



Disability Living Allowance and Disability Working Allowance Act 1991

1991 CHAPTER 21

Disability working allowance

6 Introduction of disability working allowance. E+W+S

- (1) Section 20 (income-related benefits) of the ^{M1}Social Security Act 1986 (“the 1986 Act”) shall be amended as follows.
- (2) The following paragraph shall be inserted after subsection (1)(b)—
“(bb) disability working allowance;”.
- (3) In subsection (2) for the words “or (b)” there shall be substituted the words “ , (b) or (bb) ”.
- (4) The following subsections shall be inserted after subsection (6)—
“(6A) A person in Great Britain who has attained the age of 16 and qualifies under subsection (6B) below is entitled to a disability working allowance if, when the claim for it is made or is treated as made—
 - (a) he is engaged and normally engaged in remunerative work;
 - (b) he has a physical or mental disability which puts him at a disadvantage in getting a job;
 - (c) his income—
 - (i) does not exceed the applicable amount; or
 - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which section 21(3B) below provides is made; and
 - (d) except in such circumstances as may be prescribed, neither he nor, if he has a family, any member of it, is entitled to family credit.
- (6B) Subject to subsection (6E) below, a person qualifies under this subsection if—

Status: Point in time view as at 19/11/1991.

Changes to legislation: There are currently no known outstanding effects for the Disability Living Allowance and Disability Working Allowance Act 1991, Cross Heading: Disability working allowance. (See end of Document for details)

- (a) for one or more of the 56 days immediately preceding the date when the claim for a disability working allowance is made or is treated as made there was payable to him one or more of the following—
 - (i) an invalidity pension under section 15 of the Social Security Act 1975;
 - (ii) an invalidity pension under section 15 or 16 of the Social Security Pensions Act 1975;
 - (iii) a severe disablement allowance under section 36 of the Social Security Act 1975;
 - (iv) income support, housing benefit or community charge benefit,
 or a corresponding benefit under any enactment having effect in Northern Ireland;
 - (b) when the claim for a disability working allowance is made or is treated as made, there is payable to him one or more of the following—
 - (i) an attendance allowance under section 35 of the Social Security Act 1975;
 - (ii) a disability living allowance under section 37ZA of that Act;
 - (iii) an increase of disablement pension under section 61 of that Act (constant attendance allowance);
 - (iv) an analogous pension increase under a war pension scheme or an industrial injuries scheme,
 or a corresponding benefit under any enactment having effect in Northern Ireland; or
 - (c) when the claim for a disability working allowance is made or is treated as made, he has an invalid carriage or other vehicle provided by the Secretary of State under section 5(2)(a) of the National Health Service Act 1977 and Schedule 2 to that Act or under section 46 of the National Health Service (Scotland) Act 1978 or provided under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- (6C) For the purposes of subsection (6A) above a person has a disability which puts him at a disadvantage in getting a job only if he satisfies prescribed conditions or prescribed circumstances exist in relation to him.
- (6D) In subsection (6A)(c) above “the applicable amount” means the applicable amount at such date as may be prescribed.
- (6E) If the only benefit mentioned in paragraph (a) of subsection (6B) above which is payable to a person as there mentioned is—
- (a) a benefit mentioned in sub-paragraph (iv) of that paragraph; or
 - (b) a corresponding benefit under any enactment having effect in Northern Ireland,
- he only qualifies under that subsection in prescribed circumstances.
- (6F) A disability working allowance shall be payable for a period of 26 weeks or such other period as may be prescribed and, subject to regulations, an award of a disability working allowance and the rate at which it is payable shall not be affected by any change of circumstances during that period or by any order under section 63 below.”.

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- (5) In the application of subsection (6B) of section 20 to claims made or treated as made before the first day in respect of which disability living allowance is payable paragraph (b) of that subsection shall have effect as if the following sub-paragraph were substituted for sub-paragraph (ii)—
- “(ii) a mobility allowance under section 37A of that Act;”.

