the words “the Social Security (General Benefit) Regulations 1982(31);”
- (b) for the words “the Social Security (General Benefit) regulations 1974, as amended” there shall be substituted the words “the Social Security (General Benefit) Regulations 1982”;
- (c) for the words “invalidity pension” there shall be substituted the words “incapacity benefit”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) For Schedule 1 there shall be substituted the following Schedule—

“SCHEDULE 1

PROVISIONS OF THE SOCIAL SECURITY (GENERAL BENEFIT)
REGULATIONS 1982 APPLIED TO INVALID CARE ALLOWANCE

Regulation applied (1)	Subject matter (2)
2	Exceptions from disqualification for imprisonment etc.
3	Suspension of payment of benefit during imprisonment etc.
4	Interim payments by way of benefit under the Act
9	Payment of benefit and suspension of payments pending a decision on appeals or references, arrears and repayments”

Amendment of the Widow’s and Widower’s Invalidity Pensions Regulations

9.—(1) The Widow’s and Widower’s Invalidity Pensions Regulations shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (2) of regulation 1 (citation, commencement and interpretation) there shall be substituted the following paragraph—

“(2) In these Regulations, unless the context otherwise requires, “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 and other expressions shall have the same meaning as in that Act.”.

(3) Regulation 2 is hereby revoked.

(4) For regulation 3 (rates of Category A retirement pension for certain widows and widowers) there shall be substituted the following regulation—

“(3) Where the rate of a person’s Category A retirement pension falls to be determined under sections 40(6)(b) or 41(5)(b) of the Contributions and Benefits Act⁽³²⁾ it shall be equal to the higher of—

- (a) the weekly rate of incapacity benefit applicable to him under the said sections 40 and 41 immediately before he attained pensionable age or where there was no such rate, the rate specified in section 41(4) of the Contributions and Benefits Act; or
- (b) the rate of Category A retirement pension to which he would have been entitled apart from those sections,

whichever is more favourable to him taking into account the effect of section 52 of the Contributions and Benefits Act.”.

(5) For regulation 4 (prescribed periods for the purposes of section 16 of the pensions Act) there shall be substituted the following regulation—

“Prescribed Periods for the Purposes of Section 41 of the Contributions and Benefits Act.

⁽³²⁾ Sections 40(6)(b) and 41(5)(b) were inserted by paragraphs 8 and 9 respectively of Schedule 1 to the Social Security (Incapacity for Work) Act 1994.

(4) The prescribed period for the purposes of section 41(1)(b), (2)(a) and (3)(a) of the Contributions and Benefits Act shall be 13 weeks (“week” for this purpose meaning any period of 7 days) beginning with the day following the day on which the wife died.”.

Amendment of the Persons Residing Together Regulations

10. In regulation 2(2)(a) of the Persons Residing Together Regulations (circumstances in which a person is to be treated as residing or not residing with another person or in which persons are to be treated as residing or not residing together)—

- (a) the words “or sickness benefit” and “or invalidity pension” shall be omitted;
- (b) after the words “66 (increase of a disablement pension where the beneficiary is entitled to unemployability supplement)” there shall be inserted the words “or section 86A of the Social Security Contributions and Benefits Act 1992” (incapacity benefit: increases for adult dependants).

Amendment of the Graduated Retirement Benefit (No 2) Regulations

11. Section 36(9) of the National Insurance Act 1965, as continued in force by regulation 3(3) of, and Schedule 1 to, the Graduated Retirement Benefit (No. 2) Regulations, shall be amended by substituting for the words “sections 14(6) and 15(4) of the Act (rate of unemployment benefit, sickness benefit or invalidity pension for persons over pensionable age)” the words “sections 25(5) and 30B(3)(**33**) of the Social Security Contributions and Benefits Act 1992 and regulations 11(1) and 18(7) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995(**34**) (rate of unemployment benefit and rate of incapacity benefit in transitional cases for persons over pensionable age)”.

Amendment of the Computation of Earnings Regulations

12.—(1) The Computation of Earnings Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) (interpretation)—

- (a) after the definition of “the Act” there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;”;
- (b) in the definition of “earnings” after the words “64 and 66 of the Act”, there shall be inserted the words “and section 86A of the Contributions and Benefits Act”;
- (c) in the definition of “specified benefit” for the words “invalidity pension” there shall be substituted the words “long-term incapacity benefit”.

(3) In regulation 3 (Payments to be disregarded)—

- (a) in paragraph (1)(b) after the words “66(4) of the Act”, there shall be inserted the words “and section 86A of the Contributions and Benefits Act”,
- (b) in paragraph (5) the words “or incapacity for work” shall be omitted.

