

STATUTORY INSTRUMENTS

1994 No. 2946

The Social Security (Incapacity Benefit) Regulations 1994

[^{F1}PART V **E+W+S**

REDUCTION OR ABATEMENT OF INCAPACITY BENEFIT FOR OCCUPATIONAL OR OTHER PENSION PAYMENTS

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)

Permanent health insurance **E+W+S**

20. For the purposes of section 30DD of the Contributions and Benefits Act (incapacity benefit: reduction for pension payments)—

- (a) pension payment shall include permanent health insurance payment; and
- (b) “permanent health insurance payment” means any periodical payment arranged by an employer under an insurance policy providing benefits in connection with physical or mental illness, disability, infirmity or defect, in relation to a former employee on the termination of his employment.

[^{F2}Financial assistance scheme **E+W+S**

20A. For the purposes of section 30DD of the Contributions and Benefits Act (incapacity benefit: reduction for pension payments and PPF periodic payments), “pension payment” includes a payment made under the Financial Assistance Scheme Regulations 2005 to a person who first became entitled to such a payment on or after the date on which the Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 came into force.]

Textual Amendments

- F2** [Reg. 20A](#) inserted (27.3.2009) by [The Financial Assistance Scheme and Incapacity Benefit \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/792\)](#), regs. 1(1), **2(2)**

Disregard of certain pension payments **E+W+S**

21. For the purposes of section 30DD(1) of the Contributions and Benefits Act (reduction for pension payments [^{F3}and PPF periodic payments]), there shall be disregarded—

- (a) any pension payment within the meaning of section 30DD(5) of the Contributions and Benefits Act made to a person as a beneficiary on the death of a member of any pension scheme;

- [any PPF periodic payment made to a person as a beneficiary on the death of a person^{F4}(aa) entitled to such a payment;]
- (b) where a pension scheme is in deficit or has insufficient resources to meet the full pension payment, the extent of the shortfall;
- (c) any permanent health insurance payment in respect of which the employee had contributed to the premium to the extent of more than 50 per cent..
- [any payment made under article 14(1)(b) or 21(1)(a) of the Armed Forces and Reserve^{F5}(d) Forces (Compensation Scheme) Order 2005; or
- (e) any pension payment made under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003.]

Textual Amendments

- F3** Words in reg. 21 inserted (5.5.2006) by [The Social Security \(PPF Payments and FAS Payments\) \(Consequential Amendments\) Regulations 2006 \(S.I. 2006/1069\)](#), regs. 1(1), **4(2)(a)**
- F4** Reg. 21(aa) inserted (5.5.2006) by [The Social Security \(PPF Payments and FAS Payments\) \(Consequential Amendments\) Regulations 2006 \(S.I. 2006/1069\)](#), regs. 1(1), **4(2)(b)**
- F5** Reg. 21(d)(e) added (1.10.2008) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2008 \(S.I. 2008/2365\)](#), regs. 1, **3(3)**

Date from which pension payment is to be taken into account **E+W+S**

22. Where section 30DD(1) of the Contributions and Benefits Act (reduction for pension payments [^{F6}and PPF periodic payments]) applies, deductions shall have effect, calculated, where appropriate, in accordance with regulation 24 (pension payments made other than weekly), from the first day of the week, commencing on Sunday, in which the pension payment [^{F7}or PPF periodic payment] is paid to a person who is entitled to incapacity benefit in that week.

Textual Amendments

- F6** Words in reg. 22 inserted (5.5.2006) by [The Social Security \(PPF Payments and FAS Payments\) \(Consequential Amendments\) Regulations 2006 \(S.I. 2006/1069\)](#), regs. 1(1), **4(3)(a)**
- F7** Words in reg. 22 inserted (5.5.2006) by [The Social Security \(PPF Payments and FAS Payments\) \(Consequential Amendments\) Regulations 2006 \(S.I. 2006/1069\)](#), regs. 1(1), **4(3)(b)**

Date from which the change in the rate of pension takes effect **E+W+S**

23. Where pension payments [^{F8}or PPF periodic payments] are already in payment to a person and the rate of payment changes, the deduction at the new rate shall take effect, calculated, where appropriate, in accordance with regulation 24 (pension payments made other than weekly), from the first day of the week, commencing on Sunday, in which the new rate of the pension payment [^{F9}or PPF periodic payment] is paid.

Textual Amendments

- F8** Words in reg. 23 inserted (5.5.2006) by [The Social Security \(PPF Payments and FAS Payments\) \(Consequential Amendments\) Regulations 2006 \(S.I. 2006/1069\)](#), regs. 1(1), **4(4)(a)**

F9 Words in reg. 23 inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **4(4)(b)**

Pension payment made other than weekly **E+W+S**

24.—(1) Where a pension payment [^{F10}or PPF periodic payment], or an aggregate of such payments, as the case may be, is paid to a person for a period other than a week, such payments shall be treated as being made to that person by way of weekly pension payments [^{F11}or weekly PPF periodic payments] and the weekly amount shall be determined—

- (a) where payment is made for a year, by dividing the total by 52;
- (b) where payment is made for 3 months, by dividing the total by 13;
- (c) where payment is made for a month, by multiplying the total by 12 and dividing the result by 52;
- (d) where payment is made for 2 or more months, otherwise than for a year or for 3 months, by dividing the total by the number of months, multiplying the result by 12 and dividing the result of that multiplication by 52; or
- (e) in any other case, by dividing the amount of the payment by the number of days in the period for which it is made and multiplying the result by 7.

(2) In determining the weekly amount of the pension payment [^{F10}or PPF periodic payment]—

- (a) there shall be disregarded the sum of less than one half of a penny; and
- (b) the sum of one half of a penny or more but less than one penny shall be rounded up to one penny.

(3) In determining the weekly pension payment [^{F12}or weekly PPF periodic payment], where two or more pension payments [^{F13}or PPF periodic payments] are payable to a person, each pension payment [^{F14}or PPF periodic payment] shall be calculated separately in accordance with paragraph (1) before aggregating the sum of those payments for the purposes of the reduction of the benefit in accordance with section 30DD(1) of the Contributions and Benefits Act.

Textual Amendments

- F10** Words in reg. 24(1)(2) inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **4(5)(a)**
- F11** Words in reg. 24(1) inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **4(5)(b)**
- F12** Words in reg. 24(3) inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **4(5)(c)(i)**
- F13** Words in reg. 24(3) inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **4(5)(c)(ii)**
- F14** Words in reg. 24(3) inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **4(5)(c)(iii)**

Priority of deductions of pension payments taken as payable for the purposes of reduction of incapacity benefit **E+W+S**

25. Where a reduction in the rate of incapacity benefit payable to a person falls to be made in accordance with section 30DD(1) of the Contributions and Benefits Act the reduction shall be made, so far as is necessary—

- (a) initially against so much of the benefit as falls to be paid at the personal rate;

- (b) then against any increase in the benefit payable for adult dependants; and
- (c) finally against any increase in the benefit payable for dependent children.

Person whose benefit is not to be reduced under section 30DD(1) E+W+S

26. Section 30DD(1) of the Contributions and Benefits Act (reduction of incapacity benefit for pension payments) shall not apply to a person who is entitled to the highest rate of the care component of disability living allowance under section 72 of the Contributions and Benefits Act^{F15}, armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011^{F16} or the enhanced rate of the daily living component of personal independence payment under section 78(2) of the Welfare Reform Act 2012.]

Textual Amendments

- F15** Words in [reg. 26](#) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 9(2)**
- F16** Words in [reg. 26](#) inserted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 15**

Changes to legislation:

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