

---

Offering free, confidential legal advice and  
representation for disabled people

---

## Can I Take My Benefits Abroad?

*The* Disability  
Law Service

## Can I take My Benefits Abroad?

**This factsheet explains what happens to your benefits when you go abroad. It does not attempt to explain how you become eligible for, or claim those benefits in the first place**

### Temporary or Permanent Absence

Whether or not you will be able to keep receiving your benefit when you go abroad will often depend on whether your absence is classed as temporary or permanent. Temporary absence is not defined in law. Guidance comes in case law from the courts and the Social Security Commissioners.

Every case has to be looked at individually. The three most important factors that will be considered are:

- Your intention when going abroad
- The length of your absence
- The reason for your absence.

It is up to you to prove that your absence is temporary, rather than the Benefits Agency having to prove that it is not.

The fact that you do not have a return date does not mean that your absence is permanent but having return tickets means it should be viewed as temporary. The longer you are away the more difficult it will be to prove it is temporary.

The nature of an absence can change over time. If you extend the length of your stay, what was seen as temporary may come to be seen as permanent.

### The Benefits

Different benefits have different rules. Below we examine the benefits most commonly dealt with at the Disability Law Service. For details on benefits not mentioned, ring our advice line on 020-7831-8031 or see the 'Migration and Social Security Handbook' published by the Child Poverty Action Group.

#### Non-European Economic Area Countries (EEA)

##### Statutory Sick Pay (SSP)

You cannot receive SSP whilst abroad apart from in very rare cases.

##### Incapacity Benefit (IB)

You can be paid IB for up to 26 weeks of a temporary absence as long as the Secretary of State has certified that payment would be 'consistent with the proper administration of the Act' **and:**

- You have been incapable of work for at least 6 months and remain incapable of work while you are abroad; **or**
- You are going abroad to be treated for an illness or industrial injury, which began before you left the country. Going abroad to recover from an illness i.e. convalescence does not count.

If you are receiving DLA or Attendance Allowance your temporary absence can be for longer than 26 weeks and you do not need the Secretary of State's agreement. The other 2 conditions still apply.

#### Severe Disability Allowance (SDA)

The rules for SDA are the same as for Incapacity Benefit (see above).

#### Disability Living Allowance (DLA)

DLA will continue to be paid for the first 26 weeks of a temporary absence. You can be paid for longer if the absence:

- is temporary and
- is for the purpose of being treated for an illness or disability which began before you left the country and
- the Secretary of State agrees it is consistent with the proper administration of the Act to pay for longer.

If you are abroad for longer than 26 weeks you will have problems re-qualifying for the benefit on your return as you must have been in this country for 26 out of the last 52 weeks to satisfy the residence requirements.

#### Attendance Allowance (AA)

The rules for Attendance Allowance are the same as for DLA (see above).

#### Invalid Care Allowance (ICA)

ICA can be paid for the first 4 weeks of a temporary absence if you go without the person that you are caring for. If you go abroad temporarily to care for that person then it can be paid for as long as their DLA or Attendance Allowance is paid. You will still have to provide 35 hours of care a week while you are abroad.

#### Industrial Injuries Benefits (IIB)

Basic Disablement Benefit and Retirement Allowance are payable while you are abroad no matter how long you are away.

Constant attendance Allowance and Exceptionally Severe Disablement Allowance can be paid for the first 6 months of a temporary absence. This period may be extended by the Secretary of State.

Reduced Earnings Allowance is paid for the first 3 months of a temporary absence as long as you are entitled and have claimed before you go and your absence abroad is not for work purposes. This period may be extended by the Secretary of State.

### Retirement Pensions and Widows' Benefits (RP&WB)

These are payable while you are abroad no matter how long you are away. If you are living permanently abroad you will not receive your annual uprating unless the country you are living in has a reciprocal agreement with Britain covering the payment of increases.

### Income Support (IS)

Once you have established your right to receive Income Support, it is possible to claim during temporary absences abroad. You must be entitled to IS before you go **and** your absence must be temporary and you must expect it to be for less than one year **and** you must continue to fulfil the other criteria for IS e.g. be incapable of work or a single parent.

You will be entitled to receive IS for up to 4 weeks if:

You are entitled to IS but do **not** fit into one of the following groups.

