

Chapter 55 - Transitional provisions for the introduction of incapacity benefit

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Chapter 55 - Transitional provisions for the introduction of Incapacity Benefit

Introduction

55001 From 13.4.95 new legislation¹ introduced IB to replace SB and IVB. New tests of incapacity were also introduced (see DMG Chapter 13).

1 SS CB Act 92, s 30A & 30E

55002 However, legislation¹ provides protection for claimants receiving SB and IVB before 13.4.95 and allows for transitional awards of IB to be made. For claimants receiving SDA that legislation also provides protection for

1. ADI and
2. people engaged in training for work.

1 SS (IB) (Trans) Regs.

55003 The legislation¹ also allows for PIEs to link with PIWs (see DMG Chapter 56) and define which days before 13.4.95 can count as days of IfW.

1 SS (IB) (Trans) Regs.

55004

Transition from sickness benefit to incapacity benefit

Transitional award of IBST

55005 Where a person is entitled to SB on 12.4.95, that award becomes a transitional award of IBST(L)¹ or IBST(H) where 13.4.95 is the 197th day of incapacity in the PIW (see DMG 55130 - 55131 and DMG Chapter 56). The transitional award is subject to the satisfaction of the appropriate incapacity test². Where a person was not entitled to SB on 12.4.95, there is no entitlement to the transitional award of IBST(L) or IBST(H).

1 SS (IB) (Trans) Regs, reg 11(1); 2 reg 11(3)

55006 For the purposes of a transitional award, entitlement to SB includes cases where¹

1. no benefit is payable due to the overlapping benefit provisions **or**
2. disqualification has been imposed due to the person's
 - 2.1 misconduct **or**
 - 2.2 failure to attend for or submit to medical examination or treatment **or**
 - 2.3 breach of rules of behaviour (see DMG Chapter 13).

1 SS (IfW) Act 94, s 4(4)

55007 Where the claimant is over pensionable age, the rate of the transitional award of IBST(L) or IBST(H) should be calculated by reference to the claimant's provisional RP entitlement¹ (see DMG Chapter 56).

1 SS CB Act 92, s 30B & 44(4)

55008 The transitional award of IBST ceases on the earliest of the day¹

1. when the PIW ceases **or**
2. after 364 days of entitlement to IBST in the PIW **or**
3. on which incapacity is no longer due to the IA or PD, where the SB award was dependent on this (see DMG 55016) **or**
4. the claimant is not more than five years over pensionable age².

Note: See DMG Chapter 75 for guidance on pensionable age.

1 SS (IB) (Trans) Regs, reg 11(2); 2 SS CB Act 92, s 30A(2)(b)

55009 If the claimant is still incapable of work after 364 days of incapacity and is under pensionable age, an award of IBLT should be considered¹ (see DMG Chapter 56).

1 SS (IB) (Trans) Regs, reg 11(4)

Effect of periods of entitlement to DPTC (until 4.10.99 DWA)

55010 Where a transitional award of IBST(H) ceases for any of the reasons in DMG 55008 and a later claim to IB is made which links because of the special provisions for DPTC¹ (see DMG Chapter 56) the claimant is entitled to

1. IB (including any ADI or CDI) under normal rules **or**
2. if higher a further transitional award of IB (including any ADI or CDI) payable at the rate payable if the previous award had not ceased².

1 SS CB Act 92, s 30C(5); 2 SS (IB) (Trans) Regs, reg 12(1)

55011 Where the transitional rate is awarded as in DMG 55010 this will continue until¹

1. entitlement to transitional ADI is lost (see DMG 55078) **or**
2. where no ADI is involved, the rate payable under normal rules equals or exceeds the transitional rate.

1 SS (IB) (Trans) Regs, reg 12(1)(a) & (b)

Effect of periods of specified training

55012 Where a transitional award of IBST(H) ceases for any of the reasons in DMG 55008 and a later claim to IB is made which links because of the special provisions for training for work¹ (see DMG Chapter 56) the claimant is entitled to

1. IB payable at the normal rate (including any ADI or CDI) **or**
2. if higher a further transitional award of IB (including any ADI or CDI) payable at the rate payable if the original transitional award had not ceased².