- (6) In subsection (11)—
- (a) after the definition of family there shall be inserted—
- ““industrial injuries scheme” means a scheme made under section 159 of the Social Security Act 1975 or under the Industrial Injuries and Diseases (Old Cases) Act 1975;”;
- (b) after the definition of unmarried couple there shall be inserted—
- ““war pension scheme” means a scheme under which war pensions (as defined in section 25 of the Social Security Act 1989) are provided;”.
- “(ff) specifying the descriptions of pension increases under war pension schemes or industrial injuries schemes that are analogous to the benefits mentioned in subsection (6B)(b)(i) to (iii) above;”.

- (8) The following subsections shall be inserted after subsection (3) of section 21 of the 1986 Act (amount of income-related benefits)—

“(3A) Where a person is entitled to a disability working allowance by virtue of section 20(6A)(c)(i) above, the amount shall be the amount which is the appropriate maximum disability working allowance in his case.

“(3B) Where a person is entitled to a disability working allowance by virtue of section 20(6A)(c)(ii) above, the amount shall be what remains after the deduction from the appropriate maximum disability working allowance of a prescribed percentage of the excess of his income over the applicable amount.”.

- (9) The following paragraph shall be inserted after subsection (6)(a) of that section—
- “(aa) the appropriate maximum disability working allowance;”.

Commencement Information

II [S. 6](#) wholly in force 6.4.1992; in force for certain purposes 19.11.1991 and for all other purposes 6.4.1992; see [s. 15\(2\)](#) and [S.I. 1991/2617](#), [art. 2\(b\)\(f\)](#), [Sch.](#)

Marginal Citations

M1 [1986 c. 50](#).

7 **Disability working allowance - supplementary.** **U.K.**

- (1) After section 27A of the 1986 Act there shall be inserted—

“ Disability working allowance

27B Supplementary provisions about disability working allowance.

- (1) In this section—

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“initial claim” means a claim for a disability working allowance made by a person—

- (a) to whom it has not previously been payable; or
- (b) to whom it has not been payable during the period of 2 years immediately preceding the date on which the claim is made or is treated as made; and

“repeat claim” means any other claim for a disability working allowance.

(2) On an initial claim a declaration by the claimant that he has a physical or mental disability which puts him at a disadvantage in getting a job is conclusive, except in such circumstances as may be prescribed, that for the purposes of section 20(6A)(b) above he has such a disability (in accordance with regulations under section 20(6C) above).

(3) If—

- (a) a repeat claim is made or treated as made not later than the end of the period of 8 weeks commencing with the last day of the claimant’s previous award; and
- (b) on the claim which resulted in that award he qualified under section 20(6B) above by virtue—
 - (i) of paragraph (a) of that subsection; or
 - (ii) of there being payable to him a benefit under an enactment having effect in Northern Ireland and corresponding to a benefit mentioned in that paragraph,

he shall be treated on the repeat claim as if he still so qualified.

(4) Regulations may provide that an award of a disability working allowance to a person shall terminate if—

- (a) a disability working allowance becomes payable in respect of some other person who was a member of his family at the date of his claim for a disability working allowance; or
- (b) income support or family credit becomes payable in respect of a person who was a member of the family at that date.”.

(2) The further amendments specified in Schedule 3 to this Act shall have effect.

Commencement Information

I2 S. 7 wholly in force 6.4.1992; in force for certain purposes 16.11.1991, 10.3.1992 and for all other purposes 6.4.1992; see s. 15(2) and S.I. 1991/2617, art. 2(b)(e)(f)

8 Effect on entitlement to family credit of entitlement to disability working allowance. **E+W+S**

(1) In subsection (5)(b) of section 20 of the 1986 Act after the words “remunerative work” there shall be inserted the words—

- “(bb) except in such circumstances as may be prescribed, neither he nor any member of his family is entitled to a disability working allowance;”.

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- (2) In subsection (10)(b) of that section after the words “income support” there shall be inserted the words “ or a disability working allowance ”.

Commencement Information

I3 S. 8 wholly in force 6.4.1992; in force for certain purposes 19.11.1991 and for all other purposes 6.4.1992; see s. 15(2) and S.I. 1991/2617, art. 2(b)(f), Sch.