- You are involved in a trade dispute
- You are in education
- You are incapable of work.
- You are appealing against a decision that you are not incapable of work.
- You are receiving urgent cases payments of IS

If you do fit into one of these groups one of the following conditions must also apply:

- You go to Northern Ireland. After 4 weeks you must claim IS from the Northern Ireland Benefits Agency.
- You have a partner who qualifies for a pensioner, enhanced pensioner, higher pensioner, disability or severe disability premium, and you are both abroad
- You have been continually incapable of work for 364 days.
- You have been continually incapable of work for 28 weeks and either you are terminally ill or receiving the highest rate care component of DLA.  
(Periods of incapacity separated by less than 8 weeks can be added together to make the 364 days or 28 weeks)
- You are incapable of work and going abroad specifically for treatment by a qualified person, and the Benefits Agency agrees that this rule applies to you.

You will be entitled to IS for 8 weeks if:

- You are taking a child abroad specifically for medical treatment from an appropriately qualified person. The child must count as a family member.

Housing Benefit/Council Tax Benefit (HB/CTB)

You will be entitled to Housing Benefit and Council Tax Benefit for up to 13 weeks if your absence is temporary and unlikely to exceed 13 weeks and you do not sub-let your home and you intend to return to it. This may be extended to 52 weeks if you are abroad to receive approved medical care or are undertaking a Government approved training course.

If you have been in receipt of Income Support and your Income Support stops you will need to reapply for Housing Benefit/Council Tax Benefit.

Armed forces personnel and their family members

Special and more favourable rules often apply. Contact us for details.

## European Economic Area Countries

Certain more generous rules apply if you are moving to a country within the European Economic Area. That is the countries of the European Union (Austria, Belgium, Denmark, France, Germany, Greece, the Irish Republic, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the UK) and also Iceland, Liechtenstein and Norway. If you are moving to one of these countries then European Community (EC) law will apply. If there is a conflict between EC law and UK social security law, EC law will override UK law.

These more generous rules apply to EEA nationals who have been employed or self employed, stateless persons and refugees. They also apply to family members of those 3 groups who are dependants.

### Statutory Sick Pay (SSP)

As for non-EEA countries.

### Incapacity Benefit

Generally short-term Incapacity Benefit can be paid in EEA countries but you need to get DSS agreement before you leave. Long term Incapacity Benefit (the rate of IB paid after 52 weeks of incapacity) can be paid in EEA countries.

### Severe Disability Allowance (SDA)

SDA can be paid in EEA countries.

### Disability Living Allowance (DLA)

If your entitlement began after 1<sup>st</sup> June 1992 the non-EU rules apply. If your entitlement began before 1<sup>st</sup> June 1992 your benefit can be paid abroad as long as you continue to meet the disability conditions. The Benefits Agency is currently advising that pre June 1992 awards can only be taken abroad if you have been employed or self-employed and not for family members. We feel that this may be open to challenge. Please contact us if this applies to you.

### Attendance Allowance (AA)

The rules for Attendance Allowance are the same as for DLA (see above).

### Invalid Care Allowance (ICA)

The rules for Invalid Care Allowance are the same as for DLA (see above).

### Industrial Injuries Benefits (IIB)

Industrial Injuries Benefits continue to be paid in EEA countries as long as you have entitlement before you leave.

### Retirement Pension and Widows' Benefits (RP&WB)

These continue to be paid in EEA countries and you are entitled to the annual increases.

### Income Support (IS)

As for non-EEA countries.

### Housing Benefit/Council Tax Benefit (HB/CTB)

As for non-EEA countries.

## Legal Disclaimer

Although great care has been taken in the compilation and preparation of this work to ensure accuracy, DLS cannot accept responsibility for any errors or omissions. All information provided is for education / informative purposes and is not a substitute for professional advice. Any organisations, telephone numbers and links to external web-sites have been carefully selected but are provided without any endorsement of the content of those sites.

For further advice on these matters please contact:

### The Disability Law Service

Telephone: **020 7791 9800**

Minicom: **020 7791 9801**

Fax: **020 7791 9802**

Email: [advice@dls.org.uk](mailto:advice@dls.org.uk)

Or write to us at: 39 – 45 Cavell Street, London E1 2BP



**Registered Charity Number 280805, Company Registration Number 1408520**