

2000 No. 3120

SOCIAL SECURITY

The Social Security (Incapacity Benefit) Miscellaneous Amendments Regulations 2000

Made - - - - - 22nd November 2000

Coming into force - - - - - 6th April 2001

Whereas a draft of this instrument was laid before Parliament in accordance with section 176(1)(a) of the Social Security Contributions and Benefits Act 1992(a) and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred by sections 22(5), 30A(2A), (6) and (7), 30C(3), 30DD, 122(1) and 175(2) to (4) of, and paragraph 2(8) of Schedule 3 to, the Social Security Contributions and Benefits Act 1992(b), sections 5(1)(i) and (r), 71(7) and (8) and 189(4) to (6) of the Social Security Administration Act 1992(c) and section 85(6) of the Welfare Reform and Pensions Act 1999(d) and of all other powers enabling him in that behalf, by this instrument which contains only regulations made by virtue of, and consequential upon, sections 62 to 64 of the Welfare Reform and Pensions Act 1999 and which is made before the end of the period of six months beginning with the coming into force of those provisions(e), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Incapacity Benefit) Miscellaneous Amendments Regulations 2000 and shall come into force on 6th April 2001.

[Regulation 2 inserts regulations 2B, 4(1)(aa), 4A & 14-26 into S.I. 1994/2946.]

[Regulation 3 amends regulation 24 of S.I. 1987/1968.]

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- (a) 1992 c. 4. The reference to section 30DD(5)(b) and (c) was inserted into section 176(1)(a) by paragraph 25 of Part II of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c. 30).
- (b) 1992 c. 4. Section 22(5) was amended by paragraph 22 of Schedule 2 to the Jobseekers Act 1995 (c. 18). Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18) (“the Incapacity for Work Act”) and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c. 30) (“the Welfare Reform and Pensions Act”). Section 30C was inserted by section 3(1) of the Incapacity for Work Act and amended by paragraphs 1(b) and 2(a) of the Tax Credits Act 1999 (c. 10). Section 30DD was inserted by section 63 of the Welfare Reform and Pensions Act and paragraph 2(8) of Schedule 3 was inserted by section 62(4) of the Welfare Reform and Pensions Act. Section 175 was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 122(1) is cited because of the meaning assigned to the word “prescribe”.
- (c) 1992 c. 5. Section 5 was amended by paragraph 39 of Schedule 2 to the Jobseekers Act 1995 (c. 18), section 120 of, and paragraph 3(2) of Schedule 13 to, the Housing Act 1996 (c. 52), section 74 of, and paragraph 79 of Schedule 7 to, the Social Security Act 1998 (c. 14) and paragraphs 1 and 3(a) of Schedule 1 to the Tax Credits Act 1999 (c. 10). Section 189(4) to (6) was amended by paragraph 109 of Schedule 7 to that Social Security Act 1998.
- (d) 1999 c. 30.
- (e) See section 173(5)(b) of the Social Security Administration Act 1992 (c. 5) and section 91(3) of the Welfare Reform and Pensions Act 1999 (c. 30).

[Regulation 4 amends regulations 8A(1), 8B(1) & 9 of S.I. 1975/556.]

[Regulation 5 amends regulation 5(2) of S.I. 1988/664.]

Saving

6. Where, on any day before the coming into force of these Regulations, a person is entitled to incapacity benefit and continues, on that day or any day immediately after the coming into force of these Regulations, to be entitled to incapacity benefit, whether or not by virtue of section 30C of the Social Security Contributions and Benefits Act 1992(a), the Social Security (Incapacity Benefit) Regulations 1994(b) shall have effect as if these Regulations had not been made.

Signed by authority of the Secretary of State for Social Security.

22nd November 2000

Hugh Bayley
Parliamentary Under-Secretary of State,
Department of Social Security

(a) 1992 c. 4. Section 30C was inserted by section 3 of the Social Security (Incapacity for Work) Act 1994 (c. 18).
(b) S.I. 1994/2946.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Social Security (Incapacity Benefit) Regulations 1994 (S.I. 1994/2946) (“the principal Regulations”), the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) (“the Claims and Payments Regulations”), the Social Security (Credits) Regulations 1975 (S.I. 1975/556) (“the Credits Regulations”), and the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988 (S.I. 1988/664) (“the Payments on Account, Overpayments and Recovery Regulations”).

The principal Regulations are amended—

- (a) by introducing Part IA in consequence of section 62 of the Welfare Reform and Pensions Act 1999 (c. 30) (incapacity benefit: restriction to recent contributors) so that those entitled to invalid care allowance, disability working allowance or disabled person’s tax credit will continue to meet the old first contribution condition (regulation 2(2));
- (b) so that certain days may be treated or not treated as days of incapacity (regulation 2(3) and (4));
- (c) by introducing in consequence of—
 - (i) section 63 of the Welfare Reform and Pensions Act 1999 (incapacity benefit: reduction for pension payments) Part V which makes provision for: defining and including permanent health insurance as pension payment; the disregard of certain pension payments; the date from which pension payment is to be taken into account; the date from which a change in rate of the pension takes effect; the pension payments made other than weekly; priority of pension payment deductions; and the exemption for those entitled to the highest rate care component of disability living allowance (regulation 2(5)), and
 - (ii) section 64 of the Welfare Reform and Pensions Act 1999 (incapacity benefit: persons incapacitated in youth) Part IV which makes provision for: circumstances in which the age limit of 20 may be extended to 25; the conditions as to presence or residence in Great Britain; the circumstances in which a person is or is not to be treated as receiving full-time education; the circumstances in which a previous claimant who does not satisfy the age condition becomes again entitled; and the circumstances in which a person formerly entitled to severe disablement allowance is transferred to incapacity benefit (regulation 2(5)).

The Claims and Payments Regulations are amended to make consequential provision so that small amounts of incapacity benefit, after reduction for pension payment, may be paid at longer intervals (regulation 3).

The Credits Regulations are amended to make consequential provision by revoking regulation 9 and to make amendments consequential on that revocation (regulation 4).

The Payments on Account, Overpayments and Recovery Regulations are amended to make consequential provision so that subsequent payment of incapacity benefit to a person incapacitated in youth is to be offset against child benefit paid in respect of him for the same period, and vice versa (regulation 5).

These Regulations also make saving provision (regulation 6).

An assessment of the impact on business of the measures arising from these Regulations, which was made during the course of the passage through Parliament of the Welfare Reform and Pensions Act 1999, is detailed in the Regulatory Impact Assessment of that Act. A copy of the Assessment has been placed in the libraries of both Houses of Parliament. Copies of the Assessment are available from the Department of Social Security, Regulatory Impact Unit, 3rd Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

