Incapacity Benefit 2000/2001
a guide for visually impaired people

You can claim Incapacity Benefit if you are unfit for work and paid the appropriate national insurance contribution conditions. If you fail the contribution requirements you should claim Income Support and Severe Disablement Allowance. We have produced a separate fact sheet on Severe Disablement Allowance. This fact sheet looks at how the Incapacity Benefit system works and at how ‘incapacity for work’ is assessed.

Claim now
The rules for claiming Incapacity Benefit are going to change in 2001. The National Insurance contribution conditions will be tougher. And if you have a pension from work the Benefits Agency may reduce your benefit.

However, if you claim before these changes they will not affect you. So, claiming now could save you money.

Why should I claim Incapacity Benefit?
If you are getting Incapacity Benefit, this does not prevent you from looking for, or trying out work. There are several good reasons for claiming Incapacity Benefit.

• long term Incapacity Benefit is more generous than contribution-based Jobseeker’s Allowance

• if you leave work voluntarily, Jobseeker’s Allowance may be suspended, whereas Incapacity Benefit can be paid in full
• Incapacity Benefit is not means-tested and is paid indefinitely, whereas contribution-based Jobseeker’s Allowance stops after 6 months

• long term Incapacity Benefit gives entitlement to a ‘disability premium’ with Income Support, Housing Benefit and Council Tax Benefit

National Insurance contribution rules
In order to qualify for Incapacity Benefit you must satisfy both of the following contribution conditions:

1. In any one tax year during your working life you must have paid Class 1 or 2 contributions to the value of 25 times the lower earnings limit and
2. in each of the two previous complete tax years you must have paid or been credited with contributions to the value of 50 times the lower earnings limit.

You can satisfy the second contribution condition through credits received whilst claiming benefit. However, you will only satisfy the first condition if you have worked and paid contributions.

From April 2001 the Government is scrapping these rules and replacing them. To get Incapacity Benefit after April 2001 you will have to satisfy the following conditions:

1. In one of the previous three tax years you must have paid some Class 1 or 2 contributions (at the time of printing the Government had not said how much) and
2. in each of the two previous complete tax years you must have paid or been credited with contributions to the value of 50 times the lower earnings limit.

As a concession the Benefits Agency will treat Carers’ credits as actual national insurance payments.

The structure of Incapacity Benefit
If you are employed and have been receiving Statutory Sick Pay for 28 weeks you will transfer to Incapacity Benefit. If you leave work, cannot get sick pay or Statutory Sick Pay from your employer you can claim Incapacity Benefit. There are three stages of Incapacity Benefit:
weeks 1-28 of incapacity
the own occupation test of incapacity applies
short-term lower rate Incapacity Benefit paid £50.90
increase for a partner payable (short-term) £31.50
benefit is tax free for the first 28 weeks

weeks 29-52 of incapacity
the personal capacity assessment of incapacity applies
short-term higher rate Incapacity Benefit paid £60.20
increase for a partner payable (short-term) £31.50
increases for dependant children payable £9.85/£11.35
benefit is taxable

week 53 of incapacity onwards
long-term Incapacity Benefit payable £67.50
increase for partner payable (long term) £40.40
increases for dependant children payable £9.85/£11.35
increases for age become payable: under 35 £14.20
aged 35-45 £7.10

Pensioners
Incapacity benefit will normally stop once you reach pension age.
However, if you are already getting short-term Incapacity Benefit when you reach pension age, you can continue to receive benefit for a maximum of 52 weeks after which your benefit will stop. People over pension age are paid an enhanced basic rate of £64.75 and, if applicable, an enhanced adult dependant increase of £38.80.

Increases for a wife or partner
You will only get an increase for a wife or partner if they are either aged 60 or looking after dependant children. If your partner earns more than £52.20 a week then you will not be paid the increase.

Increases for dependant children
If you have dependant children then you will receive £9.85 for the eldest child and £11.35 for each subsequent child. If your partner earns more than £145 then you will not be paid the increase for your eldest child. For every complete £19 your partner earns above the £145 threshold you will lose increases for each subsequent child.
How is incapacity for work tested?
There are two ways of testing whether you are unfit for work - the own occupation test and the personal capacity assessment.

- for the first 28 weeks incapacity is based on whether you can perform your ‘own occupation’, i.e. most recent occupation. You will have to provide medical certificates from your GP;
- after 28 weeks incapacity is assessed through the personal capacity assessment;

If you have not worked for at least 8 out of the 21 weeks prior to your current spell of incapacity, the personal capacity assessment will apply at the start of your claim.

The personal capacity assessment
If you are registered blind then you are exempt from the personal capacity assessment. You should not be sent an IB50 incapacity questionnaire. However, if you are sent the questionnaire you do not have to complete it. You should contact your local Social Security office and explain to them that you are registered blind. You may have to send them proof of your registration status, such as a copy of your BD8 certificate.

