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STATUTORY INSTRUMENTS

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**1994 No. 1898**

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

*Other amendments*

**Severe disablement allowance**

**11.**—(1) Section 68 of the Contributions and Benefits Act (severe disablement allowance) is amended as follows.

(2) After subsection (10) insert—

“(10A) Where—

- (a) a person becomes engaged in training for work; and
- (b) he was entitled to a severe disablement allowance for one or more of the 56 days immediately before he became so engaged; and
- (c) the first day after he ceases to be so engaged is for him a day on which he is incapable of work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to a severe disablement allowance,

any day since that day in which he was engaged in training for work shall be treated for the purposes of any claim for a severe disablement allowance as having been a day on which he was both incapable of work and disabled.

In this subsection “training for work” means training for work in pursuance of arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or training of such other description as may be prescribed.”.

(3) In subsection (11) (regulation-making powers), after paragraph

(c) insert—

“(cc) may prescribe evidence which is to be treated as establishing that a person suffers from loss of physical or mental faculty such that the extent of the resulting disablement amounts to not less than 80 per cent.;”.

**Disability working allowance**

**12.**—(1) Section 128 of the Contributions and Benefits Act (disability working allowance) is amended as follows.

(2) In subsection (1) (conditions of entitlement) for “qualifies under subsection (2) below” substitute “qualifies under subsection (2) or (2A) below”.

(3) After subsection (2) insert—

“(2A) A person qualifies under this subsection if—

- (a) on one or more of the 56 days immediately preceding the date when the claim for a disability working allowance is made or is treated as made he was engaged in training for work; and
  - (b) a relevant benefit was payable to him for one or more of the 56 days immediately preceding—
    - (i) the first day of training for work falling within the 56 days mentioned in paragraph (a) above; or
    - (ii) an earlier day of training for work which formed part of the same period of training for work as that day.
- (2B) For the purposes of subsection (2A) above—
- (a) the following are relevant benefits—
    - (i) the higher rate of short-term incapacity benefit;
    - (ii) long-term incapacity benefit;
    - (iii) a severe disablement allowance;or a corresponding benefit under any enactment having effect in Great Britain;
  - (b) “training for work” means training for work in pursuance of arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or training of such other description as may be prescribed; and
  - (c) a period of training for work means a series of consecutive days of training for work, there being disregarded for this purpose such days as may be prescribed.”.

### **Consequential amendments and repeals**

13.—(1) The enactments mentioned in Schedule 1 have effect subject to the amendments specified there which are consequential on the provisions of this Order.

Part I contains amendments of the Contributions and Benefits Act; and

Part II contains amendments of the Administration Act and certain other enactments.

(2) The enactments mentioned in Schedule 2 are repealed to the extent specified.

### **General power to make transitional and consequential provision**

14.—(1) The Department may by regulations make such transitional provision, and such consequential provision or savings, as appear to it to be necessary or expedient in preparation for or in connection with the coming into force of any provision of this Order or the operation of any enactment repealed or amended by any such provision during any period when the repeal or amendment is not wholly in operation.

(2) The power conferred by paragraph (1) is not exercisable in respect of any matter for which provision may be made under Article 6 (power to provide for transition to incapacity benefit) or Article 9 (power to provide for the transition to new test of incapacity for work).

(3) Subsections (3) and (4) of section 171 of the Contributions and Benefits Act (general provisions as to regulations and orders) apply in relation to the power conferred by paragraph (1) as they apply in relation to a power conferred by that Act to make regulations.

(4) A statutory rule—

- (a) which contains (whether alone or with other provisions) any regulations made under this Article; and
- (b) which is not subject to the confirmatory procedure, shall be subject to negative resolution.

### **Saving for existing enactments**

**15.—**(1) The amendments of the Contributions and Benefits Act made by this Order shall be treated as repealing and re-enacting with modifications the provisions of that Act relating to incapacity for work, so that, subject to any amendment, repeal or revocation—

(a) any reference in any enactment to any such provision shall be construed as a reference to the corresponding new provision or, as the case may be, to the provision as amended by this Order; and

(b) instruments made under any such provision—

(i) shall continue in force and have effect as if made under the corresponding new provision or, as the case may be, the provision as amended by this Order; and

(ii) shall be construed as if originally so made.

(2) In any enactment, subject to any amendment—

(a) any reference to sickness benefit shall be construed as a reference to short-term incapacity benefit at the lower rate; and

(b) any reference to invalidity benefit or invalidity pension shall be construed as a reference to short-term incapacity benefit at the higher rate or long-term incapacity benefit.

(3) In this Article—

“enactment” includes an enactment contained in an instrument;

“instrument” has the meaning given by section 1(c) of the Interpretation Act (Northern Ireland) 1954.