
STATUTORY RULES OF NORTHERN IRELAND

1994 No. 461

**The Social Security (Incapacity Benefit)
Regulations (Northern Ireland) 1994**

Part II

Entitlement to Incapacity Benefit: Supplementary Provisions

Definition of “training work” for the purposes of section 30C(6)

2. For the purposes of section 30C(6) (which provides for days of training for work to be treated as days of incapacity for work) “training for work” also includes any training received on a course which a person attends for 16 hours or more a week, the primary purpose of which is the teaching of occupational or vocational skills.

Days not to be treated as days of incapacity for work

3. —

(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);
- (b) a day on which a person is disqualified for receiving incapacity benefit during a period of absence from Northern Ireland 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 1(1) of the Employment and Training Act (Northern Ireland) 1950(1).

(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

(1) 1950 c. 29 (N.I.); section 1(1) was substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I.1988/1087 (N.I. 10))

- (b) in calculating a period of continuous incapacity for work for the purposes of regulation 2 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(2).

Night workers

4. —

(1) For the purposes of incapacity benefit, where a person works for a continuous period which extends over midnight into the following day, the day on which the lesser part of that period falls shall be treated as a day of incapacity for work if that person was incapable of work for the remainder of that day.

(2) Where, in relation to a period referred to in paragraph (1), the number of hours worked before and after midnight is equal—

- (a) if the days in question fall at the beginning of a period of incapacity for work, the second day shall be treated as a day of incapacity for work; and
- (b) if the days in question fall at the end of a period of incapacity for work, the first day shall be treated as a day of incapacity for work.

Calculating periods of incapacity for work for persons receiving certain regular treatment

5. —

(1) In the cases specified in paragraph (2) section 30C(1)(b) (which defines a period of incapacity for work) shall have effect as if the period of 4 days mentioned there were a period of 2 days, whether consecutive or not, within a period of 7 consecutive days.

(2) The cases referred to in paragraph (1) are those where the days of incapacity for work in question result from—

- (a) regular weekly treatment by way of haemodialysis for chronic renal failure or peritoneal dialysis for chronic renal failure;
- (b) treatment by way of plasmapheresis, by way of parenteral chemotherapy with cytotoxic drugs, anti-tumour agents or immuno-suppressive drugs or by way of radiotherapy; or
- (c) regular weekly treatment by way of total parenteral nutrition for gross impairment of enteric function.

Days of statutory sick pay to be included in days of entitlement to incapacity benefit

6. —

(1) For the purposes of section 30D(3) (which provides for days of entitlement to statutory sick pay to be included in calculating the number of days for which a person has been entitled to short-term incapacity benefit) the days which are to be included are any of the days specified in paragraph (2) which—

- (a) fell within a period of entitlement to statutory sick pay as between that person and his employer which ended not later than the 57th day before the first day of the period of incapacity for work to which that calculation relates; and
- (b) fell on or after a day on which the person satisfied the contribution conditions for short-term incapacity benefit.

(2) The specified days referred to in paragraph (1) are—

(2) S.R. 1978 No. 114; relevant amending regulations are S.R. 1983 No. 36, S.R. 1984 No. 317, S.R. 1986 No. 303 and S.R. 1994 Nos. 45 and 269

- (a) in any week in which the employer was liable to pay that person statutory sick pay at the weekly rate specified in section 153(1)(3) (rate of payment), each day of that week; and
- (b) in any week in which the employer was liable to pay that person statutory sick pay at a fraction of that weekly rate, each of the days of that week which would comprise the same fraction of a 7 day week,

and any fractions of days produced by that calculation shall be included in the calculation for the following week; and for any fraction of a day not accounted for at the end of that period of entitlement, one additional day shall be added.

Limit of earnings from councillor's allowance

7. For the purposes of section 30E(1) (net amount of councillor's allowance in excess of prescribed amount to be deducted from incapacity benefit) the prescribed amount is £43·00.

Councillor's allowance paid otherwise than weekly

8. —

(1) For the purposes of section 30E(2), where a councillor's allowance is paid otherwise than weekly, an amount calculated in accordance with paragraphs (2) and (3) shall be regarded as the weekly amount of the allowance.

(2) In the case of an attendance allowance, the weekly amount shall be the amount paid in respect of attendances undertaken in the week in question.

(3) In the case of a basic allowance or a special responsibility allowance, the weekly amount shall be calculated—

- (a) where that allowance is paid annually, by dividing the amount paid by 52;
- (b) where that allowance is paid quarterly, by dividing the amount paid by 13;
- (c) where that allowance is paid monthly, by multiplying the amount by 12 and dividing by 52; and
- (d) in any other case, by dividing the amount of the allowance by the number of days in the period and multiplying it by 7.

(3) Section 153(1) is amended by Article 10(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 with effect from 6th April 1995