

**EXPLANATORY MEMORANDUM TO THE
SOCIAL SECURITY (INCAPACITY) (MISCELLANEOUS AMENDMENTS)
REGULATIONS 2005**

2005 No. 2446

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The regulations increase from £78.00 to £81.00 the weekly limit for earnings from work, which may be undertaken by a person without being treated as being capable of work for Incapacity Benefit and other benefits.

2.2 The regulations increase the weekly earnings limit for councillor's receiving Incapacity Benefit from £78.00 to £81.00.

2.3 The regulations increase from £4,056 to £4,212 the amount, which can be earned in a year before a person, is disqualified from receiving unemployment supplement to disablement benefit.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The power has been used annually since 1999 to increase the earnings limits for Incapacity Benefit and related benefits in line with the National Minimum Wage when it increases on 1st October each year.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the Instrument is subject to negative resolution procedure and does not amend Primary Legislation, no statement is required.

7. Policy background

7.1 One of the qualifying conditions for Incapacity Benefit is that a person is incapable of work. However some work can be done within limits to encourage people to return to work or to encourage social contact (this is known as permitted work). A weekly earnings limit applies in some cases which is not below the weekly equivalent of 16 hours work at the national

minimum wage rate. If the rate was not linked to the national minimum wage some people would lose entitlement to benefit simply because their earnings increased each October and the value of the earnings limits would be eroded over time. Corresponding increases and considerations apply to Councillors receiving benefit because of incapacity for work and to recipients of Unemployability Supplement under the Industrial Injuries Scheme Benefits.

- 7.2 Both the Social Security Advisory Committee and the Industrial Injuries Advisory Committee have stated that they do not require formal referral of these regulations.

As the change in legislation is beneficial to people claiming incapacity related benefits we have not consulted with any other interested parties.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

- 8.2 The impact on the public sector is Nil

9. Contact

Steve Brooke at the Department for Work and Pensions
(Steve.Brooke@Jobcentreplus.gsi.gov.UK)