1 SS CB Act 92, s 30C(6); 2 SS (IB) (Trans) Regs, reg 13(1)

55013 There will be entitlement to a transitional award of IBST where a person¹

1. was attending a specified training course not more than 57 days immediately before or after 13.4.95 **and**
2. was entitled to SB within a period not exceeding 57 days before the first day of attendance on the course **and**
3. becomes entitled to IB within a period not exceeding 57 days beginning on the day after the last day of attendance on the course.

The rate of IBST is the rate payable had the claimant been entitled to a transitional award on 13.4.95 if this is higher than the rate of IB payable under normal rules².

1 SS (IB) (Trans) Regs, reg 13(2); 2 reg 13(2)

55014 For the purposes of DMG 55013

1. "training course" is as defined under the old legislation¹ **and**
2. days of attendance on a specified training course are treated as days of incapacity².

1 SS (IB) (Trans) Regs, reg 13(2)(a); 2 reg 13(3)

55015 A transitional award of IB as in DMG 55012 or 55013 continues until¹

1. entitlement to a transitional ADI is lost (see DMG 55078) **or**
2. where no ADI is involved, the rate payable under normal IB rules equals or exceeds the transitional rate.

1 SS (IB) (Trans) Regs, reg 13(1)(a)-(b) & 13(2)

Entitlement to SB due to an industrial accident or prescribed disease

55016 Where a person was entitled to SB on 12.4.95 because the incapacity was due to an IA or a PD, the under pensionable age contribution conditions for IBST are taken as satisfied for¹

1. entitlement to a transitional award of IBST(H) due to the special linking rules (see DMG 55010 - 55015) if the incapacity is again due to the relevant accident or disease **and**
2. entitlement to a further transitional award of IBST(L) or (H) where
 - 2.1 a transitional award of IBST ceased when the incapacity was no longer due to the IA or PD (see DMG 55008) **and**
 - 2.2 the incapacity is due to the same IA or PD as the original transitional award **and**
 - 2.3 the first day of the new claim is no more than 57 days after the last transitional award ceased.

1 SS (IB) (Trans) Regs, reg 14(1)

55017 Where DMG 55016 **1.** or **2.** applies the award of IBST is a transitional award. IBST is payable at the rate payable

1. had there been entitlement to a transitional award **or**
2. had the transitional award not ceased¹.

1 SS (IB) (Trans) Regs, reg 14(2)

55018 - 55020

Transition to long-term incapacity benefit

Transitional cases

55021 A transitional case¹ is a case where

1. there is a transitional award of IBLT² (see DMG 55023) **or**
2. a PIW links with a PIE before 13.4.95³ (see DMG 55026).

1 SS (IB) (Trans) Regs, reg 18(9); 2 reg 17; 3 reg 17A

55022 A transitional case has entitlement to IBLT even though the number of days of incapacity in the PIW is less than 364¹.

1 SS (IB) (Trans) Regs, reg 17(1) & 17A

Transitional award of IBLT

55023 Where a person was entitled to IVB on 12.4.95 and the claim is continuous, the IVB award becomes a transitional award of IBLT providing that the person¹

1. satisfies the appropriate test of incapacity (see DMG Chapter 13) **or**
2. where the AWT applies, can be treated as satisfying the test as in 55121.

Where a person was not entitled to IVB on 12.4.95, there is no entitlement to the transitional award of IBLT.

1 SS (IB) (Trans) Regs, reg 17(1) & (2)

55024 "Entitlement to IVB on 12.4.95" includes cases where

1. no benefit was payable due to the overlapping benefit provisions
2. a disqualification has been imposed due to the person's
 - 2.1 misconduct **or**
 - 2.2 failure to attend for or submit to medical examination or treatment **or**
 - 2.3 breach of rules of behaviour¹ (see DMG Chapter 13).

1 SS (IfW) Act 94, s 4(4)

55025 The transitional award of IBLT ceases on the earliest¹ of

1. the day the PIW ceases **or**
2. the day the claimant is not more than five years over pensionable age where pensionable age was reached before 13.4.95 **or**
3. the day before the first day of entitlement to RP where the claimant reached pensionable age before 13.4.95 **or**
4. the day before pensionable age is reached where that is on or after 13.4.95 **or**

5. the day before the day that incapacity is no longer due to the relevant accident or disease² (see DMG 55030).

Note: See DMG Chapter 75 for guidance on pensionable age.

