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STATUTORY INSTRUMENTS

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**2003 No. 737**

**SOCIAL SECURITY**

**The Social Security Contributions and Benefits  
Act 1992 (Modifications for Her Majesty's  
Forces and Incapacity Benefit) Regulations 2003**

<i>Made</i>	- - - -	<i>14 March 2003</i>
<i>Laid before Parliament</i>		<i>14 March 2003</i>
<i>Coming into force</i>		
<i>for the purposes of</i>		
<i>regulations 1 and 3</i>		<i>6 April 2003</i>
<i>for all other purposes</i>		<i>5th May 2003</i>

The Treasury, with the concurrence of the Secretary of State, in exercise of the powers conferred on them by sections 116(2) and 175(3) and (5) of the Social Security Contributions and Benefits Act 1992(1), and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security Contributions and Benefits Act 1992 (Modifications for Her Majesty's Forces and Incapacity Benefit) Regulations 2003 and shall come into force for the purposes of this regulation and regulation 3 on 6<sup>th</sup> April 2003 and for all other purposes on 5th May 2003.

**Modification of section 30A of the Social Security Contributions and Benefits Act 1992**

2. Section 30A of the Social Security Contributions and Benefits Act 1992 (entitlement to incapacity benefit)(2) shall be modified, in respect of persons who have been members of Her Majesty's forces, as if—

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(1) 1992 c. 4. Relevant amendments to section 116(2) were made by paragraph 28 of Schedule 2 to the Jobseekers Act 1995 (c. 18), paragraph 67 of Schedule 7 to the Social Security Act 1998 (c. 14) and paragraph 22(1) and (2) of Schedule 3, and paragraph 5 of Schedule 7, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 175(5) was amended by paragraph 36 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).

(2) Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c. 30).

- (a) at the beginning of subsection (3), there were inserted “Subject to subsection (3A),” and
- (b) after subsection (3), there were inserted—

“(3A) Subsection (3) does not apply to a person—

- (a) who is discharged from Her Majesty’s forces, and
- (b) for whom days of sickness absence from duty, which are recorded by the Secretary of State for Defence, are included in calculating the number of days for which the person has been entitled to short-term incapacity benefit.”

#### **Modification of section 30D of the Social Security Contributions and Benefits Act 1992**

3. Section 30D of the Social Security Contributions and Benefits Act 1992 (calculating days of entitlement to incapacity benefit)(3) shall be modified, in respect of persons who have been members of Her Majesty’s forces, as if, after subsection (3), there were inserted—

“(3A) In respect of a person who is discharged from Her Majesty’s forces after 3rd May 2003, there shall also be included such days as may be prescribed(4).”

#### **Modification of paragraph 2(6) of Schedule 3 to the Social Security Contributions and Benefits Act 1992**

4. Paragraph 2(6) of Schedule 3 to the Social Security Contributions and Benefits Act 1992 (contribution conditions for entitlement to incapacity benefit) shall be modified, in respect of persons who have been members of Her Majesty’s forces, as if—

- (a) after “is” in paragraph (b) (meaning of “the relevant benefit year”)(5), there were inserted “, subject to paragraph (c),” and
- (b) at the end, there were added—

“(c) in the case of a person who is discharged from Her Majesty’s forces, and for whom days of sickness absence from duty recorded by the Secretary of State for Defence are included in calculating the number of days for which the person has been entitled to short-term incapacity benefit, “the relevant benefit year” is the benefit year in which there falls the beginning of the period to which the claim for incapacity benefit relates.”

14<sup>th</sup> March 2003

*Jim Fitzpatrick*  
*John Heppell*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(3) Section 30D was inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994.  
(4) For the meaning of “prescribe” see the definition in section 122(1) of the Social Security Contributions and Benefits Act 1992.  
(5) Paragraph 2(6)(b) was amended by paragraph 38(2) of Schedule 1 to the Social Security (Incapacity for Work) Act 1994.

The Secretary of State hereby concurs.  
Signed by authority of the Secretary of State.

12th March 2003

*Nicholas Brown*  
Parliamentary Under Secretary of State,  
Department for Work and Pensions

**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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## EXPLANATORY NOTE

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

These Regulations modify the Social Security Contributions and Benefits Act 1992 (c. 4) in its application to persons who are discharged from Her Majesty's forces after 3rd May 2003, who were on sickness absence from duty while in the forces and who claim incapacity benefit.

Regulation 2 modifies section 30A, inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18), by exempting certain former members of the forces from the requirement to wait 3 days before becoming entitled to incapacity benefit.

Regulation 3 modifies section 30D, inserted by section 3(1) of the 1994 Act, to enable regulations made by the Secretary of State to prescribe the days to be included when calculating the number of days for which the ex-members of the forces have been entitled to short-term incapacity benefit.

Regulation 4 modifies paragraph 2(6) of Schedule 3 by inserting a new definition of "relevant benefit year" in connection with the National Insurance contribution conditions to be satisfied by former members of the forces who claim incapacity benefit.