



# Social Security Contributions and Benefits Act 1992

## 1992 CHAPTER 4

### [<sup>F1</sup>PART XIII

#### INCAPACITY FOR WORK

##### [<sup>F1</sup>171B The own occupation test.

- (1) Where a person has been engaged in remunerative work for more than 8 weeks in the 21 weeks immediately preceding the day with respect to which it falls to be determined whether he is or was incapable of work, [<sup>F2</sup>the own occupation test is applicable in his case.]
- (2) The own occupation test is whether he is incapable by reason of some specific disease or bodily or mental disablement of doing work which he could reasonably be expected to do in the course of the occupation in which he was so engaged.
- (3) Where for any purpose of this Act it is determined in relation to a person—
  - (a) that the test applicable with respect to any day is the own occupation test, and
  - (b) that he is on that test incapable of work,that test remains applicable in his case until the end of the spell of incapacity beginning with that day or, as the case may be, in which that day falls, or until the 197th day of incapacity for work in that spell, whichever is the earlier.

For this purpose a “spell of incapacity” means a series of 4 or more consecutive days of incapacity for work; and any two such spells not separated by a period of more than 8 weeks shall be treated as one spell of incapacity.

- (4) For the purposes of subsection (3) above a day of incapacity for work means a day—
  - (a) with respect to which it has been determined for any purpose of this Act that the person in question was incapable of work, or
  - (b) in respect of which he was entitled to statutory sick pay, or
  - (c) in the case of a woman, which falls within the maternity allowance period, or

---

*Changes to legislation: Social Security Contributions and Benefits Act 1992, Section 171B is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (d) which in accordance with regulations is to be treated for those purposes as a day of incapacity for work.
- (5) Any provision of this Act apart from subsection (4) above under or by virtue of which a day is or is not to be treated for any purpose as a day of incapacity for work shall be disregarded for the purposes of this section.
- (6) Provision may be made by regulations defining for the purposes of this section what is meant by “remunerative work”.
- The regulations may, in particular, provide—
- (a) for “remunerative work” to be defined by reference to the number of hours worked per week; and
  - (b) for training of any prescribed description to be treated as if it were remunerative work.
- (7) Provision may be made by regulations as to the application of this section in cases where a person engages in more than one occupation or in different kinds of work.
- (8) The Secretary of State may by regulations provide that subsection (3) above shall have effect as if—
- (a) the reference there to 4 consecutive days were to such lesser number of days, whether consecutive or not, within such period of consecutive days as may be prescribed; and
  - (b) for the reference to 8 weeks there were substituted a reference to such larger number of weeks as may be prescribed.]

#### **Textual Amendments**

- F1** Pt. 12A inserted (18.11.1994 for specified purposes, 13.4.1995 in so far as not already in force) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), **ss. 5, 16(3)** (with **ss. 4, 7**); S.I. 1994/2926, art. 2(2), Sch. Pt. 2 (with [The Social Security \(Incapacity Benefit\) \(Transitional\) Regulations 1995 \(S.I. 1995/310\)](#), regs. 1(1), 11, 17, 29)
- F2** Words in s. 171B(1) substituted (3.4.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 8 para. 24**; S.I. 1999/3309, art. 2(2)(a)

#### **Modifications etc. (not altering text)**

- C1** S. 171B(3) modified (13.4.1995) by [The Social Security \(Incapacity for Work\) \(General\) Regulations 1995 \(S.I. 1995/311\)](#), regs. 1, **13(4)**
- C2** S. 171B(4)(d) restricted (18.11.1994 for specified purposes, 13.4.1995 in so far as not already in force) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), **ss. 6(3)(a), 16(3)**; S.I. 1994/2926, art. 2(2), Sch. Pt. 2
- C3** Ss. 171B(6)-(8) restricted (18.11.1994 for specified purposes, 13.4.1995 in so far as not already in force) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), **ss. 6(3)(a), 16(3)**; S.I. 1994/2926, art. 2(2), Sch. Pt. 2

**Changes to legislation:**

Social Security Contributions and Benefits Act 1992, Section 171B is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