1 SS (IB) (Trans) Regs, reg 17(3) & (4); 2 reg 21(1)

Period of incapacity for work links with period of interruption of employment before 13.4.95

55026 There is entitlement to IBLT where¹

1. days of incapacity on or after 13.4.95 form a PIW with days of incapacity before 13.4.95 (see DMG 55130 - 55132) **and**
2. there was entitlement to IVB in the 57 days immediately before 13.4.95.

1 SS (IB) (Trans) Regs, reg 17A

55027 - 55029

Entitlement to IVB due to an industrial accident or prescribed disease

55030 Where a claimant was¹

1. entitled to IVB because the incapacity was as a result of an IA or a PD **and**
2. entitled to a transitional award of IBLT

the transitional award ceases when the incapacity is no longer the result of the relevant IA or PD.

1 SS (IB) (Trans) Regs, reg 21(1)

55031 Where

1. entitlement to a transitional award of IBLT ceases as in DMG 55030 **and**
2. the claimant again becomes incapable of work as a result of the same personal injury or PD **and**
3. the new incapacity is within a period not exceeding 57 days following the day the transitional award ceased

the new award is a transitional award. The IBLT rate is the rate at which the transitional award would have been payable had it not ceased¹.

1 SS (IB) (Trans) Regs, reg 21(2)

Rate of IBLT payable

55032 The IBLT rate in transitional cases is¹

1. a basic rate equal to the rate of IBLT **and**

2. an additional rate based on the amount of any AP payable with IVB immediately before 13.4.95 **and**
3. a transitional invalidity allowance based on the amount of any IVA payable immediately before 13.4.95.

Note: The amount of IVA payable is the amount before any adjustment due to AP.

1 SS (IB) (Trans) Regs, reg 18(1) & (2)

55033 In transitional cases where IVB was not payable on 12.4.95, entitlement to additional rate or transitional IVA is based on the amounts payable on the last day of entitlement to IVB¹.

Note: The amount of IVA payable is the amount before any adjustment due to AP.

1 SS (IB) (Trans) Regs, reg 18(1)

55034 Where there is entitlement to a transitional IVA there is no entitlement to an increase for age addition with IB¹.

1 SS (IB) (Trans) Regs, reg 18(6)

55035 The basic rate and any transitional IVA is updated in the normal way, but any additional rate remains at the level at which it was awarded where the person is under pensionable age¹.

1 SS (IB) (Trans) Regs, reg 18(3)

55036 Any transitional IVA entitlement must be reduced by the additional rate payable¹ (see DMG 55038 where there is also entitlement to GMP).

1 SS (IB) (Trans) Regs, reg 18(4) & (5)

55037 Where the claimant is over pensionable age immediately before 13.4.95, the rate of a transitional award of IBLT is based on the claimant's provisional RP entitlement. All components are updated¹ (see DMG Chapter 56).

1 SS (IB) (Trans) Regs, reg 18(7) & (8)

Effect of GMP entitlement

55038 Where the claimant has entitlement to¹

1. one or more GMPs **and**
2. additional rate **and**
3. transitional IVA

the transitional IVA must be extinguished or reduced by the relevant amount.

1 SS (IB) (Trans) Regs, reg 22(2)

55039 The relevant amount is calculated using the formula: additional rate (before any adjustments) + total GMPs - additional rate or GMPs (whichever is less)¹.

Example

additional rate	=	£4.00
+ GMP	=	£6.00
TOTAL	=	£10.00 - £4.00 (the lower of additional rate or GMP)
	=	£6.00.

IVA entitlement is reduced (or extinguished) by £6.00.

1 SS (IB) (Trans) Regs, reg 22(6)

55040 Where IB entitlement does not include an additional rate but there is entitlement to¹

1. one or more GMPs **and**
2. transitional IVA

transitional IVA must be extinguished or reduced by the total amounts of any GMPs.

1 SS (IB) (Trans) Regs, reg 22(3)

55041 Female pensionable age is changing (see DMG Chapter 75). However, female claimants continue to be entitled to their own GMP at age 60¹. This means that deductions should be made in respect of both

1. personal GMP **and**
2. any inherited GMP

of a female claimant from age 60.

1 PS Act 93, s 46(1)

Widowers

55042 Where a man

1. was receiving IVB by virtue of the special provision for widowers¹ **and**
2. satisfies the provisions for transitional cases in DMG 55021 **and**
3. is entitled to
 - 3.1 an award of IBLT which includes the additional rate **and**
 - 3.2 one or more GMPs

the weekly rate of IBLT must be reduced by the lower of the additional rate or the total weekly rate of all GMPs².