(4) In regulation 5(2) (calculation of earnings of certain retirement pensioners and adult dependants of pensioners) after the words “64 and 66(4) of the Act”, there shall be inserted the words “and section 86A of the Contributions and Benefits Act”.

(33) Section 30B(3) is inserted by section 2(1) of the Social Security (Incapacity for Work) Act 1994.

(34) S.I. 1995/310.

(5) In Regulation 7 (calculation of earnings from boarders or lodgers of certain retirement pensioners and adult dependants of pensioners) after the words “66(4) of the Act” there shall be inserted the words “and section 86A of the Contributions and Benefits Act”.

Amendment of the Contributions Regulations

13.—(1) The Contributions Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 23(1)(a) (exception from liability for Class 2 contributions) for the words “sickness benefit or invalidity benefit” there shall be substituted the words “incapacity benefit”.

(3) Paragraph (2)(d) of regulation 28 shall be omitted.

(4) In regulation 38(6) (treatment for purpose of contributory benefit of late paid contributions under the Act) for the words “sickness benefit” there shall be substituted the words “short-term incapacity benefit”.

(5) In regulation 39 (treatment for the purpose of any contributory benefit of late paid or unpaid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor) for the words “sickness benefit” in both places where they occur there shall be substituted the words “short-term incapacity benefit”.

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(35)”.
- (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(36) 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

(35) S.I. 1994/2946.

(36) S.I. 1995/301.

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 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.

Amendment of the Statutory Sick Pay Regulations

15. In regulation 15(1) (provision of information by employers to employees) of the Statutory Sick Pay Regulations for the words “sickness” there shall be substituted the words “short-term incapacity”.

Amendment of the General Benefit Regulations

16. In regulation 2(2) of the General Benefit Regulations (exceptions from disqualification for imprisonment etc.), for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”.

Amendment of the Unemployment, Sickness and Invalidity Benefit Regulations

17.—(1) The Unemployment, Sickness and Invalidity Benefit Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) (interpretation)—

- (a) after the definition of charity there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;”;

- (b) the definition of disability appeal tribunal shall be omitted.

(3) In regulation 2 (provisions to which Parts I and II of these regulations are subject) the words “and IV” shall be omitted.

(4) Regulation 3 is hereby revoked.

(5) In regulation 4 (special provisions relating to day substituted for Sunday)—

- (a) in paragraph (1) the words “or of incapacity for work and sickness or invalidity” shall be omitted;
- (b) in paragraph (3) the words “or of incapacity for work and, sickness or invalidity” shall be omitted.

(6) In regulation 5 (night workers)—

- (a) in paragraph (1) the words “sickness benefit and invalidity benefit,” shall be omitted;
- (b) in paragraph (2)(b) the words “or incapable of work by reason of some specific disease or bodily or mental disablement” shall be omitted;
- (c) paragraph (3) shall be omitted.

(7) In regulation 6A (requalification period)—

- (a) in paragraph (2)(a) the words “sickness benefit, invalidity pension,” shall be omitted;
 - (b) in paragraph (2)(b) for the words “section 14(1)(b) or treated as incapable of work by virtue of section 22(4)”, there shall be substituted the words “sections 171A to 171G of the Contributions and Benefits Act”.
- (8) In regulation 7 (days not to be treated as days of unemployment or incapacity for work)
- (a) in the heading the words “or incapacity for work” shall be omitted;
 - (b) in paragraph (1) the words “, sickness and invalidity” shall be omitted;
 - (c) sub-paragraphs (c) and (f) of paragraph (1) shall be omitted.
- (9) Regulations 7A, 8 and 8A are hereby revoked.
- (10) In regulation 13 (reckoning of periods of interruption of employment) for paragraph (2)
- (a) there shall be substituted the following paragraph—
 - “(a) any day on which a person is attending—
 - (i) a training course provided by or on behalf of Scottish Enterprise, Highlands and Islands Enterprise or the Secretary of State; or
 - (ii) a training course or course of instruction provided in pursuance of arrangements made with Scottish Enterprise, Highlands and Islands Enterprise or the Secretary of State by any public authority, firm or person; or
 - (iii) a course of training in agricultural occupations provided by, or in pursuance of arrangements made by, the Minister of Agriculture, Fisheries and Food or the Secretary of State;and payment of training allowance is made by or on behalf of Scottish Enterprise, Highlands and Islands Enterprise, that Minister or the Secretary of State to the said person for his attendance at the course in question;”.
- (11) Regulations 15 and 17 are hereby revoked.
- (12) In regulation 20 (special provision for certain persons who have been employed abroad), in paragraph (1) for the words “sickness benefit” there shall be substituted the words “short-term incapacity benefit”.
- (13) Regulations 29, 30, 31 and 32 are hereby revoked.
- (14) For Part IV (sickness and invalidity benefit in respect of industrial injury) there shall be substituted the following part—

