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STATUTORY INSTRUMENTS

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**2003 No. 1068**

**SOCIAL SECURITY**

**The Social Security (Incapacity Benefit) (Her Majesty's Forces) (Amendment) Regulations 2003**

<i>Made</i>	- - - -	<i>10th April 2003</i>
<i>Laid before Parliament</i>		<i>14th April 2003</i>
<i>Coming into force</i>	- -	<i>5th May 2003</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred on him by sections 30D(3A), 122(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it<sup>(2)</sup>, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Incapacity Benefit) (Her Majesty's Forces) (Amendment) Regulations 2003 and shall come into force on 5th May 2003.

**Amendment of the Social Security (Incapacity Benefit) Regulations 1994**

2. In the Social Security (Incapacity Benefit) Regulations 1994<sup>(3)</sup> after regulation 7B there shall be inserted the following regulation—

**“Inclusion of days of sickness absence from duty before discharge from Her Majesty's forces in calculating days of entitlement to incapacity benefit**

**7C.**—(1) For the purpose of section 30D(3A) of the Contributions and Benefits Act (days to be included in respect of person discharged from Her Majesty's forces after 3rd May 2003 when calculating the number of days for which the person has been entitled to short-term incapacity benefit) there is prescribed any day which falls within a period—

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(1) 1992 c. 4. Section 30D(3A) was inserted by regulation 3 of the Social Security Contributions and Benefits Act 1992 (Modifications for Her Majesty's Forces and Incapacity Benefit) Regulations 2003 (S.I.2003/737). Section 122(1) is cited for the definition of “prescribe”. Section 175 was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(2) See section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(3) S.I. 1994/2946. Relevant amending instrument is S.I. 2002/2690.

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

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- (a) of 4 or more consecutive days each of which is a day which is recorded by the Secretary of State for Defence as a day on which the person was on sickness absence from duty; and
  - (b) which ends not more than 8 weeks before the first day of the period to which the claim for incapacity benefit relates.
- (2) For the purpose of paragraph (1)(a) any two such periods not separated by a period of more than 8 weeks shall be treated as one period.”.

Signed by authority of the Secretary of State for Work and Pensions.

10th April 2003

*Malcolm Wicks*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations apply to members of Her Majesty's forces who are discharged after 3rd May 2003, who were on sickness absence from duty while in the forces and who claim incapacity benefit.

Regulation 2 amends the Social Security (Incapacity Benefit) Regulations 1994 by inserting a new regulation 7C which prescribes the days to be included when calculating, for the purpose of ascertaining the weekly rate of benefit, the number of days for which a person has been entitled to short-term incapacity benefit.

These Regulations do not impose any costs on business.