STATUTORY RULES OF NORTHERN IRELAND

1994 No. 461

SOCIAL SECURITY

The Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994

Made - - - - 25th November 1994

Coming into operation 13th April 1995

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 30B(7), 30C(3), (4)(a) and (6), 30D(3) and 30E(1) and (2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations made consequential upon Articles 4(1) and 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(**2**), hereby makes the following regulations:

Part I

General

Citation, commencement and interpretation

1. —

(1) These regulations may be cited as the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994 and shall come into operation on 13th April 1995.

(2) In these regulations—

"the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992(**3**);

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(3) Unless the context otherwise requires, any reference in these regulations to—

(**1**) 1992 c. 7; section 30B was inserted by Article 4(1) of, and sections 30C to 30E were inserted by Article 5(1) of, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I.1994/1898 (N.I. 12))

(**2**) S.I. 1994/1898 (N.I. 12)

(**3**) 1992 c. 8

(a) a numbered section or Schedule is to the section of or, as the case may be, the Schedule to, the Contributions and Benefits Act bearing that number;

(b) a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph or sub-paragraph is a reference to the paragraph or sub-paragraph of that regulation bearing that number.

Part II

Entitlement to Incapacity Benefit: Supplementary Provisions

Definition of "training work" for the purposes of section 30C(6)

2. For the purposes of section 30C(6) (which provides for days of training for work to be treated as days of incapacity for work) "training for work" also includes any training received on a course which a person attends for 16 hours or more a week, the primary purpose of which is the teaching of occupational or vocational skills.

Days not to be treated as days of incapacity for work

3. —

(1) For the purposes of incapacity benefit a day shall not be treated as a day of incapacity for work if it is—

(a) a day in respect of which a person—

(i) has made no claim for incapacity benefit;

(ii) has made a claim for incapacity benefit but not within the prescribed time and good cause for the delay is not shown, or

(iii) has made a claim for incapacity benefit but not within the prescribed time and, whether or not the person has shown good cause for the delay, he is not entitled to benefit as a result of section 1(2) of the Administration Act (which provides for a 12 month limit on claims for incapacity benefit);

(b) a day on which a person is disqualified for receiving incapacity benefit during a period of absence from Northern Ireland or imprisonment or detention in legal custody, if that disqualification is for more than 6 weeks; or

(c) subject to paragraph (2), a day on which a person attends a training course in respect of which he is paid a training allowance pursuant to arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(**4**).

(2) Paragraph (1)(c) shall not apply—

(a) for the purposes of any claim for incapacity benefit for a period commencing after a person ceased attending such a training course; or

(b) in calculating a period of continuous incapacity for work for the purposes of regulation 2 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(**5**).

(**4**) 1950 c. 29 (N.I.); section 1(1) was substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(**5**) S.R. 1978 No. 114; relevant amending regulations are S.R. 1983 No. 36, S.R. 1984 No. 317, S.R. 1986 No. 303 and S.R. 1994 Nos. 45 and 269

Night workers

4. —

(1) For the purposes of incapacity benefit, where a person works for a continuous period which extends over midnight into the following day, the day on which the lesser part of that period falls shall be treated as a day of incapacity for work if that person was incapable of work for the remainder of that day.

(2) Where, in relation to a period referred to in paragraph (1), the number of hours worked before and after midnight is equal—

(a) if the days in question fall at the beginning of a period of incapacity for work, the second day shall be treated as a day of incapacity for work; and

(b) if the days in question fall at the end of a period of incapacity for work, the first day shall be treated as a day of incapacity for work.

Calculating periods of incapacity for work for persons receiving certain regular treatment

5. —

(1) In the cases specified in paragraph (2) section 30C(1)(b) (which defines a period of incapacity for work) shall have effect as if the period of 4 days mentioned there were a period of 2 days, whether consecutive or not, within a period of 7 consecutive days.

(2) The cases referred to in paragraph (1) are those where the days of incapacity for work in question result from—

(a) regular weekly treatment by way of haemodialysis for chronic renal failure or peritoneal dialysis for chronic renal failure;

(b) treatment by way of plasmapheresis, by way of parenteral chemotherapy with cytotoxic drugs, anti-tumour agents or immuno-suppressive drugs or by way of radiotherapy; or

(c) regular weekly treatment by way of total parenteral nutrition for gross impairment of enteric function.

Days of statutory sick pay to be included in days of entitlement to incapacity benefit

6. —

(1) For the purposes of section 30D(3) (which provides for days of entitlement to statutory sick pay to be included in calculating the number of days for which a person has been entitled to short-term incapacity benefit) the days which are to be included are any of the days specified in paragraph (2) which—

(a) fell within a period of entitlement to statutory sick pay as between that person and his employer which ended not later than the 57th day before the first day of the period of incapacity for work to which that calculation relates; and

(b) fell on or after a day on which the person satisfied the contribution conditions for short-term incapacity benefit.

(2) The specified days referred to in paragraph (1) are—

(a) in any week in which the employer was liable to pay that person statutory sick pay at the weekly rate specified in section 153(1)(**6**) (rate of payment), each day of that week; and

(**6**) Section 153(1) is amended by Article 10(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 with effect from 6th April 1995