“PART IV A

TRANSITIONAL PROVISIONS FOR INCAPACITY BENEFIT IN RESPECT OF INDUSTRIAL INJURY

Provision for short-term incapacity in respect of industrial injury persons over pensionable age

- 32A.** In any case where—
- (a) immediately before the revocation of regulation 30, the provisions of that regulation applied; and
 - (b) after 12th April 1995 a person becomes entitled to short-term incapacity benefit in respect of the same industrial injury by virtue of regulation 11 or 14 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995,

the weekly rate at which short-term incapacity benefit is payable shall be the rate set out in paragraph 2 of Part I of Schedule 4 to the Contributions and Benefits Act, or, if higher, the rate at which that benefit would have been payable to the person concerned under section 30B(3) of that Act.

Provision for long-term incapacity in respect of industrial injury—persons over pensionable age

32B.—(1) Subject to paragraph (2) in any case where—

- (a) immediately before the revocation of regulation 31 the provisions of that regulation applied; and
- (b) after 12th April 1995 a person becomes entitled to long-term incapacity benefit by virtue of regulation 17, 17A or 21 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995,

the weekly rate at which long-term incapacity benefit is payable shall be the rate referred to in regulation 18(1) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 (notwithstanding that the person is over pensionable age), or, if higher, the rate at which that benefit would be payable under regulation 18(7).

(2) Where the contribution conditions for a Category A retirement pension specified in paragraph 5 of Part I of Schedule 3 to the Contributions and Benefits Act are not satisfied, those conditions shall be taken to be satisfied for the purposes of regulation 18(7) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995.”

Amendment of the Statutory Maternity Pay Regulations

18.—(1) The Statutory Maternity Pay Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 21A (effect of statutory maternity pay on invalidity benefit)—

- (a) in the heading for the words “invalidity benefit” there shall be substituted the words “incapacity benefit”;
- (b) in paragraph (1)—
 - (i) for the words “invalidity pension” there shall be substituted the words “short-term incapacity benefit at the higher rate or long-term incapacity benefit”;
 - (ii) for the words “section 15 of the 1975 Act or under section 15 of the Social Security Pensions Act 1975” there shall be substituted the words “section 30A of the Contributions and Benefits Act(37)”;
 - (iii) for the words “period of interruption of employment” there shall be substituted the words “period of incapacity for work”;
- (c) in paragraph (1)(a) the words “by reason of some specific disease or bodily or mental disablement, work for this purpose being work which the woman can reasonably be expected to do” shall be omitted;
- (d) in paragraph (1)(b) for the words “section 17(2) of the 1975 Act” there shall be substituted the words “section 30C(3) of the Contributions and Benefits Act(38)”;
- (e) in paragraph (1)(c) for the words “period of interruption of employment” there shall be substituted the words “period of incapacity for work”;
- (f) in paragraph (1)(d)—

(37) Section 30A is inserted by section 1 of the Social Security (Incapacity for Work) Act 1994.

(38) Section 30C(3) is inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994.

- (i) for the words “sickness benefit” in both places where they occur there shall be substituted the words “short-term incapacity benefit”;
 - (ii) for the words “period of interruption of employment” there shall be substituted the words “period of incapacity for work”;
- (g) in paragraph (1A)—
- (i) for the words “interruption of employment” there shall be substituted the words “incapacity for work”;
 - (ii) for the words “entitlement to invalidity pension under section 15 of the 1975 Act, as being a day on which the woman has been entitled to sickness benefit.” there shall be substituted the words “entitlement to short-term incapacity benefit at the higher rate and long-term incapacity benefit under section 30A of the Contributions and Benefits Act, as being a day on which the woman has been entitled to short-term incapacity benefit”;
- (h) in paragraph (1B) for the words “ “period of interruption of employment” has the same meaning as it has in the 1975 Act by virtue of section 17(1)(d) of that Act” there shall be substituted the words “ “period of incapacity for work” has the same meaning as in section 30C(1) of the Contributions and Benefits Act”.
- (i) for paragraph (2) there shall be substituted the following paragraph—
- “(2) Where by virtue of paragraph (1) a woman is entitled to short-term incapacity benefit at the higher rate or long-term incapacity benefit for any week (including part of a week) the total amount of such benefit (including any increase for a dependant) payable to her for that week shall be reduced by an amount equivalent to any statutory maternity pay to which she is entitled in accordance with Part XII of the Contributions and Benefits Act for the same week and only the balance, if any, of the short-term incapacity benefit at the higher rate or long-term incapacity benefit shall be payable to her.”.
- (3) In regulation 25A(5) (provision of information relating to claims for certain other benefits), for the words “sickness benefit, invalidity pension” there shall be substituted the words “incapacity benefit”.