1 SS CB Act 92, s 41; 2 SS (IB) (Trans) Regs, reg 22(1)

Increase of unemployment supplement

55043 Where a person has no entitlement to a transitional IVA but has entitlement to

1. additional rate **and**
2. one or more GMPs **and**

3. an increase of US related to the person's age¹

the amount of increase of US must be reduced or extinguished by the relevant amount² (see DMG 55039).

1 SS CB Act 92, Sch 7, para 3; 2 SS (IB) (Trans) Regs, reg 22(4)

55044 Where a person has entitlement to

1. IBLT as a transitional case (see DMG 55021) with no additional rate **and**
2. one or more GMPs **and**
3. an increase of US related to the person's age¹

the increase of US must be reduced or extinguished by the total weekly rate of any GMPs².

1 SS CB Act 92, Sch 7, para 3; 2 SS (IB) (Trans) Regs, reg 22(5)

55045 Female pensionable age is changing (see DMG Chapter 75). However, female claimants continue to be entitled to their own GMP at age 60¹. This means that deductions should be made in respect of both

1. personal GMP **and**
2. any inherited GMP

of a female claimant from age 60.

1 PS Act 93, s 46(1)

Effect of DPTC (until 4.10.99 DWA)

55046 Where

1. entitlement to a transitional award of IBLT ceases **and**
2. there is entitlement to IB for a later claim which satisfies the special linking provisions for DPTC¹ (see DMG Chapter 56) **and**
3. the rate of IBLT payable under normal rules (including any age addition, ADI or CDI) is less than the rate that would have been payable if the transitional award has not ceased

the rate of IB payable is the rate at which the transitional award would be payable had it not ceased².

1 SS CB Act 92, s 30C(5); 2 SS (IB) (Trans) Regs, reg 19(1)

55047 Where a claimant

1. was in receipt of DWA before 12.4.95 or at any time within a period of 56 days beginning on or after 13.4.95 **and**
2. is entitled to IB on or after 13.4.95 **and**
3. would have been entitled to IVB for the latest claim, if the IB provisions had not come into force, by virtue of the special linking provisions for DPTC¹ **and**

4. the rate of IB payable under normal rules (including any age addition, ADI or CDI) is less than the rate payable had there been entitlement to a transitional award of IB (see DMG 55023).

the rate of IB payable will be the rate payable had the claimant been entitled to a transitional award of IBLT on 13.4.95².

1 SS CB Act 92, s 33(7) & 42; 2 SS (IB) (Trans) Regs, reg 19(2)

55048 For the purposes of DMG 55047, days of entitlement to DPTC are treated as days of IfW¹.

1 SS (IB) (Trans) Regs, reg 19(3)

55049 If DMG 55046 or 55047 applies, IBLT continues to be paid at the transitional rate until¹

1. entitlement to a transitional ADI is lost (see DMG 55081) **or**
2. where no transitional ADI is involved, the rate of IBLT payable under normal rules equals or exceeds the transitional rate.

1 SS (IB) (Trans) Regs, reg 19(1) & (2)(c)

Effect of specified training

55050 Where

1. entitlement to a transitional award of IBLT ceases **and**
2. there is entitlement to IB for a later claim which links by virtue of the special linking rules for training for work¹ (see DMG Chapter 56) **and**
3. the rate of IB payable under normal rules is less than the rate that would be payable had the transitional award not ceased

the rate of IB payable is the rate at which the transitional award would be payable had it not ceased².

1 SS CB Act 92, s 30C(6); 2 SS (IB) (Trans) Regs, reg 20(1)

55051 Where a claimant

1. was attending a specified training course within a period of not more than 57 days immediately before or after 13.4.95 **and**
2. was entitled to IVB for any day within the 57 days before the start of the course **and**
3. is entitled to IB for any day within a period not exceeding 57 days beginning on the day after the last day of attendance on the course **and**
4. the rate of IB payable under normal rules is less than the rate of transitional IB payable had there been entitlement to a transitional award on 13.4.95

IB is payable at the rate at which a transitional award would have been payable had the claimant been entitled to a transitional award of IBLT on 13.4.95¹.

1 SS (IB) (Trans) Regs, reg 20(2)

55052 For the purposes of DMG 55051

1. "training course" is as defined under the old legislation¹ **and**
2. the days of attendance on the training course are treated as days of incapacity for work².

