

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (INCAPACITY FOR WORK) (AMENDMENT)
REGULATIONS 2006**

2006 NO. 757

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The regulations amend the Social Security (Incapacity for Work) General Regulations 1995. They extend the categories of work people receiving incapacity benefits are able to do without losing benefit and simplify existing rules. The amendments are relevant to people receiving Incapacity Benefit, Severe Disablement Allowance, Income Support, Housing Benefit and Council Tax Benefit.

2.2 The amendments make it easier for people receiving Incapacity Benefit to attempt self employment. Test Trading allows people to try out 'self employment' for a period of up to 26 weeks. This amendment ensures that participants will not be regarded as being in work with the possibility of a loss of benefit should earnings exceed the permitted work limits.

2.3 In addition the amendments improve the operation of linking rules which protect benefit rates for people returning to incapacity benefits having worked but become incapable of work again within a specified period. The amendments will ensure that people who notify a return to work in advance are protected by the linking rules in the same way as people who provide notification after work is commenced. They also ensure that people receiving Statutory Sick Pay qualify for the linking protection after 6 months of incapacity in the same way as people receiving Incapacity Benefit.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

Sections 171D and 175 of the Contributions and Benefits Act 1992 provides the enabling powers for these amendments. The regulations follow research into the operation of the permitted work rules since their introduction in 2002 and commitments made in the Pre-Budget report 2004 to improve the rules and to make new provision for test traders. Additionally the opportunity has been taken to simplify the operation of other rules and remove anomalies.

5. Extent

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Permitted work rules allow people to undertake some part-time paid work while continuing to receive incapacity benefits. Currently there are three types of permitted work:

- Permitted Work (Higher Limit) allows people to work for 26 weeks providing it is less than 16 hours a week and the earnings are not more than £81 a week. The work must be notified within 42 days of it starting. The 26 week period can be extended for a further 26 weeks if this is likely to increase their capacity to work for more than 16 hours a week);
- Supported Permitted Work (earnings are no more than £81 a week and the work is done with the supervision of organisations providing or finding work for disabled people or is done by hospital patients under medical supervision as part of a treatment programme);
- Permitted Work Lower Limit (to encourage social contact, earnings must not exceed £20 a week).

7.2 The Government recognises that some people with the most limiting conditions may be able to work for more than the few hours allowed by the permitted work lower limit but may have difficulty in sustaining work of 16 hours or more on a regular basis. The regulations create a new category of permitted work for people who face the greatest barriers to full-time employment. People who have the most limiting conditions and are exempt from the Personal Capability Assessment will be able to work for an unlimited period providing it is for less than 16 hours a week and the earnings do not exceed £81 a week.

7.3 The regulations remove the requirement to apply for an extension of time after 26 weeks of permitted work (higher limit). This provides a simplification of the permitted work rules and provides a clear message that people can attempt permitted work for an initial period of 52 weeks in all cases.

7.4 The amendments remove the notice requirements for people doing permitted work as there is already a general obligation to report relevant changes in circumstances in the Social Security (Claims and Payments) Regulations 1987.

7.5 The amendments make it easier for people receiving Incapacity Benefit to attempt test trading. Test Trading allows people to try out 'self employment' for a period of up to 26 weeks. This amendment ensures that:

- test traders, like others undertaking training courses, can choose whether to remain on IB or receive a training allowance; and
- Incapacity Benefit is brought more in line with the arrangements for Jobseeker's Allowance and Income Support so that the test trading stage is not treated as work which might lead to a loss of benefit if permitted work limits are exceeded; and
- test trading is available as a stepping stone from benefit to self-employment for

people receiving Incapacity Benefit.

- 7.6 In addition the amendments improve the operation of linking rules which protect benefit rates for people returning to incapacity benefits having worked but become incapable of work again within a specified period. The amendments will ensure that people who notify a return to work in advance are protected by the linking rules in the same way as people who notify the Department of Work and Pensions after work is commenced. They also ensure that people receiving Statutory Sick Pay qualify for the protection of the linking rules after 6 months of incapacity in the same way as people receiving Incapacity Benefit.

Consultation

- 7.7 The regulations were considered by the Social Security Advisory Committee at its meeting on 1 February 2006. The Committee agreed that proposals in respect of these regulations should not be referred to it.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is negligible. The regulations make various improvements to the rules allowing people to do some work without losing benefit and to the rules which protect the rate of benefit should people return to incapacity benefits after attempting work.

9. Contact

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