If you are not registered blind, then you will have to undergo the personal capacity assessment, unless you fall into one of the other exempt categories. For a complete list of the exempt groups you should read leaflet IB214, ‘Incapacity Benefit: the personal capacity assessment’.

The personal capacity assessment is an assessment of ‘functional limitation’. If you are not exempt you will be sent an IB50 incapacity form. You will be asked about 14 different physical or sensory ‘functional areas’:

walking  standing  
sitting  walking up and down stairs  
rising from sitting  bending and kneeling  
manual dexterity  lifting and carrying  
reaching  speech  
hearing  vision  
continence  fits/seizures
Within each functional area there are a number of specific activities or ‘descriptors’ which are graded according to severity. Each descriptor scores points which range from 0 to 15.

- in each functional area you will be allocated points according to the highest scoring descriptor that applies to you
- if you score 15 points you will be treated as incapable of work
- you can add together points scored from more than one functional area. If your combined score is 15 or more, you will be treated as unfit for work.

For example: within the functional area of ‘walking up and down stairs’ you score 15 points if you ‘cannot walk up and down a flight of stairs’. You are therefore treated as incapable of work. If, however, you ‘cannot walk up and down a flight of 12 stairs without holding on’, you only score 3 points and cannot be treated as unfit for work on this functional area alone. For a more comprehensive guide to the scoring system for each functional area you should read leaflet IB214, ‘Incapacity Benefit: the personal capacity assessment’.

Mental health problems
There is a different assessment of functional limitation for people with mild or moderate mental disabilities. There are four broad functional areas for mental health: completion of tasks, coping with pressure, daily living, and interaction. If you indicate that you have a mental disability, you will be interviewed by a Benefits Agency doctor. Scores from the mental health descriptors can be combined with points from the physical and sensory activities to achieve 15 points.

Vision
The functional area most relevant to visually impaired people is vision. The law states that this is an assessment of ‘vision in normal daylight or bright electric light with glasses or other aid to vision if such aid is normally worn’. The vision descriptors are graded as follows:

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1 Schedule to Social Security (Incapacity for Work) (General) Regs 1995
### How the test works

To satisfy the personal capacity assessment it is not necessary for you to be examined by a doctor. The Benefits Agency can decide that you have satisfied the test on the basis of your completed questionnaire, together with medical evidence from your own doctor. If the Benefits Agency is not satisfied with the medical evidence, or you score less than 15 points in total then you will be examined by a Benefits Agency doctor. The doctor’s role is to give a clinical opinion of your functional ability and allocate the appropriate descriptor to you.

Although your capacity for work is being tested, the descriptors themselves must be considered in an ‘everyday’ context and not a ‘work context’. However, you must be able to the task ‘as and when called upon to do so’.

The Benefits Agency must look at your ability to repeat an activity with ‘reasonable regularity’. If a particular task exhausts you, this should be taken into consideration.

It is not enough to ask whether a person is able to perform a task on one occasion, it is necessary to ask whether someone can ‘do so without discomfort, and...with reasonable frequency?’

<table>
<thead>
<tr>
<th>descriptor</th>
<th>points</th>
</tr>
</thead>
<tbody>
<tr>
<td>cannot tell light from dark</td>
<td>15</td>
</tr>
<tr>
<td>cannot see the shape of furniture in the room</td>
<td>15</td>
</tr>
<tr>
<td>cannot see well enough to read 16 point print at a distance greater than 20 centimetres</td>
<td>15</td>
</tr>
<tr>
<td>cannot see well enough to recognise a friend across the room at a distance of at least 5 metres</td>
<td>12</td>
</tr>
<tr>
<td>cannot see well enough to recognise a friend across the road at a distance of at least 15 metres</td>
<td>8</td>
</tr>
<tr>
<td>no problem with vision</td>
<td>0</td>
</tr>
</tbody>
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2 CIB/14587/1996  
4 CI/95(IB)
It is also relevant to consider how your ability to perform a task may fluctuate from day to day. The Benefits Agency should consider how often you have good and bad days, along with the predictability of your bad days.

Reading 16 point print
The test of whether you can ‘read 16 point print at a distance greater than 20 centimetres’ is an assessment of your ability to read comfortably and ‘over a period of time’. When the personal capacity assessment was introduced (then known as the all work test) the Government advised that:

‘When a Benefits Agency doctor considers vision, he will also take into account the ability to read text on a sustained basis, rather than the ability to read individual letters or words; the ability to scan and focus on areas of text quickly and reliably’

The initial DSS guidance issued to doctors suggested that ‘the assessment should include the ability to scan and focus reasonably and the ability to sustain a reasonable speed of reading’. Subsequent guidance to doctors advises that:

‘Vision has to be useful vision in the context of a normal environment. A condition causing severe tunnel vision where, despite reasonable visual acuity, an individual cannot read whole sentences or scan a page, causes significant disability’

If you are filling in the IB50 questionnaire you should ask yourself the following questions in relation to reading print:

• is your normal reading distance less than 20 cms (about 8 inches)?
• at what distance can you comfortably read text?
• do you have to bring text closer to your eyes over a period of time?
• do you have problems scanning and focusing on text?

