



Social Security (Incapacity for Work) Act 1994

1994 CHAPTER 18

Incapacity benefit

2 Incapacity benefit: rate.

- (1) In Part II of the ^{M1}Social Security Contributions and Benefits Act 1992, after section 30A (inserted by section 1 above), insert—

“30B Incapacity benefit: rate.

- (1) The amount payable by way of incapacity benefit in respect of any day is 1/7th of the appropriate weekly rate.
- (2) Subject to the following provisions of this section, the weekly rate of short-term incapacity benefit is the lower or higher rate specified in Schedule 4, Part I, paragraph 2.

The benefit is payable at the lower rate so specified for the first 196 days of entitlement in any period of incapacity for work and at the higher rate so specified thereafter.

- (3) In the case of a person over pensionable age the weekly rate of short-term incapacity benefit is, subject to subsection (4) below, that at which the relevant retirement pension referred to in section 30A(2)(b) above would have been payable.

But in determining that rate any increase of the following descriptions shall be disregarded—

- (a) any increase (for married women) under section 53(2) below or (for deferred retirement) under Schedule 5 to this Act;
- (b) any increase (for dependants) under section 80, 83 or 85 below; and

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(c) any increase (for Category A or Category B pensioners) under section 150 of the Administration Act (annual up-rating) of the sums mentioned in subsection (1)(e) of that section.

(4) In the case of a person who has been entitled to short-term incapacity benefit for 196 days or more in any period of incapacity for work and—

(a) is terminally ill, or

(b) he is entitled to the highest rate of the care component of disability living allowance,

the weekly rate of short-term incapacity benefit payable, if greater than the rate otherwise payable to him under subsection (2) or (3) above, shall be equal to the rate at which long-term incapacity benefit under section 30A above would be payable to him if he were entitled to it.

For the purposes of this subsection a person is terminally ill if he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months.

(5) References to short-term incapacity benefit at the higher rate shall be construed as including short-term incapacity benefit payable to any person who has been entitled to that benefit for 196 days or more in a period of incapacity for work, notwithstanding that the rate of benefit is determined in accordance with subsection (3) or (4) above.

(6) Subject as follows, the weekly rate of long-term incapacity benefit under section 30A above is that specified in Schedule 4, Part I, paragraph 2A.

(7) Regulations may provide that if a person is, on the qualifying date in relation to a period of incapacity for work, under such age as may be prescribed, the rate of long-term incapacity benefit under section 30A above payable to him in respect of any day in that period shall be increased by such amount as may be prescribed.

For this purpose “the qualifying date” means the first day of the period of incapacity for work or such earlier day as may be prescribed.”.

(2) In Part I of Schedule 4 to the ^{M2}Social Security Contributions and Benefits Act 1992 (rates of benefit, &c.: contributory periodical benefits), for paragraph 2 (sickness benefit) substitute—

“2 Short-term incapacity benefit.
(a) lower rate..... £43.45
(b) higher rate..... £52.50”;

and after that paragraph insert—

“2A Long-term incapacity benefit.
..... £57.60”.

(3) In section 150 of the ^{M3}Social Security Administration Act 1992 (annual up-rating of benefits), in subsection (1) (sums to be reviewed) after paragraph (a) insert—

“(aa) specified in regulations under section 30B(7) of that Act;”;

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and in subsection (3) (sums subject to mandatory up-rating), after “(a)(ii) or (iii),” insert “ (aa), ”.

(4) ^{F1}

(5) After section 86 of the ^{M4}Social Security Contributions and Benefits Act 1992 insert—

“86A Incapacity benefit: increase for adult dependants.

- (1) The weekly rates of short-term and long-term incapacity benefit shall, in such circumstances as may be prescribed, be increased for adult dependants by the appropriate amount specified in relation to benefit of that description in Schedule 4, Part IV, column (3).
- (2) Regulations may provide that where the person in respect of whom an increase of benefit is claimed has earnings in excess of such amount as may be prescribed there shall be no increase of benefit under this section.”.

(6) In Part IV of Schedule 4 to the ^{M5}Social Security Contributions and Benefits Act 1992 (rates of benefit, &c.: increases for dependants), after paragraph 1 insert—

“1A. Short-term incapacity benefit—

(a) where the beneficiary is under pensionable age	11.00	26.90
(b) where the beneficiary is over pensionable age	11.00	33.10”

and for paragraph 2 substitute—

“2. Long-term incapacity benefit 11.00 34.50”.

(7) Any order under section 150 of the Social Security Administration Act 1992 (up-rating orders) made by the Secretary of State before the commencement of this section shall include provision—

- (a) making such increase (if any) in the sum specified in the provision inserted by subsection (2) above as the amount of short-term incapacity benefit at the higher rate as is necessary to make that sum equal to the higher rate or, if there is only one such rate, to the rate of statutory sick pay payable after the order comes into force; and
- (b) making such increases in the other sums specified in the provisions inserted by subsections (2) and (6) above in Schedule 4 to the Social Security Contributions and Benefits Act 1992 as would have been required if the provisions in question had been in force at all material times.

Textual Amendments

F1 S. 2(4) repealed (6.4.2003) by 2002 c. 21, ss. 60, 61, Sch. 6; S.I. 2003/962, art. 2(3)(e), Sch. 1 (subject to savings and transitional provisions in arts 3, 4)

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Commencement Information

- II** S. 2 wholly in force at 13.4.1995; s. 2 not in force at Royal Assent see s. 16(2)(3); s. 2(3)(7) in force at 18.11.1994 and s. 2(1)(5) in force for certain purposes at 18.11.1994 and in force insofar as not already in force at 13.4.1995 and s. 2(2)(4)(6) in force at 13.4.1995 by S.I. 1994/2926, art. 2(1)(2)(4)

Marginal Citations

- M1** 1992 c. 4.
M2 1992 c. 4.
M3 1992 c. 5.
M4 1992 c. 4.
M5 1992 c. 4.

Changes to legislation:

There are currently no known outstanding effects for the Social Security (Incapacity for Work) Act 1994, Section 2.