

WELFARE REFORM AND PENSIONS ACT 1999

EXPLANATORY NOTES

OVERVIEW

Long Term Illness and Disability

Background

People with a long term illness or disability can currently claim a number of different benefits to help meet their needs. Depending on their circumstances, people can qualify for more than one of these benefits at same time. The main ones are: Incapacity Benefit (contributory); and Severe Disablement Allowance, Disability Working Allowance, Disability Living Allowance and Attendance Allowance (all non-contributory). Several other benefits provide special premiums for disabled adults and children.

The New Deal for Disabled People is developing and testing new ways to help people with a long-term illness or disability to enter and retain work. The national minimum wage and the new Disabled Person's Tax Credit are also intended to help make work pay.

The Government published its plans for reforming benefits for people with a long term illness or disability in *A new contract for welfare: SUPPORT FOR DISABLED PEOPLE* (Cm 4103, October 1998). In the consultation paper, the Government set out its view that, although the benefits which are currently available are intended to provide security for all those with a long term illness or disability, in some respects the level of support does not fully match up to their needs. The Government also indicated its view that changes were needed to Incapacity Benefit – both to restore the original purpose of the benefit in providing a replacement income for people recently in work; and to take account of changing social conditions.

The consultation paper proposed the following main changes:

reform of Severe Disablement Allowance, to enable young people who are disabled and cannot work and who claim benefit before 20 to receive Incapacity Benefit. After a year on benefit, their entitlement would be £80.80 a week compared with £54.40 at present – thereby reducing the need to rely on Income Support to top up their income;

a new Disability Income Guarantee, which will give single, severely disabled recipients under 60 nearly £6 a week extra, and couples over £8 a week extra;

extending the higher rate mobility component of Disability Living Allowance – currently worth £37.00 a week – to 3 and 4 year old severely disabled children;

reform of the All Work Test so that, as well as determining entitlement to benefit, it also provides information about people's capabilities which can be used to help them plan a return to work; and changing the name of the test to reflect this new approach;

requiring those claiming incapacity benefits to take part in a ONE personal adviser interview, to ensure that they receive help to plan a route back to work, and get the benefits to which they are entitled;

*These notes refer to the Welfare Reform and Pensions Act 1999
(c.30) which received Royal Assent on 11 November 1999*

expanding specialist disability services to help disabled people enter work, and examining new ways to improve their retention in work through New Deal for Disabled People;

strengthening the link between work and entitlement in Incapacity Benefit, so that it is only paid to those who have recently been in work and paid National Insurance contributions;

taking account of income from occupational and personal pensions in Incapacity Benefit.

The measures in the Act

Following consultation, the Government legislated to make the proposed changes. The measures in the Act that relate to incapacity and disability benefits are contained in Part V, sections 61-68, and Parts II and III of Schedule 8. The provisions implement all of the proposed changes in the consultation paper, apart from the Disability Income Guarantee and the expansion of specialist disability services, which do not require new primary legislation.

While the Bill was going through Parliament, the Government introduced an amendment to allow young disabled people to claim Incapacity Benefit up to the age of 25 in prescribed circumstances, without having to satisfy the contribution conditions. (The normal age limit proposed by the Government is age 20.) This extension is intended to benefit young disabled people in education or vocational training. The Government also announced that people receiving the higher-rate care component of Disability Living Allowance would not have their pension income taken into account in Incapacity Benefit.

The way in which Incapacity Benefit will be reduced to take account of pension income is now set out on the face of the Act. The Act ensures that the benefit will be reduced by 50p for every additional £1 of pension income that people receive above the first £85.

Section 68 was added in order to provide that certain overpayments of incapacity and disability benefits which arise before 1 June 1999 cannot be recovered from the recipient. This is intended to protect disabled people who could not reasonably be expected to know that their benefit entitlement was incorrect, for example due to a gradual improvement in their condition, or that they should have reported this change to the Benefits Agency.

The measures in the Act do not require any disabled people to look for work, if they do not want to. No existing claimants lose any benefit entitlement at the point of change.