Amendment of the Adjudication Regulations

- 19.**—(1) The Adjudication Regulations shall be amended in accordance with the following provisions of this regulation.
- (2) In regulation 65 (review of decisions involving payment or increase of benefit other than industrial injuries benefit, mobility allowance, income support or family credit)—
- (a) in paragraph (1)(b) for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”;
 - (b) in paragraph (3)(a)(ii) for the words “sickness benefit” there shall be substituted the words “short-term incapacity benefit”.

Amendment of the Social Fund (Recovery) Regulations

- 20.**—(1) The Social Fund (Recovery) Regulations shall be amended in accordance with the following provisions of this regulation.
- (2) In regulation 3 (benefits from which an award may be recovered)
- (a) for paragraphs (d), (e) and (f) there shall be substituted the following paragraph
 - “(d) incapacity benefit under section 86A of the Social Security Contributions and Benefits Act 1992;”;

- (b) in paragraph (o) for the words “sickness benefit, invalidity pension” there shall be substituted the words “incapacity benefit”;
- (c) in paragraph (p) for the words “sickness benefit” there shall be substituted the words “words short-term incapacity benefit”;
- (d) in paragraph (q) for the words “invalidity pension” there shall be substituted the words “long-term incapacity benefit”;
- (e) in paragraphs(s) for the words “invalidity pension” there shall be substituted the words “long-term incapacity benefit”;
- (f) in paragraph (t) for the words “invalidity pension” there shall be substituted the words “long-term incapacity benefit”;
- (g) paragraphs (aa) and (bb) shall be omitted.

Amendment of the Payments on account, Overpayments and Recovery Regulations

21.—(1) The Payments on account, Overpayments and Recovery Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) (interpretation)

- (a) in the definition of “benefit” after the words “under section 32(2)(a) and 32(2A) of the Act” there shall be added the words “and any incapacity benefit under sections 30A(1) and (5) of the Contributions and Benefits Act”;
- (b) after the definition of the Claims and Payments Regulations there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;”.

(3) In regulation 15(2) (recovery by deductions from prescribed benefits) after sub-paragraph (e) there shall be added the following sub-paragraph

“(f) any incapacity benefit.”.

(4) In regulation 16(8) (limitations on deductions from prescribed benefits), in the definition of specified benefit for the words “sickness or invalidity benefit” there shall be substituted the words “incapacity benefit”.

Amendment of the Recoupment Regulations

22. In regulation 2(1) of the Recoupment Regulations (relevant benefits) after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(ca) incapacity benefit;”.

Amendment of the Increases for Dependants Regulations 1994

23. After Part IV of the Increases for Dependants Regulations 1994 (consequential amendments) there shall be inserted the following Part—

“PART V

TRANSITIONAL PROVISION

Effect of an increase of benefit under regulation 12, 13, 15, 19, 20, 24 or 25 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995

16. Where a woman is entitled to an increase of benefit for a dependant in accordance with regulation 12, 13, 15, 19, 20, 24 or 25 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995, regulation 9(1)(a) shall be treated for the purposes of the Contributions and Benefits Act as if such an increase was an increase of incapacity benefit prescribed in regulations made under section 86A of that Act.”.

Amendment of the Redundant Mineworkers Payments Orders

24.—(1) The Schedules to the Redundant Mineworkers Payments Orders shall each be amended in accordance with the following provisions of this regulation.

(2) In article 1 after the definition of house there shall be inserted the following definition—

““incapacity benefit” means incapacity benefit payable under sections 30A, 40 and 41 of the Social Security Contributions and Benefits Act 1992 and by virtue of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995”.

(3) In article 9 (additional weekly benefits payable)—

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

“(b) on any day not entitled to incapacity benefit for either of the reasons specified in paragraph (2) below”;

(b) in paragraph (3) for the words “sickness benefit, invalidity benefit” there shall be substituted the words “incapacity benefit”.

