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## STATUTORY INSTRUMENTS

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# 1994 No. 1898

## The Social Security (Incapacity for Work) (Northern Ireland) Order 1994

### Incapacity benefit: rate **N.I.**

4.—(1) In the Contributions and Benefits Act, after section 30A (inserted by Article 3) insert—

**“Incapacity benefit: rate.**

**30B.**—(1) The amount payable by way of incapacity benefit in respect of any day is 1/7th of the appropriate weekly rate.

(2) Subject to the following provisions of this section the weekly rate of short-term incapacity benefit is the lower or higher rate specified in Schedule 4, Part I, paragraph 2. The benefit is payable at the lower rate so specified for the first 196 days of entitlement in any period of incapacity for work and at the higher rate so specified thereafter.

(3) In the case of a person over pensionable age the weekly rate of short-term incapacity benefit is, subject to subsection (4) below, that at which the relevant retirement pension referred to in section 30A(2)(b) above would have been payable.

But in determining that rate any increase of the following descriptions shall be disregarded—

- (a) any increase (for married women) under section 53(2) below or (for deferred retirement) under Schedule 5 to this Act;
- (b) any increase (for dependants) under section 80, 83 or 85 below; and
- (c) any increase (for Category A or Category B pensioners) under section 132 of the Administration Act (annual up-rating of benefits) which corresponds to an increase of the sums mentioned in section 150(1)(e) of the Great Britain Administration Act.

(4) In the case of a person who has been entitled to short-term incapacity benefit for 196 days or more in any period of incapacity for work and—

- (a) is terminally ill; or
- (b) is entitled to the highest rate of the care component of disability living allowance,

the weekly rate of short-term incapacity benefit payable, if greater than the rate otherwise payable to him under subsection (2) or (3) above, shall be equal to the rate at which long-term incapacity benefit under section 30A above would be payable to him if he were entitled to it. For the purposes of this subsection a person is terminally ill if he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months.

(5) References to short-term incapacity benefit at the higher rate shall be construed as including short-term incapacity benefit payable to any person who has been entitled to that benefit for 196 days or more in a period of incapacity for work, notwithstanding that the rate of benefit is determined in accordance with subsection (3) or (4) above.

(6) Subject as follows, the weekly rate of long-term incapacity benefit under section 30A above is that specified in Schedule 4, Part I, paragraph 2A.

**Status:** Point in time view as at 01/01/2006.

**Changes to legislation:** The Social Security (Incapacity for Work) (Northern Ireland) Order 1994, Section 4 is up to date with all changes known to be in force on or before 12 July 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)

(7) Regulations may provide that if a person is, on the qualifying date in relation to a period of incapacity for work, under such age as may be prescribed, the rate of long-term incapacity benefit under section 30A above payable to him in respect of any day in that period shall be increased by such amount as may be prescribed.

For this purpose “the qualifying date” means the first day of the period of incapacity for work or such earlier day as may be prescribed.”.

(2) In Part I of Schedule 4 to the Contributions and Benefits Act (rates of benefit, etc.: contributory periodical benefits), for paragraph 2 substitute—

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“2. Short-term incapacity benefit.	(a)	lower rate ..... £43.45
	(b)	higher rate ..... £52.50.
2A. Long-term incapacity benefit.		£57.60.”.

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*Para. (3) rep. by 2002 c. 21*

(4) After section 86 of the Contributions and Benefits Act insert—

**“Incapacity benefit: increase for adult dependants.**

**86A.—**(1) The weekly rates of short-term and long-term incapacity benefit shall, in such circumstances as may be prescribed, be increased for adult dependants by the appropriate amount specified in relation to benefit of that description in Schedule 4, Part IV, column (3).

(2) Regulations may provide that where the person in respect of whom an increase of benefit is claimed has earnings in excess of such amount as may be prescribed there shall be no increase of benefit under this section.”.

(5) In Part IV of Schedule 4 to the Contributions and Benefits Act (rates of benefit etc.: increases for dependants), after paragraph 1 insert—

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“1A. Short-term incapacity benefit—		
(a) where the beneficiary is under pensionable age	the 11.00	26.90
(b) where the beneficiary is over pensionable age	the 11.00	33.10”

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and for paragraph 2 substitute—

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“2. Long-term incapacity benefit	11.00	34.50”
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(6) Any order under section 132 of the Administration Act (annual up-rating of benefits) made by the Department before the commencement of this Article shall include provision—

(a) making such increase (if any) in the sum specified in the provision inserted by paragraph (2) as the amount of short-term incapacity benefit at the higher rate as is necessary to make that sum equal to the higher rate or, if there is only one such rate, to the rate of statutory sick pay payable after the order comes into operation; and

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- (b) making such increases in the other sums specified in the provisions inserted by paragraphs (2) and (5) in Schedule 4 to the Contributions and Benefits Act as would have been required if the provisions in question had been in operation at all material times.

**Status:**

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**Changes to legislation:**

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