1 SS (IB) (Trans) Regs, reg 20(2)(a); 2 reg 20(3)

55053 If DMG 55050 or 55051 applies, IB continues to be paid at the transitional rate until¹

1. entitlement to transitional ADI is lost (see DMG 55081) **or**
2. where no transitional ADI is involved, the rate of IB payable under normal rules equals or exceeds the transitional rate.

1 SS (IB) (Trans) Regs, reg 20(1)(a)-(b) & 20(2)

Widows under pensionable age

55054 There are special overlapping benefit rules for widows under pensionable age with entitlement to¹

1. IVB and WP (or WMA) before 13.4.95 **and**
2. IB as a transitional case (see DMG 55021) on or after 13.4.95.

1 SS (OB) Regs, reg 3

55055 Widows covered by DMG 55054 are entitled to

1. the higher of basic WP or WMA and IBLT **and**
2. the sum of
 - 2.1 additional rate payable (see DMG 55032) with IB **and**
 - 2.2 AP payable with WP or WMA

up to the prescribed maximum¹.

1 SS (MAP) Regs, reg 3

55056 Entitlement to the rate of IB calculated in DMG 55054 remains until the earlier of

1. the end of the PIW **or**
2. the day before pensionable age.

55057 A widow with entitlement to IB as in DMG 55055 may apply to have as much benefit as possible treated as IB¹. Where such an application is made it takes effect from the next payment of benefit. Benefit paid after the date of application should be treated as IB, with any remaining balance of WB, even if the period covered by the payment is before the date of application.

1 SS (OB) Regs, reg 3(3)(a)

55058 - 55069

Increase of Category A RP for incapacity

55070 Where a claimant has been entitled to IVA or transitional IVA for any day not more than 57 days immediately before reaching pensionable age, there is entitlement to an increase of category A RP for invalidity¹. Entitlement to age addition to IBLT includes entitlement to IVA or transitional IVA².

1 SS CB Act 92, s 47; 2 SS (IB) (Trans) Regs, reg 23

Severe disablement allowance

Periods of specified training

55071 People are treated as incapable of work and disabled for all days between two SDA claims where they¹

1. attended a specified training course not more than 57 days immediately before 13.4.95 **and**
2. were entitled to SDA within the 57 days before the first day of attendance on the course **and**
3. become incapable of work within the 57 days beginning on the day after the last day of attendance on the course.

1 SS (IB) (Trans) Regs, reg 28A

55072 In DMG 55071 "training course" is as defined under the old legislation¹.

1 SS (IB) (Trans) Regs, reg 28A; SS (U, S & IVB) Regs, reg 7(1)(f)

55073 - 55074

Increase for dependants

General

55075 A transitional award of ADI may be made if an increase was payable for a spouse with SB, IVB or SDA at any time in the 56 days before 13.4.95¹.

1 SS (IB) (Trans) Regs, reg 15, 24-26 & 28

Transition from SB to IB

55076 An increase of SB for a dependent spouse may continue to be paid where

1. the increase was payable in the 56 days before 13.4.95 **and**
2. the claimant is entitled to a transitional award of IBST on 13.4.95¹.

The increase is uprated to an amount equal to ADI payable with IBST².

1 SS (IB) (Trans) Regs, reg 15(1); 2 reg 15(2)

55077 ADI equals that payable with IBLT¹ where a person

1. is entitled to an ADI **and**
2. IBST is being paid at the IBLT rate (see DMG Chapter 56).

1 SS (IB) (Trans) Regs, reg 15(7)

55078 A transitional award of ADI with IBST ends when

1. an increase of SB or IB has not been paid or is not payable for a continuous period of 57 days¹ **or**
2. a transitional award of IBST ends **or**
3. the dependant ceases to reside with the claimant and the claimant does not contribute at least the amount of the increase to the maintenance of the dependant².

1 SS (IB) (Trans) Regs, reg 15(5); 2 reg 15(3)

55079 Do not include days of

1. entitlement to DPTC **or**
2. attendance on a training course¹

when calculating the period of 57 days in DMG 55078. An award of transitional ADI with IBLT may follow the end of a transitional award of IBST only if the claimant is immediately entitled to IBLT and continues to satisfy the special conditions².

