



Social Security (Incapacity for Work) Act 1994

1994 CHAPTER 18

Incapacity benefit

3 Incapacity benefit: supplementary provisions.

- (1) In Part II of the ^{M1}Social Security Contributions and Benefits Act 1992, after section 30B (inserted by section 2(1) above) insert—

“30C Incapacity benefit: days and periods of incapacity for work.

- (1) For the purposes of any provisions of this Act relating to incapacity benefit, subject to the following provisions and save as otherwise expressly provided—
- (a) a day of incapacity for work means a day on which a person is incapable of work;
 - (b) a period of incapacity for work means a period of 4 or more consecutive days, each of which is a day of incapacity for work; and
 - (c) any two such periods not separated by a period of more than 8 weeks shall be treated as one period of incapacity for work.
- (2) Any day which falls within the maternity allowance period (as defined in section 35(2) below) shall be treated for the purposes of any provision of this Act relating to incapacity benefit as a day of incapacity for work unless the woman is disqualified for receiving a maternity allowance for that day by virtue of regulations under section 35(3)(a) below.
- (3) Regulations may make provision (subject to the preceding provisions of this section) as to the days which are or are not to be treated as days of incapacity for work for the purposes of any provision of this Act relating to incapacity benefit.
- (4) The Secretary of State may by regulations provide—

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- (a) that paragraph (b) of subsection (1) above shall have effect as if 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) that paragraph (c) of that subsection shall have effect as if for the reference to 8 weeks there were substituted a reference to such larger number of weeks as may be prescribed.

(5) 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 the higher rate of short-term incapacity benefit, or long-term incapacity benefit under section 30A above, having been payable to him, and
- (d) the first 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 benefit,

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 benefit 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.

(6) Where—

- (a) a person becomes engaged in training for work, and
- (b) he was entitled to the higher rate of short-term incapacity benefit, or to long-term incapacity benefit under section 30A above, for one or more of the 56 days immediately before he became so engaged, and
- (c) the first day after he ceases to be so engaged 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 benefit,

any day since that day in which he was engaged in training for work shall be treated for the purposes of any claim for such benefit for a period commencing after he ceases to be so engaged as having been a day of incapacity for work.

In this subsection “training for work” means training for work in pursuance of arrangements made under section 2(1) of the Employment and Training Act 1973 or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 or training of such other description as may be prescribed.

(7) For the purposes of this section “week” means any period of 7 days.

30D Incapacity benefit: construction of references to days of entitlement.

- (1) The following provisions have effect in calculating for the purposes of—
 - (a) section 30A(4) above (length of entitlement to short-term incapacity benefit),

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- (b) section 30B(2) above (period after which short-term incapacity benefit is payable at higher rate),
- (c) section 30B(4) above (period after which incapacity benefit is payable at long-term rate in case of terminal illness), and
- (d) section 30B(5) above (construction of references to short-term incapacity benefit at the higher rate),

the number of days for which a person has been entitled to short-term incapacity benefit.

- (2) There shall be included—
 - (a) the first three days of the period of incapacity for work, and
 - (b) in the case of a woman, any days for which she was entitled to maternity allowance.
- (3) There shall also be included such days as may be prescribed in respect of which a person was entitled to statutory sick pay, and on the first of which he satisfied the contribution conditions for short-term incapacity benefit.
- (4) There shall be excluded any days in respect of which a person was disqualified for receiving incapacity benefit.

30E Incapacity benefit: reduction for councillor's allowance.

- (1) Where the net amount of councillor's allowance to which a person is entitled in respect of any week exceeds such amount as may be prescribed, an amount equal to the excess shall be deducted from the amount of any incapacity benefit to which he is entitled in respect of that week, and only the balance remaining (if any) shall be payable.
 - (2) In this section "councillor's allowance" means—
 - (a) in England or Wales, an allowance under or by virtue of—
 - (i) section 173 or 177 of the Local Government Act 1972, or
 - (ii) a scheme made by virtue of section 18 of the Local Government and Housing Act 1989,other than such an allowance as is mentioned in section 173(4) of the Local Government Act 1972, or
 - (b) in Scotland, an allowance under or by virtue of section 49 of the Local Government (Scotland) Act 1973 or a scheme made by virtue of section 18 of the Local Government and Housing Act 1989;and where any such allowance is paid otherwise than weekly, an amount calculated or estimated in accordance with regulations shall be regarded as the weekly amount of the allowance.
 - (3) In subsection (1) above "net amount", in relation to any councillor's allowance to which a person is entitled, means the aggregate amount of the councillor's allowance or allowances to which he is entitled for the week in question, reduced by the amount of any expenses incurred by him in that week in connection with his membership of the council or councils in question."
- (2) In Schedule 3 to the ^{M2}Social Security Contributions and Benefits Act 1992 (contribution conditions for entitlement to benefit), at the end of paragraph 2 (conditions for entitlement to short-term incapacity benefit) add—

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“(7) Where a person makes a claim for incapacity benefit and does not satisfy the second contribution condition (specified in sub-paragraph (3) above) and, in a later benefit year in which he would satisfy that condition had no such claim been made, he makes a further claim for incapacity benefit, the previous claim shall be disregarded.”.

Commencement Information

II S. 3 wholly in force at 13.4.1995; s. 3 not in force at Royal Assent see s. 16(2)(3); s. 3(1) in force at 18.11.1994 for certain purposes and insofar as not already in force at 13.4.1995 and s. 3(2) in force at 13.4.1995 by S.I. 1994/2926, art. 2(2)(4)

Marginal Citations

M1 1992 c. 4.

M2 1992 c. 4.

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Changes to legislation:

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