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STATUTORY INSTRUMENTS

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**1994 No. 1898**

**The Social Security (Incapacity for Work) (Northern Ireland) Order 1994**

**Incapacity benefit: entitlement**

3.—(1) In Part II of the Contributions and Benefits Act (contributory benefits), after section 30 insert—

“Incapacity benefit

**Incapacity benefit: entitlement.**

**30A.**—(1) Subject to the following provisions of this section, a person who satisfies either of the following conditions is entitled to short-term incapacity benefit in respect of any day of incapacity for work which forms part of a period of incapacity for work.

(2) The conditions are that—

- (a) he is under pensionable age on the day in question and satisfies the contribution conditions specified for short-term incapacity benefit in Schedule 3, paragraph 2; or
- (b) on that day he is over pensionable age but not more than 5 years over that age, the period of incapacity for work began before he attained pensionable age, and—
  - (i) he would be entitled to a Category A retirement pension if his entitlement had not been deferred or if he had not made an election under section 54(1) below; or
  - (ii) he would be entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but for any such deferment or election.

(3) A person is not entitled to short-term incapacity benefit for the first 3 days of any period of incapacity for work.

(4) In any period of incapacity for work a person is not entitled to short-term incapacity benefit for more than 364 days.

(5) Where a person ceases by virtue of subsection (4) above to be entitled to short-term incapacity benefit, he is entitled to long-term incapacity benefit in respect of any subsequent day of incapacity for work in the same period of incapacity for work on which he is not over pensionable age.”;

(2) In Schedule 3 to the Contributions and Benefits Act (contribution conditions for entitlement to benefit), in the heading before paragraph 2 and in sub-paragraph (1) of that paragraph for “sickness benefit” substitute “short-term incapacity benefit”.