1 SS (IB) (Trans) Regs, reg 15(6); 2 SS CB Act 92, s 30B(4)

Transition from IVB to IB

55080 An increase of IVB for a dependent spouse may continue to be paid where

1. the increase was payable in the 56 days before 13.4.95 **and**
2. the claimant is entitled to IBLT in a transitional case¹ (see DMG 55021).

Note: Entitlement to IBLT in a transitional case might arise after 13.4.95 but the 56 day period applies to the period before that date.

The increase is uprated to an amount equal to ADI payable with IBLT².

1 SS CB Act 92, s 86A; SS (IB) (Trans) Regs, reg 24(1); 2 reg 24(2)

55081 A transitional award of ADI with IBLT ends when an increase of IVB or IBLT has not been paid or is not payable for a continuous period of 57 days¹. This may be because

1. the dependant ceases to reside with the claimant **and**
2. the claimant does not contribute to the maintenance of the dependant at least to the amount of the increase².

If the period of non-payability does not exceed 57 days, the transitional award continues.

1 SS (IB) (Trans) Regs, reg 24(7); 2 reg 24(3)

55082 When calculating the period of 57 days in DMG 55081 do not include days of

1. entitlement to DPTC **or**
2. attendance on a training course¹ **or**
3. days when a WtWB is not entitled to IB in a linking term (see DMG Chapter 13 and Chapter 56)².

Days when a WtWB is entitled to IB but ADI is not payable are included when calculating the 57 days.

1 SS (IB) (Trans) Regs, reg 24(8); 2 reg 24(7A)

Example

A transitional award of ADI is in payment. A linking term starts on 1.12.98. The claimant starts work on 3.12.98. The claimant stops work on 3.4.99 and reclaims IB and ADI. The claimant is still entitled to a transitional award of ADI. The ADI is not payable from 10.4.99 because earnings are over the limit. The ADI is not paid for 57 days and on 6.6.99 transitional protection is lost.

Earnings rule

55083 Do not operate the IB earnings rules where¹

1. ADI or CDI was not paid for the period immediately before 13.4.95 because of the operation of the SB and IVB earnings rules **and**
2. either
 - 2.1 ADI or CDI is not payable because the same earnings which were taken into account for SB or IVB are taken into account and affect IB additions after 13.4.95 **or**
 - 2.2 ADI is reduced by earnings but the reduction would be less under the old earnings rules.

1 SS (IB) (Trans) Regs, reg 16 & 26

Entitlement to adult dependency increase with IB

55084 Any person who is entitled to a transitional award of ADI cannot also be entitled to ADI with IB¹.

1 SS (IB) (Trans) Regs, reg 15(9) & 24(6)

Entitlement to adult dependency increase with SDA

55085 Where an ADI was payable with SDA at any time in the 56 days before 13.4.95 the increase continues to be payable.

55086 ADI payable with SDA are subject to the conditions which apply to a transitional award of ADI with IB.

55087 An amount equal to the ADI is payable with SDA if the allowance is payable because

1. days for which DPTC was payable or days of training are treated as days on which the claimant was incapable of work and disabled **and**
2. an ADI was payable when the claimant was last entitled to SDA **and**
3. the claimant would not be entitled to an ADI because no CDI is payable¹.

1 SS (IB) (Trans) Regs, reg 28

Saving provisions

55088 Claimants may have been entitled to an increase for a dependant before 13.4.95 under old legislation. This provision was "saved" when regulations were revoked. Those saving provisions continue to have effect so that the increase can continue to be paid, or adjusted under those rules¹.

1 SS (IB) (Trans) Regs, reg 25(1)

55089 Cases affected by the saving provisions include

1. absence from GB¹
2. abatement of CDI - earnings of spouse²
3. persons treated as entitled to CHB when they were entitled to an increase of benefit for a child not living with them³
4. tapered earnings rule for adult dependants⁴
5. inclusion of occupational or personal pensions in calculation of earnings for dependants⁵
6. occupational pension treated as earnings when there are no other earnings to take into account⁶
7. any provisions allowing for compensation payments to claimants who have lost entitlement following attendance on a training course⁷.

