
STATUTORY INSTRUMENTS

1997 No. 1009

SOCIAL SECURITY

The Social Security (Incapacity for Work and Severe Disablement Allowance) Amendment Regulations 1997

Made - - - - *20th March 1997*
Coming into force - - *1st April 1997*

Whereas a draft of this instrument was laid before Parliament in accordance with section 6(3) of the Social Security (Incapacity for Work) Act 1994(1) 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 68(11)(cc), 122(1), 171D(1), 171G(2) and 175 of the Social Security Contributions and Benefits Act 1992(2) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(3), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Incapacity for Work and Severe Disablement Allowance) Amendment Regulations 1997 and shall come into force on 1st April 1997.

Amendment of the Social Security (Incapacity for Work) (General) Regulations 1995

2. In regulation 10(2) of the Social Security (Incapacity for Work) (General) Regulations 1995(4) (certain persons with a severe condition to be treated as incapable of work) after sub-paragraph

(a) there shall be inserted—

“(aa) that he is entitled to—

(i) a disablement pension by virtue of section 103 of the Contributions and Benefits Act by reference to a degree of disability of not less than 80 per cent.;

(1) 1994 c. 18.

(2) 1992 c. 4. Section 68(11)(cc) was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 9(3); sections 171D and 171G were inserted by section 6(1) of that Act. Sections 122(1) and 171G(2) are cited because of the meaning assigned to the word

(3) “prescribe” or “prescribed”.

(4) See the Social Security Administration Act 1992 (c. 5), section 172(1).

- (ii) a disablement pension by virtue of Part III of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983⁽⁵⁾ or of Part III of the Personal Injuries (Civilians) Scheme 1983⁽⁶⁾ by reference to a degree of disability of not less than 80 per cent.;
- (ab) that evidence in accordance with regulation 10 of the Social Security (Severe Disablement Allowance) Regulations 1984⁽⁷⁾ establishes that he suffers from a loss of physical or mental faculty such that the extent of the resulting disablement amounts to not less than 80 per cent.;”.

Amendment of the Social Security (Severe Disablement Allowance) Regulations 1984

3. In regulation 10(1) of the Social Security (Severe Disablement Allowance) Regulations 1984⁽⁸⁾ (adjudication)—

- (a) sub-paragraph (a) shall be omitted;
- (b) for sub-paragraph (b) there shall be substituted—
 - “(b) evidence that on that day he is or was entitled to the care component of disability living allowance at the highest rate prescribed in accordance with section 72(3) and (4) (a) of the Contributions and Benefits Act;”;
- (c) in sub-paragraph (f) the words “or partially sighted” shall be omitted; and
- (d) in sub-paragraph (ff) the words “or partially sighted”, in both places where they appear, shall be omitted.

Saving

4. Where

- (a) before the coming into force of these Regulations, a person is entitled to severe disablement allowance by virtue of having satisfied regulation 10(1) (a), (b), (f) or (ff) of the Social Security (Severe Disablement Allowance) Regulations 1984, as then in force; and
- (b) after the coming into force of these Regulations, he is a person in respect of whom any day is to be treated as part of one period of incapacity for work, within the meaning of section 30C(1) of the Social Security Contributions and Benefits Act 1992⁽⁹⁾, which began before the coming into force of these Regulations, regulation 10 of the Social Security (Severe Disablement Allowance) Regulations 1984 shall continue to have effect as if regulation 3 of these Regulations had not been made.

(5) S.I. 1995/311. Regulation 10 was amended by S.I. 1995/987 and 1996/3207.

(6) S.I. 1983/883; relevant amending instruments are S.I. 1983/1116 and 1521, 1984/1154 and 1687, 1985/1201, 1986/592, 1990/1308, 1991/766, 1992/710 and 3208, 1993/598 and 1994/772.

(7) S.I. 1983/686; relevant amending instruments are S.I. 1983/1540, 1984/1289 and 1675, 1985/1313, 1986/628, 1990/1300, 1991/708, 1992/702 and 3226, 1993/480 and 1164 and 1995/445.

(8) S.I. 1984/1303. Regulation 10 was amended by S.I. 1986/1933, 1988/1843 and 1991/2742. S.I. 1984/1303. Regulation 10 was amended by S.I. 1986/1933, 1988/1843 and 1991/2742.

(9) S.I. 1984/1303. Regulation 10 was amended by S.I. 1986/1933, 1988/1843 and 1991/2742.

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

20th March 1997

A. J. B. Mitchell
Parliamentary Under-Secretary of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Social Security (Incapacity for Work) (General) Regulations 1995 (S.I.1995/311) (“the Incapacity General Regulations”) and the Social Security (Severe Disablement Allowance) Regulations 1984 (S.I. 1984/1303) (“the Severe Disablement Allowance Regulations”).

The Incapacity General Regulations are amended to make provision so that certain persons who are entitled to disablement pension, or assessed for the purpose of severe disablement allowance as 80 per cent. disabled, are treated as incapable of work (regulation 2).

The Severe Disablement Allowance Regulations are amended so that the partially sighted and those entitled to attendance allowance, the mobility component or the middle rate care component of disability living allowance and war pensions mobility supplement are not treated as automatically meeting the 80 per cent. disablement test (regulation 3).

These Regulations also make saving provision for the protection of those in receipt of severe disablement allowance before the coming into force of these Regulations (regulation 4).

These Regulations do not impose a charge on business.

The Report of the Social Security Advisory Committee dated 13th February 1997 on the proposals referred to them, together with a statement showing the extent to which these Regulations give effect to the Report and in so far as they do not give effect to it, the reasons why not, are contained in Command Paper Cm. 3572, published by The Stationery Office.