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5 CIB/14587/1996
6 CIB/14543/1996
7 Commons Hansard debates, 2 February 1995
8 Medical Advisers Guide to Incapacity Benefit, para 1640
9 Incapacity Benefit Handbook for Medical Services Doctors, p126
• for how many minutes can you comfortably read large print?
• does sustained reading cause pain, fatigue, watery eyes, blurred vision, headaches, or other problems?
• how frequently do you take breaks and how long are the breaks?
• over time, do the breaks become more regular and longer?

Recognising a friend across a room or a road
The term ‘recognising a friend’ should be taken to mean ‘the ability to recognise a friend’s features, not to recognise them for example from the clothes they are wearing.’ When completing the IB50 questionnaire you should ask yourself the following about your ability to recognise people:

• do you rely on voices or familiar colours to recognise your friends?
• do you recognise your friends only in places where you expect them to be?
• if you passed a friend on the street would you recognise them?
• is it more difficult to recognise people if either of you is walking?

What if I am found ‘fit for work’?
If you are found fit for work under the personal capacity assessment then you still have the right to appeal to a tribunal. Many claimants successfully challenge personal capacity assessment decisions at tribunal. If you do wish to appeal against a decision you should seek assistance from an advice agency. You should act promptly as the time limits for requesting appeals is one month.

Returning to work
There are a number of concessions within the benefit system for disabled people who want to work:

Therapeutic earnings: you are allowed to do a small amount of exempt work without losing your Incapacity Benefit. Your net earnings must not exceed £58.50 a week. You are limited to 16 hours work a week.

10 Incapacity Benefit Handbook for Medical Services Doctors, p126
Therapeutic work is now defined as work ‘undertaken on the advice of a doctor’ that:11

• ‘helps improve, prevent or delay deterioration in the disease or mental disablement which causes that person’s incapacity for work’; or
• ‘is part of a programme of treatment and is done under medical supervision’ at a hospital; or
• is carried out in a sheltered workshop for disabled people.

Because work often does not affect your eyesight you may have difficulty using this concession. However, if it is another disability or illness that stops you from working you may be able to do ‘therapeutic work’.

Work Trials: from April 2000 you can take part in this scheme which enables you to work for up to 15 days without pay. Contact your local Benefits Agency or Jobcentre for details.

Voluntary work: if you do voluntary work you can still claim Incapacity Benefit. There is no limit on the number of hours for voluntary work.

Linking periods: if you leave Incapacity Benefit but reclaim within a certain period of time you will re-qualify for your old rate of benefit immediately. This is called a linking period and there are three types:

1. if you receive Disabled Person’s Tax Credit throughout the time you are working there is a 2 year linking period

2. if you give up Incapacity Benefit to start paid work there is a 52 week linking period

3. if you stop claiming Incapacity Benefit for any other reason there is an 8 week linking period.

Training courses: If you leave Incapacity Benefit to attend a Government training course, the time spent on the course counts as part of your period of incapacity. You will, therefore, automatically re-qualify for your old benefit when the course finishes. If you start a non-mainstream training scheme (e.g. a European Social Fund course), or a course of further or higher education, you can receive Incapacity Benefit whilst studying. This is an increasingly complex area so you should seek advice if you are thinking of starting a training course.

11 Reg 17(1)(a) Social Security (Incapacity for Work) (General) Regs 1995
'ONE' interviews
The Government is introducing ‘work-focused interviews’ for Incapacity Benefit claimants. The interviews are to discuss what barriers stop you from working. You do not have to go back to work after the interview. If the Benefits Agency ask you to attend a ‘ONE’ interview you must either:

- go to the interview to explain what problems you would have at work or
- ask a ‘ONE’ adviser to see you at home or
- tell the Benefits Agency why you should not be interviewed - you can be excused from the interview if it would be very inappropriate for you, e.g. if you are very severely disabled or have recently had a baby.

If you do not do one of these, you will not get any benefit. If you feel nervous about the interview you can take someone with you.

Conclusion
If you want to claim Incapacity Benefit then you should contact your local Benefits Agency. For further information see leaflet IB202, which is available in Braille and cassette form, or ring the Benefits Enquiry Line on 0800 882200. This fact sheet is only a brief guide to Incapacity Benefit and not a complete or authoritative statement of law. For more information you should ask your local advice centre or Citizens Advice Bureau, or contact:

Welfare Rights Office
Action for Blind People
14-16 Verney Road
London SE16 3DZ

Tel. 020 7732 8771
Fax. 020 7639 0948
E-mail: info@afbp.org
Website: www.demon.co.uk/afbp

welfare rights training
Action for Blind People can provide in-house training courses on welfare benefits. Contact our Welfare Rights Office for further details.

1 April 2000