*1 SS (IB) (Trans) Regs, reg 25(2)(a); 2 reg 25(2)(b); 3 reg 25(2)(c); 4 reg 25(2)(d);
5 reg 25(2)(e); 6 reg 25(2)(f); 7 reg 25(2)(g)*

55090 The tapered earnings rule does not apply to any week where the dependant has earnings over £81.50¹.

1 SS (IB) (Trans) Regs, reg 25(4)

55091 No payment of compensation (see DMG 55089 7.) is due in any week in which the dependant has earnings over £81.50¹.

1 SS (IB) (Trans) Regs, reg 25(5)

55092 Entitlement under the saving provisions ends¹ when

1. IVB or IBLT has not been paid for at least 57 continuous days **or**
2. a dependency increase has not been paid for a continuous period of 57 days in a PIW **or**
3. the saving is the tapered earnings rule or the compensation in DMG 55089 7., and the increase has not been adjusted as a result of earnings for 57 days.

Note: The periods of 57 days apply to each of items 1. to 3. above. The saving provision does not end when a combined total of 57 days is reached.

1 SS (IB) (Trans) Regs, reg 25(3)

55093 When calculating the period of 57 days in DMG 55092 do not include days when a WtWB is not entitled to IBLT in a linking term¹. See DMG Chapter 13 and DMG Chapter 56. Days when a WtWB is entitled to IB but ADI is not payable are included when calculating the 57 days.

1 SS (IB) (Trans) Regs, reg 25(3A)

Example

An increase of IBLT is in payment which is adjusted because of the tapered earnings rule. The linking term starts on 1.12.98 and the claimant starts work on 3.12.98. The claimant stops work on 3.4.99 and claims IB and ADI. The spouse still has earnings and the award of ADI continues to be adjusted using the tapered earnings rule.

55094 - 55119

Provisions for transition to the new incapacity tests

Transitional awards of IB

55120 Entitlement to a transitional award of IB depends on the satisfaction of the appropriate test of incapacity (see DMG Chapter 13) unless specific circumstances apply (see DMG 55121)¹. Where the PCA applies and continuous evidence of incapacity is provided² the claimant is not required to satisfy or be treated as satisfying (see DMG Chapter 13) the test until it is applied.

1 SS (IB) (Trans) Regs, reg 29; 2 reg 31(1) & (2)

Application of the personal capability assessment

- 55121 The PCA is treated as satisfied where¹ the person
1. was entitled to IVB on 1.12.93 and 12.4.95 **and**
 - 1.1 between 1.12.93 and 12.4.95 the person was continuously incapable of work or had periods of incapacity not separated by more than 56 continuous days **and**
 - 1.2 is aged 58 or over on 13.4.95² **or**
 2. was entitled to IS, HB or CTB on 1.12.93³ **and**
 - 2.1 had been incapable of work for not less than 28 weeks immediately before 1.12.93 **and**
 - 2.2 the applicable amount immediately before 13.4.95 included a DP on account of the person's own incapacity **and**
 - 2.3 between 1.12.93 and 12.4.95 the person was continuously incapable of work or had periods of incapacity not separated by more than 56 continuous days **and**
 - 2.4 is aged 58 or over on 13.4.95 **or**
 3. received a payment under an award of SDA immediately before 13.4.95⁴ **or**
 4. falls within any of the categories exempted from the PCA⁵ (see DMG Chapter 13).

1 SS (IB) (Trans) Regs, reg 31(3); 2 reg 31(5)(a); 3 reg 31(5)(b); 4 reg 31(5)(c); 5 reg 31(5)(d)-(h)

55122 If the person satisfies any of the conditions in DMG 55121 **1. to 3.**, the assessment is only treated as satisfied if the claimant continues to provide evidence of incapacity¹.

1 SS (IB) (Trans) Regs, reg 31(4); SS (Med Ev) Regs

55123 The provisions in DMG 55121 will continue to apply to any later claim which falls within the same spell of incapacity (see DMG Chapter 56).

Provisions for other benefits

55124 Where continued entitlement to SDA, or any advantages under any provisions (see DMG 55125), depends on IfW, entitlement is subject to the satisfaction of the incapacity test¹ (unless DMG 55121 applies).

1 SS (IB) (Trans) Regs, reg 30

55125 The advantages referred to in DMG 55124 include

1. incapacity credits **or**
2. HPP and DP with IS, HB or CTB **or**
3. not being required to be available for employment for IS **or**
4. not being required to register for employment for IS.

