

WELFARE REFORM AND PENSIONS ACT 1999

EXPLANATORY NOTES

COMMENTARY

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Section 64: Incapacity benefit: persons incapacitated in youth

This section allows a new category of people to claim Incapacity Benefit (IB). They are those people aged between 16 and 19 (or, in prescribed cases, age 25 – see below) who would currently claim and receive Severe Disablement Allowance (SDA). Section 65 of this Act abolishes SDA for new claimants.

Subsection (1) amends the entitlement conditions for IB set out in section 30A of the Contributions and Benefits Act, and provides that this group may receive IB without meeting the contribution conditions.

Subsections (2) and (4) make consequential amendments.

Subsection (3) inserts a *new subsection (2A)* into section 30A of the Contributions and Benefits Act.

To be entitled to IB without having satisfied the contribution conditions, a person must have become incapable of work before the age of 20 (or 25 in certain circumstances), must satisfy the conditions of residence or presence in Great Britain, and must not be in full-time education. *Subsection (2A)(c)* provides that these people must also have been continuously incapable of work for at least 196 days (28 weeks) before benefit can be paid. This is intended to ensure that the benefit is correctly targeted at long-term incapacity for work.

Subsection (2A)(b) gives a regulation-making power to extend the cut-off age from 20 to 25 in certain circumstances.

It is intended to use this power to extend the age cut-off from 20 to 25 for people in education, or vocational or occupational training. The intended qualifying conditions for extending the age cut-off will be that:

they must have started the course before their 20th birthday; and

they must have finished their course no earlier than in one of the last two complete tax years before the year in which they claim benefit (the tax year starts on 6 April and the benefit year begins in the next January). So, for example, if their course finishes in June 2005, they will be able to claim IB until December 2008 (so long as they are still under 25).

The inserted subsection (2A)(d) gives regulation-making powers to define the residence and presence conditions. It is intended to use this power to require claimants to have been ordinarily resident or present in Great Britain for a total of at least 26 weeks in the year up to the date of entitlement.

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

Once a person has qualified for IB under these new rules they may re-claim benefit after the age of 20, following a break in claiming, if the new claim “links” with the previous period of entitlement to IB. For claims to link, the break between benefit claims must not exceed 8 weeks. For those who leave benefit because of starting work the linking period is extended to 52 weeks under the Welfare to Work Regulations 1998. And, for those who leave benefit and claim Disabled Persons` Tax Credit or start a Training for Work course, the linking period is extended to two years.

Subsection (5) inserts new subsections (6) and (7) into section 30A of the Contributions and Benefits Act. It is intended to use the power in subsection (6) to allow people to re-qualify for short-term benefit even though they may be over the age limit, if they were awarded IB under the new conditions in subsection (2A) and left benefit to work but earned below the lower earnings limit, or went abroad, and did not re-qualify for benefit through the linking rules.

The intention is to use the power in subsection (7) to define “full-time education” to apply only to people aged 16-18, and to provide that, in order to qualify for benefit, they must spend less than 21 hours a week in education (excluding any time spent on a course not normally taken by a non-disabled student).