
STATUTORY INSTRUMENTS

1994 No. 2946

The Social Security (Incapacity Benefit) Regulations 1994

PART II

Entitlement to incapacity benefit: Supplementary provisions

[^{F1}Days to be treated as days of incapacity for work

4A.—[

^{F2}(1)] For the purposes of incapacity benefit for persons incapacitated in youth under section 30A(2A) of the Contributions and Benefits Act, any day in respect of which a person is entitled to statutory sick pay immediately before the relevant day shall be treated as a day of incapacity for work.]

^{F3}(2) Where—

- (a) any day was, as a result of official error, a day of incapacity for work in a period of incapacity for work for the purposes of the previous entitlement to incapacity benefit referred to in regulation 8D(2)(a) of the Social Security (Credits) Regulations 1975 (credits for the purposes of entitlement to incapacity benefit following official error); and
- (b) that official error derived from the failure to transpose correctly information relating to credits for incapacity for work or approved training in the tax years from 1993-94 to 2007-08 from the Department of Work and Pensions' Pension Strategy Computer System to Her Majesty's Revenue and Customs' Computer System (NIRS2) or from related clerical procedures,

that day shall be treated as a day of incapacity for work for the purposes of the later claim referred to in paragraph (2)(d) of that regulation.

(3) In this regulation—

^{F4}
...

“credits for incapacity for work or approved training” means earnings credited pursuant to the Social Security (Credits) Regulations 1975 for incapacity for work or approved training;

“official error” means an error made by—

- (a) an officer of the Department for Work and Pensions or an officer of Revenue and Customs acting as such which no person outside the Department or Her Majesty's Revenue and Customs caused or to which no person outside the Department for Work and Pensions or Her Majesty's Revenue and Customs materially contributed, or
- (b) a person employed by a service provider and to which no person who was not so employed materially contributed,

but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of [^{F5}the Upper Tribunal] or the court;

“service provider” means a person providing services to the Secretary of State for Work and Pensions or to Her Majesty's Revenue and Customs.]

Textual Amendments

- F1** Reg. 4A inserted (6.4.2001) by [The Social Security \(Incapacity Benefit\) Miscellaneous Amendments Regulations 2000 \(S.I. 2000/3120\)](#), regs. 1, **2(4)** (with reg. 6)
- F2** Reg. 4A(1): reg. 4A renumbered as reg. 4A(1) (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **6(2)**
- F3** Reg. 4A(2)(3) inserted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **6(3)**
- F4** Words in reg. 4A(3) omitted (3.11.2008) by virtue of [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 65(a)**
- F5** Words in reg. 4A(3) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 65(b)**

Changes to legislation:

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