View outstanding changes

**Changes and effects yet to be applied to :**

- s. 171A-171G repealed by [2007 c. 5 Sch. 3 para. 9\(12\)Sch. 8](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2010/875 revoked (27.8.2010) before coming into force by S.I. 2010/1906, regs. 1(2), 2)
- Act restricted by [S.I. 1995/471 art. 32\(4\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 8ZA inserted by [2009 c. 24 s. 16\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- Pt. 12ZE inserted by [2023 c. 20 Sch. para. 5](#)
- s. 4(1)(a)(viii) and word inserted by [2023 c. 20 Sch. para. 11\(b\)](#)
- s. 4C(5)(i)(j) repealed by [2007 c. 22 Sch. 4 para. 42\(3\)\(c\)Sch. 7 Pt. 7](#)
- s. 11A(1)(eb) inserted by [2021 c. 26 Sch. 27 para. 12](#) (This amendment not applied to [legislation.gov.uk](#). The existing section 11A of Act repealed by paragraph 4(1) of the Schedule to the National Insurance Contributions (Reduction in Rates) Act 2023 (c. 57))
- s. 30B(4)(aa) inserted by [2012 c. 5 Sch. 9 para. 4](#)
- s. 35(1)(e) and word inserted by [2012 c. 5 s. 63\(2\)\(a\)](#)
- s. 35(3)(za) inserted by [2012 c. 5 s. 63\(2\)\(b\)](#)
- s. 45(2A)(a) words substituted by [2011 c. 19 Sch. 3 para. 2\(3\)\(b\)](#)
- s. 45(2A)(b) substituted by [2011 c. 19 Sch. 3 para. 2\(3\)\(c\)](#)
- s. 46(5)(6) inserted by [2008 c. 30 Sch. 4 para. 6\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 6(3) repealed (1.10.2014) without ever being in force by 2014 c. 19, Sch. 12 para. 96(c); S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c))
- s. 46(5)(a) words substituted by [2011 c. 19 Sch. 3 para. 3](#)
- s. 47(4A) inserted by [2008 c. 30 s. 102\(6\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 102 repealed (1.10.2014) without ever being in force by 2014 c. 19, Sch. 12 para. 96(a); S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c))
- s. 124(1)(ea) inserted by [2012 c. 5 s. 59\(2\)\(a\)](#)
- s. 124(1)(ga) inserted by [2009 c. 24 s. 5\(1\)\(a\)](#)
- s. 124(1C) inserted by [2012 c. 5 s. 59\(2\)\(b\)](#)
- s. 124(6A)(6B) inserted by [2009 c. 24 s. 5\(1\)\(b\)](#)
- s. 124A inserted by [2012 c. 5 s. 59\(3\)](#)
- s. 130C(2)(za) inserted by [2016 asp 19 Sch. 4 para. 5](#)
- s. 138(2A) inserted by [2009 c. 24 s. 17](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 138(2B) inserted by [2009 c. 24 s. 19\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 140(4)(ca) inserted by [2009 c. 24 s. 19\(6\)](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))

