

**2003 No. 231**

**SOCIAL SECURITY**

**The Social Security (Incapacity Benefit) (Her Majesty's Forces) (Amendment) Regulations (Northern Ireland) 2003**

*Made* - - - - - *11th April 2003*

*Coming into operation* *5th May 2003*

The Department for Social Development, in exercise of the powers conferred by sections 30D(3A) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and now vested in it(b), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Incapacity Benefit) (Her Majesty's Forces) (Amendment) Regulations (Northern Ireland) 2003 and shall come into operation on 5th May 2003.

**Amendment of the Social Security (Incapacity Benefit) Regulations**

2. In the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994(c) after regulation 6B (effect of statutory adoption pay on incapacity benefit) there shall be inserted the following regulation –

**“Inclusion of days of sickness absence from duty before discharge from Her Majesty's forces in calculating days of entitlement to incapacity benefit**

6C.—(1) For the purpose of section 30D(3A) of the Contributions and Benefits Act (days prescribed in respect of person discharged from Her Majesty's forces after 3rd May 2003) in calculating the number of days for which a person has been entitled to short-term incapacity benefit there shall be included any day which falls within a period –

- (a) of 4 or more consecutive days each of which is a day when, according to records kept from time to time by the Secretary of State for Defence, the person was on sickness absence from duty; and
- (b) which ends not more than 8 weeks before the first day of the period to which the claim for incapacity benefit relates.

(2) For the purpose of paragraph (1)(a) any two such periods not separated by a period of more than 8 weeks shall be treated as one period.”.

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(a) 1992 c. 7; section 30D was inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and subsection (3A) was inserted by regulation 3 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification for Her Majesty's Forces and Incapacity Benefit) Regulations 2003 (S.I. 2003/735)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) S.R. 1994 No. 461; regulation 6B was inserted by regulation 3 of S.R. 2002 No. 359

Sealed with the Official Seal of the Department for Social Development on 11th April 2003.

(L.S.)

*Henry Johnston*

Senior Officer of the Department for Social Development

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations apply to members of Her Majesty's forces who are discharged after 3rd May 2003, were on sickness absence from duty while in the forces and who claim incapacity benefit.

Regulation 2 amends the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994 by inserting a new regulation 6C which prescribes the days to be included when calculating, for the purpose of ascertaining the weekly rate of benefit, the number of days for which a person has been entitled to short-term incapacity benefit.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

These Regulations do not impose a charge on business.

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