
STATUTORY INSTRUMENTS

1994 No. 2946

The Social Security (Incapacity Benefit) Regulations 1994

PART II

Entitlement to incapacity benefit: Supplementary provisions

Days not to be treated as days of incapacity for work

4.—(1) For the purposes of incapacity benefit a day shall not be treated as a day of incapacity for work if it is—

- (a) a day in respect of which a person—
 - (i) has made no claim for incapacity benefit;
 - (ii) has made a claim for incapacity benefit but not within the prescribed time and good cause for the delay is not shown; or
 - (iii) has made a claim for incapacity benefit but not within the prescribed time and, whether or not the person has shown good cause for the delay, he is not entitled to benefit as a result of section 1(2) of the Administration Act (which provides for a 12 month limit on claims for incapacity benefit);

[^{F1}(iv) subject to regulation 2A, is not entitled to incapacity benefit because section 1(1A) of the Administration Act (requirement to state national insurance number) applies.]

[^{F2}(aa) a day which is, for the purposes of section 30A(2A)(c) of the Contributions and Benefits Act (period of 196 consecutive days preceding the relevant day), not part of any consecutive days of incapacity;]

- (b) a day on which a person is disqualified for receiving incapacity benefit during a period of absence from Great Britain or imprisonment or detention in legal custody, if that disqualification is for more than 6 weeks; or
- (c) subject to paragraph (2), a day on which a person attends a training course in respect of which he is paid a training allowance pursuant to arrangements made under section 2(1) of the Employment and Training Act 1973 ^{M1} or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 ^{M2}.

(2) Paragraph (1)(c) shall not apply—

- (a) for the purposes of any claim for incapacity benefit for a period commencing after a person ceased attending such a training course; or
- (b) in calculating a period of continuous incapacity for work for the purposes of regulation 2 of the Social Security Benefit (Persons Abroad) Regulations 1975^{M3}.

[^{F3}(c) where, such payment as is made, is for the sole purpose of travelling or meal expenses incurred or to be incurred under the arrangement 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]^{F4}, or

- (d) to any part of such a payment made—

- (i) as a consequence of the person taking part in the scheme known as the Adult Learning Option (which is provided in pursuance of arrangements made by or on behalf of the Secretary of State under section 2 of the Employment and Training Act 1973), and
- (ii) which is not intended to meet the cost of living expenses to which paragraph (3) applies.]

[^{F5}(3) This paragraph applies to living expenses which relate to—

- (a) food,
- (b) ordinary clothing or footwear,
- (c) household fuel,
- (d) rent for which housing benefit is payable,
- (e) any housing costs (to the extent that they are met under regulation 83(f) or 84(1)(g) of the Jobseeker’s Allowance Regulations 1996 or regulation 17(1)(e) or 18(1)(f) of the Income Support (General) Regulations 1987 (housing costs)) of the claimant or, where the claimant is a member of the family, any other member of his family, or
- (f) any council tax or water charges for which that claimant or member is liable.]

Textual Amendments

- F1** Reg. 4(1)(iv) inserted (6.9.1999) by [The Social Security \(Incapacity Benefit and Jobseekers Allowance\) Amendment Regulations 1999 \(S.I. 1999/2226\)](#), regs. 1, **2**
- F2** Reg. 4(1)(aa) inserted (6.4.2001) by [The Social Security \(Incapacity Benefit\) Miscellaneous Amendments Regulations 2000 \(S.I. 2000/3120\)](#), regs. 1, **2(3)** (with reg. 6)
- F3** Reg. 4(2)(c) inserted (3.4.2000) by [The Social Security \(Approved Work\) Regulations 2000 \(S.I. 2000/678\)](#), regs. 1, **5**
- F4** Reg. 4(2)(d) and word inserted (1.9.2006) by [The Social Security \(Adult Learning Option\) Amendment Regulations 2006 \(S.I. 2006/2144\)](#), regs. 1, **3(2)**
- F5** Reg. 4(3) inserted (1.9.2006) by [The Social Security \(Adult Learning Option\) Amendment Regulations 2006 \(S.I. 2006/2144\)](#), regs. 1, **3(3)**

Marginal Citations

- M1** 1973 c.50.
- M2** 1990 c.35.
- M3** [S.I. 1975/563](#). The relevant amending instrument is [S.I. 1990/40](#).

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Incapacity Benefit) Regulations 1994, Section 4.