- s. 140(4A) inserted by [2009 c. 24 s. 19\(7\)](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 164(2)(aa) inserted by [2012 c. 5 s. 63\(3\)\(a\)](#)
- s. 164(9)(da) inserted by [2012 c. 5 s. 63\(3\)\(b\)](#)
- s. 171ZA(2)(ba) inserted by [2012 c. 5 s. 63\(4\)\(a\)](#)
- s. 171ZA(3A) inserted by [2012 c. 5 s. 63\(4\)\(b\)](#)
- s. 171ZB(2)(ba) inserted by [2012 c. 5 s. 63\(5\)\(a\)](#)
- s. 171ZB(3A) inserted by [2012 c. 5 s. 63\(5\)\(b\)](#)
- s. 171ZE(2A) inserted by [2014 c. 6 s. 123\(3\)\(b\)](#)
- s. 171ZE(2B) inserted by [2014 c. 6 s. 123\(3\)\(c\)](#)
- s. 171ZL(2)(ba) inserted by [2012 c. 5 s. 63\(8\)\(a\)](#)
- s. 171ZL(8)(za) inserted by [2012 c. 5 s. 63\(8\)\(c\)](#)
- s. 171ZEA(2)(ba) inserted by [2012 c. 5 s. 63\(6\)\(a\)](#)
- s. 171ZEA(3)(za) inserted by [2012 c. 5 s. 63\(6\)\(b\)](#)
- s. 171ZEB(2)(ba) inserted by [2012 c. 5 s. 63\(7\)\(a\)](#)
- s. 171ZEB(3)(za) inserted by [2012 c. 5 s. 63\(7\)\(b\)](#)
- s. 173A inserted by [2012 c. 5 s. 63\(9\)](#)
- s. 176(3A) inserted by [2011 c. 19 Sch. 3 para. 5\(2\)](#)
- Sch. 4 Pt. 1 para. 2A applied by [S.I. 1995/310 reg. 18\(1\)\(a\)](#)
- Sch. 4 Pt. 1 para. 6 power to amend conferred by [1992 c. 5 s. 154\(2\)\(a\)](#)
- Sch. 4 Pt. 1 para. 2 repealed by [2007 c. 5 Sch. 8](#)
- Sch. 4 Pt. 1 para. 2A repealed by [2007 c. 5 Sch. 8](#)
- Sch. 4 Pt. 5 para. 7 power to amend conferred by [1992 c. 5 s. 154\(2\)\(d\)\(e\)](#)
- Sch. 4 Pt. 5 para. 12 power to amend conferred by [1992 c. 5 s. 154\(2\)\(d\)\(e\)](#)
- Sch. 4 Pt. 3 para. 1 power to amend conferred by [1992 c. 5 s. 150\(3\)\(a\)151](#)
- Sch. 4 Pt. 3 para. 2 power to amend conferred by [1992 c. 5 s. 150\(3\)\(a\)151](#)
- Sch. 4 Pt. 3 para. 4 power to amend conferred by [1992 c. 5 s. 150\(3\)\(a\)151](#)
- Sch. 4 Pt. 3 para. 5 power to amend conferred by [1992 c. 5 s. 150\(3\)\(a\)151](#)
- Sch. 4 Pt. 3 para. 6 power to amend conferred by [1992 c. 5 s. 150\(3\)\(a\)151](#)
- Sch. 4 Pt. 4 para. 2 applied by [S.I. 1995/310 reg. 15\(7\)](#)
- Sch. 4 Pt. 4 para. 1A repealed by [2007 c. 5 Sch. 8](#)
- Sch. 4 Pt. 4 para. 2 repealed by [2007 c. 5 Sch. 8](#)
- Sch. 4B para. 1(1)(a)para. 1(1)(b)(2) words inserted by [2011 c. 19 Sch. 3 para. 6\(2\)\(b\)](#)
- Sch. 4C inserted by [2008 c. 30 s. 102\(5\)Sch. 3](#) (This amendment not applied to legislation.gov.uk. S. 102, Sch. 3 repealed (1.10.2014) without ever being in force by 2014 c. 19, Sch. 12 para. 96(a)(b); S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c))
- Sch. 4C para. 7(2)(c) inserted by [2011 c. 19 Sch. 3 para. 7\(7\)\(b\)](#)
- Sch. 4C para. 7(3) inserted by [2011 c. 19 Sch. 3 para. 7\(8\)](#)
- Sch. 4C para. 3 omitted by [2011 c. 19 Sch. 3 para. 7\(3\)](#)
- Sch. 4C para. 7(2)(b) words inserted by [2011 c. 19 Sch. 3 para. 7\(7\)\(a\)](#)
- Sch. 4C para. 1 words substituted by [2011 c. 19 Sch. 3 para. 7\(2\)](#)
- Sch. 4C para. 2 words substituted by [2011 c. 19 Sch. 3 para. 7\(2\)](#)
- Sch. 4C para. 5(b) words substituted by [2011 c. 19 Sch. 3 para. 7\(4\)](#)
- Sch. 4C para. 6 words substituted by [2011 c. 19 Sch. 3 para. 7\(5\)](#)
- Sch. 4C para. 7(1) words substituted by [2011 c. 19 Sch. 3 para. 7\(4\)](#)
- Sch. 4C para. 7(1) words substituted by [2011 c. 19 Sch. 3 para. 7\(6\)](#)
- Sch. 11 para. 2(i) inserted by [2012 c. 5 s. 63\(10\)\(a\)](#)
- Sch. 11 para. 9 inserted by [2012 c. 5 s. 63\(10\)\(b\)](#)