

On incapacity based benefits? Considering self-employment or setting up a Micro-Enterprise?

Is this possible? What do I have to do?



It is possible to be self-employed while you are in receipt of incapacity benefits providing that:

- you keep to the Permitted Work rules

- HM Revenue & Customs (HMRC) accept that you are self-employed and agree to give you a registration number

- you complete an annual self-assessment for tax and NI

You can if you wish apply to be exempted from paying National Insurance contributions (Class 2).

Keeping to Permitted Work rules

Social Firms UK has published a comprehensive leaflet on these rules that has been approved by the Department of Work and Pensions.

If you claim Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity you **MUST** follow these rules if you plan to do any paid work. If you do not follow the rules your benefits may be stopped.

There are three basic rules:

- Earnings must be within the lower limit of £20 a week or the higher limit of £86 a week. (The higher limit is usually increased in October in line with the minimum wage).

- Hours of paid work must be less than 16 hours a week.

- People starting part-time paid work must notify Jobcentre Plus that they are doing Permitted Work as soon as practicable after starting, on a form headed PW1. (This is a change that was introduced in April 2006).

If people don't keep to these rules the work doesn't count as Permitted Work and benefits can be stopped.

Check the SFUK leaflet for more essential information and about how your earnings can be treated as averaged if these vary from week to week.

Will HM Revenue & Customs accept that you are self-employed?

HMRC have a leaflet **IR56** that sets out the different circumstances in which you would be treated as either employed or self-employed. The following in italics is an extract. The full leaflet is available on www.hmrc.gov.uk .



Employed or self-employed?

Employee

If you can answer 'Yes' to all of the following questions, you are probably an employee.

- Do you have to do the work yourself?
- Can someone tell you at any time what to do, where to carry out the work or when and how to do it?
- Do you work a set amount of hours?
- Can someone move you from task to task?
- Are you paid by the hour, week, or month?
- Can you get overtime pay or bonus payment?

Self-employed

If you can answer 'Yes' to all of the following questions, it will usually mean you are self-employed.

- Can you hire someone to do the work for you or engage helpers at your own expense?
- Do you risk your own money?
- Do you provide the main items of equipment you need to do your job, not just the small tools many employees provide for themselves?
- Do you agree to do a job for a fixed price regardless of how long the job may take?
- Can you decide what work to do, how and when to do the work and where to provide the services?
- Do you regularly work for a number of different people?
- Do you have to correct unsatisfactory work in your own time and at your own expense?

Casual, or part-time working

The same considerations to determine employment status will apply even if you work part-time or on a casual basis. Unless you can answer 'Yes' to the self-employed questions above, you will normally be an employee.

More than one job?

If:

- you have more than one job, or you work for a number of different people for a few days or weeks at a time you will need to answer further questions for **each** job (see leaflet **IR 56**).

If you provide services to many people and do not work regularly for one person to the exclusion of others, this may affect whether your work for each is as an employee, or as a self-employed person.

***Remember, just because you are employed or self-employed in one job, it doesn't necessarily mean you will be in another job.**

You could even be an employee and self-employed at the same time. For example, you could

- be employed as a part-time shop assistant and spend the rest of your time running your own business from home, or work full-time in a factory as an employee, and run a part-time business in the evening or weekends.

You may have a number of casual or part-time activities, and in some may be an em-



ployee and in others self-employed. It all depends on the facts. (end extract IR56)

The pros and cons of employment or self-employment

If you are employed your employer:

- must check to see if tax and NI should be deducted from your earnings
- must pay you at least the minimum wage
- must provide some form of terms and conditions
- must pay you at least 4 weeks pro-rata holiday pay
- must comply with employment law (Health and Safety, Disability Discrimination Act etc)

Your employer is responsible for deducting any tax and NI that is due and paying this to HMRC.

If you are self-employed you are your own employer. You can choose:

- how much to charge your customers (the minimum wage does not apply)
- how many hours you work
- if you want to work every week or take breaks

You will be responsible for completing a self-assessment form that details all the money that you have earned in the year and any payments to cover expenses. You will be responsible for calculating your profits from self-employment after costs have been deducted. You will be responsible for ensuring that you have saved enough money to pay any tax and NI contributions that are due.

How do you register to be self-employed?

The easiest way to register is to phone the Helpline for Newly Self-Employed on **0845 915 4515**.

Do you have to pay National Insurance contributions if you are self-employed and on low earnings?

If your earnings (after expenses) in the year April 2007 – 2008 are expected to be less than £4,635 you can apply to be exempted from paying Class 2 contributions of £2.20 a week.

You should get advice from a welfare rights advisor as your future Pension amount and other entitlements might be affected. It all depends on your circumstances.

HMRC leaflet '**Self-employed people with small earnings**' CF10 is available from www.hmrc.gov.uk.

What if you want to come off benefits and be self-employed for 16 hours or more a week?

You could apply for the Working Tax Credit instead of benefits. See the Social Firms UK leaflet: 'Using Working Tax Credit as an alternative income to incapacity benefits when starting up in self-employment'.

Judy Scott, August 2007