
STATUTORY INSTRUMENTS

1994 No. 1898

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

Test of incapacity for work: supplementary provisions

8.—(1) In the Contributions and Benefits Act, after section 167C (inserted by Article 7) insert—

“Incapacity for work: persons to be treated as incapable or capable of work.

167D.—(1) Regulations may provide that a person shall be treated as capable of work, or as incapable of work, in such cases or circumstances as may be prescribed.

(2) Regulations may, in particular, provide that a person shall be treated as capable of work if he does work of a prescribed description, or more than the prescribed amount of work of a prescribed description.

Accordingly regulations may provide that a person shall not be treated as capable of work by reason only of his doing such work as may be prescribed, or no more than the prescribed amount of work of a prescribed description.

Incapacity for work: disqualification, etc.

167E.—(1) Regulations may provide for disqualifying a person for receiving any benefit, allowance or other advantage under any provision for the purposes of which this Part of this Act applies, or, in such cases as may be prescribed, provide that a person shall be treated as capable of work, if—

- (a) he has become incapable of work through his own misconduct;
- (b) he fails without good cause to attend for or submit himself to such medical or other treatment as may be required in accordance with the regulations; or
- (c) he fails without good cause to observe any prescribed rules of behaviour.

(2) Regulations shall provide that any such disqualification shall be, or as the case may be that the person shall be treated as capable of work, for such period not exceeding 6 weeks as may be determined in accordance with Part II of the Administration Act.

(3) Regulations may prescribe for the purposes of this section—

- (a) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any act or omission; or
- (b) circumstances in which a person is or is not to be regarded as having or not having good cause for any act or omission.

Incapacity for work: work as councillor to be disregarded.

167F.—(1) In determining whether a person is capable or incapable of work, there shall be disregarded any work which that person has undertaken as a councillor.

(2) For this purpose “councillor” means a member of a district council.

(3) The reference in subsection (1) above to the work which a person undertakes as a councillor shall be taken to include any work which he undertakes as a member of any body established under any statutory provision of which he is a member by virtue of his being a councillor.

(4) In making any such determination as is mentioned in subsection (1) above a person shall be treated as having been incapable of work on any day which falls in the pre-commencement period and which—

- (a) would have been treated as a day on which he was so incapable, were there disregarded any work which he undertook (or was capable of undertaking) as a councillor; but
- (b) would not have been so treated apart from this subsection.

The “pre-commencement period” means the period beginning with 11th May 1987 and ending immediately before 9th October 1989 (the coming into operation of paragraph 2 of Schedule 8 to the Social Security (Northern Ireland) Order 1989, which made provision corresponding to the provision made by this section).

Incapacity for work: supplementary provisions.

167G.—(1) The provisions of this Part of this Act do not apply—

- (a) for the purposes of Part V of this Act (benefit for industrial injuries: see section 94(6) above);
- (b) for the purposes of Part XI of this Act (statutory sick pay: see section 147(4) above); or
- (c) for such other purposes as may be prescribed.

(2) In this Part of this Act—

“prescribed” means specified in or determined in accordance with regulations; and
“week” means any period of 7 days.”.

(2) In Part II of the Administration Act (adjudication), after section 59 insert—

“Incapacity for work

Adjudication: incapacity for work.

59A.—(1) The following provisions apply in relation to the determination, for any purpose for which the provisions of Part XIII A of the Contributions and Benefits Act apply, whether a person—

- (a) is, or is to be treated as, capable or incapable of work; or
- (b) falls to be disqualified for any period in accordance with regulations under section 167E of that Act;

and to the determination for any such purpose of such other related questions as may be prescribed.

(2) Provision may be made by regulations for a determination made for one such purpose to be treated as conclusive for another such purpose.

Regulations may in particular provide that a determination that a person is disqualified for any period in accordance with regulations under section 167E of the Contributions and Benefits Act shall have effect for such purposes as may be prescribed as a determination that he is to be treated as capable of work for that period, and *vice versa*.

(3) Provision may be made by regulations for questions of such descriptions as may be prescribed to be determined by an adjudication officer, notwithstanding that other questions fall to be determined by another authority.

(4) Provision may be made by regulations—

- (a) requiring a social security appeal tribunal to sit with one or more medical assessors in such classes of case as may be prescribed; and
- (b) as to the constitution of panels of medical practitioners to act as medical assessors in such cases;

and regulations under this subsection may confer on the President, or such other person as may be prescribed, such functions as may be prescribed.”.

(3) For the period of four years from the making of this Order a statutory rule which contains (whether alone or with other provisions) any regulations made under any of the following provisions shall be subject to the confirmatory procedure—

(a) in the Contributions and Benefits Act—

- section 167A(2), (3) or (4);
- section 167B(4)(d), (6), (7) or (8);
- section 167C(2) or (3);
- section 167D;
- section 167E(1), (2) or (3); or
- section 167G(1)(c);

(b) in the Administration Act, section 59A(2), (3) or (4).