



Social Security (Incapacity for Work) Act 1994

1994 CHAPTER 18

Test of incapacity for work

6 Test of incapacity for work: supplementary provisions.

- (1) In the ^{M1}Social Security Contributions and Benefits Act 1992, after the sections inserted by section 5 above, insert—

“171D Incapacity for work: persons to be treated as incapable or capable of work.

- (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.

171E Incapacity for work: disqualification, &c.

- (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

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- (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.

171F Incapacity for work: work as councillor to be disregarded.

- (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) in relation to England and Wales, a member of a London borough council, a county council, a district council, a parish or community council, the Common Council of the City of London or the Council of the Isles of Scilly; and
 - (b) in relation to Scotland, a member of a regional, islands or 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 of the bodies referred to in section 177(1) of the Local Government Act 1972, or section 49(1) or (1A) of the Local Government (Scotland) Act 1973, 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 force of paragraph 2 of Schedule 8 to the Social Security Act 1989 which made provision corresponding to the provision made by this section).

171G Incapacity for work: supplementary provisions.

- (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);

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- (b) for the purposes of Part XI of this Act (statutory sick pay: see section 151(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.”.

^{F1}(2)

(3) For the period of four years from Royal Assent a statutory instrument which contains (whether alone or with other provisions) any regulations made under any of the following provisions shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House—

- (a) in the ^{M2}Social Security Contributions and Benefits Act 1992—
 - section 171A(2), (3), or (4),
 - section 171B(4)(d), (6), (7) or (8),
 - section 171C(2) or (3),
 - section 171D,
 - section 171E(1), (2) or (3), or
 - section 171G(1)(c);

- (b) in the ^{M3}Social Security Administration Act 1992, section 61A(2), (3) or (4).

Textual Amendments

F1 S. 6(2) repealed (29.11.1999) by 1998 c. 14, s. 86(2), **Sch. 8**; S.I. 1999/3178, art. 2(1), **Sch.** (subject to transitional provisions in **Schs. 21-23**)

Commencement Information

I1 S. 6 wholly in force at 13.4.1995; s. 6 not in force at Royal Assent see s. 16(2)(3); s. 6 in force for certain purposes at 18.11.1994 and insofar as not already in force at 13.4.1995 by S.I. 1994/2926, **art. 2(2)**

Marginal Citations

M1 1992 c. 4.

M2 1992 c. 4.

M3 1992 c. 5.

Changes to legislation:

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