55126 - 55129

Common provisions

Days to be treated as days of incapacity for work

55130 Certain days are treated as days of IfW when

1. deciding
 - 1.1 entitlement to a transitional award of IB¹ **or**
 - 1.2 whether a claim to IB made on or after 13.4.95 is part of a PIW beginning before 13.4.95² **and**
2. calculating the commencement of the PIW³ **and**
3. calculating the rate of IB payable⁴ and deciding when to apply the PCA⁵.

1 SS (IB) (Trans) Regs, reg 2; 2 reg 2; 3 reg 4; 4 reg 4; 5 reg 32

55131 The days to be included are

1. any day which was a day of incapacity for SB/IVB
2. any Sunday between two days of IfW
3. the Sunday immediately following a PIE which ended on a Saturday
4. the seventh day of any week of SSP.

Note: Any odd days of SSP should be calculated as a fraction of a seven day week.

55132 Days within MAPs before 13.4.95 are also treated as days of incapacity¹ providing the claimant was not disqualified from receiving MA. Each week of MA is seven days for the purposes of DMG 55130².

1 SS CB Act 92, s 57(2); 2 s 35(2), 165(1) & 171(1)

Linking of periods of interruption of employment and periods of incapacity for work

55133 Where the last day of incapacity in a PIE and the first day of incapacity in a PIW are separated by not more than 56 days the two periods should be treated as one PIW¹. This retains the same relevant income tax year for entitlement to benefit. Only days of incapacity in the PIE (calculated as in DMG 55131) count for determining the IB rate and the appropriate incapacity test.

1 SS (IB) (Trans) Regs, reg 3

Claims for SB or IVB made on or after 13.4.95

- 55134 The time limits in force for IB from 13.4.95 (see DMG Chapter 02) should be applied to any delayed claim for SB or IVB made on or after that date¹.

1 SS (IB) (Trans) Regs, reg 5

Treating claims to SB or IVB made on or after 13.4.95 as claims in the alternative to other benefits

- 55135 Where a claim

1. to SB or IVB, SDA, or MA, is made on or after 13.4.95 **and**
2. is for a period before that date

the provisions applying prior to 13.4.95 for treating claims in the alternative (see DMG Chapter 02) should be applied. The only exception to this is that a claim to UB cannot be treated as a claim to SB or IVB¹.

1 SS (IB) (Trans) Regs, reg 6

People deemed incapable of work

- 55136 People who were deemed incapable of work immediately before 13.4.95 because the work they were doing fell within certain provisions¹ are not treated as capable of work under the new provisions even though the work is for more than 16 hours a week² (see DMG Chapter 13).

1 SS (U, S, & IVB) Regs, reg 3(3)(2); 2 SS (IB) (Trans) Regs, reg 7(1)

- 55137 The provision in DMG 55136 continues until¹

1. the PIW ends **or**
2. when no work has been done for a period of not less than 57 continuous days in the PIW.

1 SS (IB) (Trans) Regs, reg 7(2)

- 55138 DMG 55136 - 55137 apply only until 6.4.03.

55139

Disqualification

- 55140 Where immediately before 13.4.95 people were disqualified from receiving SB/IVB for up to six weeks under certain provisions¹, the disqualification will apply to the transitional award of IB for the remaining period of the disqualification².

1 SS CB Act 92, s 32 & 59; 2 SS (IB) (Trans) Regs, reg 9

55141 - 55144

Payment of benefit

Transition from six to seven day benefit

55145 SB or IVB and SDA were payable for six days a week. Payment was not made for Sundays. From 13.4.95, IB and SDA are payable for seven days a week. Where payment of benefit spans 13.4.95 benefit should be calculated for each day using 1/6th or 1/7th of the weekly rate, but see DMG 55146.

55146 Where payment of SB or IVB or SDA would have been due for a six day period ending on 13.4.95 or 14.4.95 the amount of benefit due for each of the days 13.4.95 and 14.4.95 should be 1/6th of the weekly rate applicable on 13.4.95¹.

1 SS (IB) (Trans) Regs, reg 27

Automated credit transfer

55147 Where an award of SB or IVB was paid by automated credit transfer, the transitional award of IB should continue to be paid by automated credit transfer into the same bank or other account. Any application and consent given for the SB or IVB award is treated as having been given for the award of IB¹.

1 SS (IB) (Trans) Regs, reg 8

Suspension of benefit

55148 Where the award of SB or IVB was suspended in whole or in part that suspension continues to apply to the transitional award of IB¹.

1 SS (IB) (Trans) Regs, reg 10

55149 - 55999

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