

STATUTORY INSTRUMENTS

1994 No. 2946

The Social Security (Incapacity Benefit) Regulations 1994

[^{F1}PART IV

ADDITIONAL CONDITIONS FOR PERSONS INCAPACITATED IN YOUTH

[^{F1}Conditions relating to residence or presence

16.—(1) The prescribed conditions for the purposes of section 30A(2A)(d) of the Contributions and Benefits Act as to residence or presence in Great Britain in relation to any person on the relevant day shall be that on that day—

- (a) he is ordinarily resident in Great Britain;
- (b) he is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 or he is a person to whom paragraph (5) applies;
- (c) he is present in Great Britain; and
- (d) he has been present in Great Britain for a period of, or for periods amounting in aggregate to, not less than 26 weeks in the 52 weeks immediately preceding that day.

^{F2}(2)

^{F2}(3)

(4) In determining whether a person satisfies paragraph (1), where a person is absent from Great Britain by reason only of the fact that—

- (a) he is abroad in his capacity as a serving member of the forces, or he is the spouse, [^{F3}civil partner,] son, daughter, father, father-in-law, mother or mother-in-law of, and living with, a serving member of the forces abroad;
- (b) he is in employment prescribed for the purposes of section 120 of the Contributions and Benefits Act in connection with continental shelf operations; or
- (c) he is abroad in his capacity as an airman within the meaning of regulation 81, or mariner within the meaning of regulation 86, of the Social Security (Contributions) Regulations 1979;

any day or period of absence shall be treated as a day on which, or period during which, the person is present or resident, as the case may be, in Great Britain; and for the purposes of this paragraph “serving member of the forces” has the same meaning as in regulation 1(2) of the Social Security (Contributions) Regulations 1979.

(5) This paragraph applies where a person is—

- (a) a member of a family of a national of a State contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;
- (b) a person who is lawfully working in Great Britain and is a national of a State with which the Community has concluded an agreement under [^{F4}Article 217 of the Treaty on the

Functioning of the European Union] providing, in the field of social security, for the equal treatment of workers who are nationals of the signatory State and their families;

- (c) a person who is a member of a family of, and living with, a person specified in subparagraph (b); or
 - (d) a person who has been given leave to enter, or remain in, the United Kingdom by the Secretary of State upon an undertaking by another person or persons pursuant to the immigration rules within the meaning of the Immigration Act 1971 to be responsible for his maintenance and accommodation.
- (6) A person shall be treated as having satisfied the residence or presence conditions on any subsequent day of incapacity for work falling within the same period of incapacity for work where the residence or presence conditions specified in paragraphs (1) to (4) are satisfied on the first relevant day.]

Textual Amendments

- F1** Pt. 4, 5 inserted (6.4.2001) by [The Social Security \(Incapacity Benefit\) Miscellaneous Amendments Regulations 2000 \(S.I. 2000/3120\)](#), regs. 1, **2(5)** (with reg. 6)
- F2** Reg. 16(2)(3) omitted (1.10.2006) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(2), **10(4)**
- F3** Words in reg. 16(4)(a) inserted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 24** (with art. 3)
- F4** Words in Regulations substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, **3-6**

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Incapacity Benefit) Regulations 1994, Section 16.