PART III

TRANSITIONAL AND SAVINGS PROVISIONS

Claim or question concerning sickness or invalidity benefit to be determined after there appointed day

25. For the purpose of determining any claim or question concerning sickness or invalidity benefit which falls to be determined on or after the appointed day, the Contributions and Benefits Act, the Administration Act and any regulations made under them (other than the Social Security (Claims and Payments) Regulations 1987(39) shall be construed as if section 13(2) of the Social Security (Incapacity for Work) Act 1994 had not been enacted.

Recoupment of sickness or invalidity benefit

26. Where a determination is made on or after the appointed day concerning the recoupment of sickness or invalidity benefit, regulation 2 of the Recoupment Regulations shall be read as if the references to incapacity benefit in that regulation were references to sickness or invalidity benefit.

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Reviews in respect of sickness or invalidity benefit

27. Where a decision relating to sickness or invalidity benefit is reviewed on or after the appointed day, regulations 65(1)(b) and (3)(A)(ii) of the Adjudication Regulations shall be read as if the references to incapacity benefit and short-term incapacity benefit in those regulations were references to invalidity benefit or sickness benefit.

Saving in respect of Credits

28. For the purpose of determining whether a person is entitled to be credited with earnings in respect of any period before the appointed day, regulation 9 of the Credits Regulations shall continue to have effect as if the amendments to those Regulation made by regulation 6 of these Regulations had not come into force.

Signed by authority of the Secretary of State for Social Security.

20th March 1995

William Hague
Minister of State,
Department of Social Security

We consent,

21st March 1995

Derek Conway
Andrew Mitchell
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential amendments and transitional provisions due to the replacement of sickness benefit and invalidity benefit by incapacity benefit which is introduced by the Social Security (Incapacity for Work) Act 1994.

Part I contains commencement and interpretation provisions.

Part II amends various social security regulations so as to replace references to sickness and invalidity benefit with references to incapacity benefit.

In addition—

Regulation 5 amends the Social Security (Hospital In-Patients) Regulations 1975 (“the Hospital In-Patients Regulations”) so that a beneficiary will be regarded as having a dependent for the purposes of the Hospital In-Patients Regulations if he either satisfies a condition for an increase in benefit in respect of an adult dependant or would have satisfied such a condition had the conditions for increases for dependants in respect of sickness or invalidity benefit continued to apply after 12 April 1995.

Regulation 6 provides for the meaning of a day of incapacity for work in relation to credits.

Regulation 9 prescribes how Category A retirement pension shall be determined for certain widows and widowers.

Regulation 10 applies to incapacity benefit for the provisions of the Social Security Benefit (Persons Residing Together) Regulations 1977 which deal with the circumstances in which a person is to be treated as residing with his or her spouse when in hospital or temporarily absent.

Regulation 11 removes references to sickness and invalidity benefit from Schedule 1 to the Social Security (Graduated Retirement Benefit) (No.2) Regulations 1978 so that these provisions, which deal with the rate of benefit payable to those over pensionable age, apply to unemployment benefit and certain transitional payments of incapacity benefit only.

Regulation 14 amends the Social Security (Overlapping Benefits) Regulations 1979 so that (inter alia) where widow’s pension is paid at a reduced rate with long-term incapacity benefit those benefits may not be adjusted by reference to each other and amends the provisions for adjustment where part-week payments of more than one benefit are adjusted and makes various other minor consequential amendments.

Regulation 17 amends the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983 by omitting references to sickness benefit and invalidity benefit.

Regulation 23 provides that where a woman receives increases of benefit for a dependant spouse under the Incapacity Benefit (Transitional) Regulations 1995 such benefit will be treated in the same manner as increases of incapacity benefit made under the Social Security Contributions and Benefits Act 1992 for the purposes of claiming adult dependency increases of retirement pension.

Regulation 24 amends the Redundant Mineworkers and Concessionary Coal (Payment Schemes) Orders 1983, 1984 and 1986 to include references to incapacity benefit in those Orders.

Part III contains transitional provisions and savings relating to sickness and invalidity benefit in respect of the review of decisions, the recoupment of benefit and entitlement to credits.

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These Regulations are made before the end of the period of six months from the coming into force of the Social Security (Incapacity for Work) Act 1994 and section 86A of the Social Security Contributions and Benefits Act 1992 and they are therefore, insofar as they would otherwise have required reference to the Social Security Advisory Committee, exempt from such reference by virtue of section 173(5)(a) of the Social Security Administration Act 1992 and have accordingly not been so referred.

These Regulations do not impose a charge on business.