
STATUTORY INSTRUMENTS

1995 No. 311

The Social Security (Incapacity for Work) (General) Regulations 1995

PART II

GENERAL PROVISIONS RELATING TO INCAPACITY FOR WORK

CHAPTER III

PERSONS TREATED AS INCAPABLE

[^{F1}Welfare to work beneficiary

13A.—(1) Subject to paragraph (3), a person is a “welfare to work beneficiary” on any day in a linking term, where he—

- (a) was incapable of work for a period of incapacity for work of more than 196 days in his immediate past period of incapacity for work;
- (b) ceased to be entitled to the benefit at the end of that immediate past period of incapacity for work on a day which falls on or after 5th October 1998; [^{F2}and]
- (c) became engaged in remunerative work within [^{F3}one month] of so ceasing to be entitled to that benefit at the end of that immediate past period of incapacity for work; ^{F4} ...

^{F5}(d)

(2) A welfare to work beneficiary shall be treated as incapable of work on any day in a period, consisting of a cumulative number of days of incapacity for work not exceeding 91 days in total, beginning within the linking term and ending on a day not later than 13 weeks from the end of that linking term, where he—

- (a) claims benefit for any day falling within that linking term;
- (b) submits evidence in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976; and
- (c) in his immediate past period of incapacity for work—
 - (i) had been assessed and [^{F6}determined to be incapable of work in accordance with the personal capability assessment under Part III], or
 - (ii) had been treated under regulation 10 (certain persons with a severe condition to be treated as incapable of work) as incapable of work.

[^{F7}(3) A person is not a welfare to work beneficiary under paragraph (1) if his immediate past period of incapacity for work was ended by a determination, other than a determination in the circumstances set out in paragraph (1) or (3A), that he was, or was treated as, capable of work.]

[

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^{F8}(3A) The circumstances are that the person had successfully appealed against a determination made in respect of the personal capability assessment or the own occupation test in relation to his immediate past period of incapacity for work.]

(4) For the purposes of this regulation—

“benefit” means any benefit, allowance or advantage under the Contributions and Benefits Act (other than statutory sick pay), or under the Jobseekers Act 1995, for which entitlement is dependent on incapacity for work;

“linking term” means a period of [^{F9}104 weeks] (whether or not broken by days of incapacity for work) fixed on the first day immediately following the last day of incapacity in a period of incapacity for work;

[^{F10}“immediate past period of incapacity for work” means [^{F11}the most recent of] —

- (i) a period of incapacity for work under section 30C(1) of the Contributions and Benefits Act,
- (ii) a period of incapacity for work under section 152 of the Contributions and Benefits Act, or
- (iii) a term composed of a period of incapacity for work under section 30C(1) and a period of incapacity for work under section 152 and includes any two such periods of incapacity for work which are separated by a period of not more than 8 weeks.]

“remunerative work” means—

- (a) work (other than exempt work under regulation 17) for which payment is made or which is done in expectation of payment, or
- (b) attendance on a training course in respect of which the person receives a training allowance 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.]

Textual Amendments

- F1** Reg. 13A inserted (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, **4(2)**
- F2** Word in reg. 13A(1)(b) inserted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(3)(a)**
- F3** Word in reg. 13A(1)(c) substituted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(3)(b)**
- F4** Word in reg. 13A(1) omitted (9.10.2006) by virtue of [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(3)(c)**
- F5** Reg. 13A(1)(d) omitted (9.10.2006) by virtue of [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(3)(c)**
- F6** Words in reg. 13A(2)(c)(i) substituted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#), regs. 1(1), **2(6)(b)**
- F7** Reg. 13A(3) substituted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(3)(d)**
- F8** Reg. 13A(3A) inserted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(3)(e)**
- F9** Words in reg. 13A(4) substituted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(3)(f)(i)**
- F10** Words in reg. 13A(4) substituted (10.4.2006) by [Social Security \(Incapacity for Work\) Amendment Regulations 2006 \(S.I. 2006/757\)](#), regs. 1(1), **2(b)**
- F11** Words in reg. 13A(4) inserted (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(3)(f)(ii)**

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Modifications etc. (not altering text)

C1 Reg. 13A modified (9.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(7), **12(5)**

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Act modified by [S.I. 1999/1088 regs.3.4-67](#)