9 Entitlement to other benefits on termination of employment after period of entitlement to disability working allowance. **E+W+S**

- (1) The following subsections shall be inserted after subsection (5) of section 15 of the 1975 Act (invalidity pension)—

“(5A) Where—

- (a) a person who is engaged and normally engaged in remunerative work ceases to be so engaged; and
- (b) he is entitled to a disability working allowance for the week in which there falls the last day on which he is so engaged; and
- (c) he qualified for a disability working allowance for that week by virtue of an invalidity pension under this section having been payable to him; and
- (d) the first relevant day after he ceases to be engaged as mentioned in paragraph (a) above is for him a day of incapacity for work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to such a pension,

any day since that day which fell within a week for which he was entitled to a disability working allowance shall be treated for the purposes of any claim for such a pension for a period commencing after he ceases to be engaged as mentioned in paragraph (a) above as having been a day of incapacity for work.

(5B) Any day other than a Sunday or a day prescribed under section 17(1)(e) below is a relevant day for the purposes of subsection (5A) above.”.

- (2) The following subsection shall be inserted after subsection (6B) of section 36 of that Act (severe disablement allowance)—

“(6C) Where—

- (a) a person who is engaged and normally engaged in remunerative work ceases to be so engaged; and
- (b) he is entitled to a disability working allowance for the week in which there falls the last day on which he is so engaged; and
- (c) he qualified for a disability working allowance for that week by virtue of a severe disablement allowance having been payable to him; and
- (d) the first day after he ceases to be engaged as mentioned in paragraph (a) above is a day on which he is incapable of work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to a severe disablement allowance,

any day since that day which fell within a week for which he was entitled to a disability working allowance shall be treated for the purposes of any claim for a severe disablement allowance for a period commencing after he ceases

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to be engaged as mentioned in paragraph (a) above as having been a day on which he was both incapable of work and disabled.”.

- (3) The following section shall be inserted after section 16 of the ^{M2}Social Security Pensions Act 1975—

“16A Entitlement to invalidity pension on termination of employment after a period of entitlement to disability working allowance.

- (1) Where—

- (a) a person who is engaged and normally engaged in remunerative work ceases to be so engaged; and
- (b) he is entitled to a disability working allowance for the week in which there falls the last day on which he is so engaged; and
- (c) he qualified for a disability working allowance for that week by virtue of an invalidity pension under section 15 or 16 above having been payable to him; and
- (d) the first relevant day after he ceases to be engaged as mentioned in paragraph (a) above is a day on which he is incapable of work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to such a pension,

any day since that day which fell within a week for which he was entitled to a disability working allowance shall be treated for the purposes of any claim for such a pension for a period commencing after he ceases to be engaged as mentioned in paragraph (a) above as having been a day on which he was incapable of work.

- (2) Any day other than a Sunday or a day prescribed under section 17(1)(e) of the principal Act is a relevant day for the purposes of this section.”.

- (4) In Schedule 20 to the 1975 Act, at the end of the definition of “week” there shall be added the words “ and except in relation to disability working allowance ”.

- (5) Where—

- (a) a person becomes entitled to an invalidity pension or a severe disablement allowance by virtue of section 15(5A) or 36(6C) of the 1975 Act or section 16A of the Social Security Pensions Act 1975; and
- (b) when he was last entitled to that pension or allowance, it was increased in respect of a dependant by virtue of—
 - (i) regulation 8(6) of the ^{M3}Social Security Benefit (Dependency) Regulations 1977;
 - (ii) regulation 2 of the ^{M4}Social Security (Savings for Existing Beneficiaries) Regulations 1984;
 - (iii) regulation 3 of the ^{M5}Social Security Benefit (Dependency) Amendment Regulations 1984; or
 - (iv) regulation 4 of the ^{M6}Social Security Benefit (Dependency and Computation of Earnings) Amendment Regulations 1989,

for the purpose of determining whether his pension or allowance should be increased by virtue of that regulation for any period beginning with the day on which he again becomes entitled to his pension or allowance, the increase in respect of that dependant shall be treated as having been payable to him

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on each day between the last day on which his pension or allowance was previously payable and the day on which he again becomes entitled to it.

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Marginal Citations

- M2** 1975 c. 60.
- M3** S.I. 1977/343.
- M4** S.I. 1984/1696.
- M5** S.I. 1984/1698.
- M6** S.I. 1989/1690.

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