
STATUTORY INSTRUMENTS

1994 No. 2975

SOCIAL SECURITY

**The Social Security (Medical Evidence)
Amendment Regulations 1994**

Made - - - - *23rd November 1994*
Laid before Parliament *24th November 1994*
Coming into force - - *13th April 1995*

The Secretary of State for Social Security, in exercise of the powers conferred by section 59 of, and Schedule 3 to, the Social Security Administration Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made consequential upon the Social Security (Incapacity for Work) Act 1994⁽²⁾ and is made before the end of the period of 6 months beginning with the coming into force of that Act⁽³⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Medical Evidence) Amendment Regulations 1994 and shall come into force on 13th April 1995.

(2) In these Regulations “the principal Regulations” means the Social Security (Medical Evidence) Regulations 1976⁽⁴⁾.

Amendment of the principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) (citation, commencement and interpretation) there shall be inserted after the definition of “the Act”—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992⁽⁵⁾;

(1) 1992 c. 5.

(2) 1994 c. 18.

(3) See section 173(5)(b) of the Social Security Administration Act 1992 (c. 5), the effect of which is that regulations which are made consequential upon a specified enactment and before the end of 6 months from the coming into force of that enactment are not required to be referred to the Social Security Advisory Committee.

(4) S.I. 1976/615; relevant amending instruments are S.I. 1982/699, 1989/1686 and 1992/247.

(5) 1992 c. 4.

“the all work test” means the test provided for in section 171C of the Contributions and Benefits Act;”.

- (3) In regulation 2 (evidence of incapacity for work and confinement)—
- (a) in paragraph (1)—
- (i) there shall be substituted for the words “where a person claims” up to and including “those days either”— “where a person claims he is entitled to any benefit, allowance or advantage (other than industrial injuries benefit or statutory sick pay), and his entitlement to that benefit, allowance or advantage depends on his being incapable of work, then in respect of each day until he has been assessed for the purposes of the all work test, he shall provide evidence of such incapacity”; and
- (ii) there shall be substituted for sub-paragraph (c)—
- “(c) where the all work test applies and the Secretary of State so requests, a statement in writing given by a doctor in accordance with the rules set out in Part I of Schedule 1B to these Regulations on the form set out in Part II of that Schedule; or
- (d) where it would be unreasonable to require a person to provide a statement from a doctor, such other evidence as may be sufficient to show that he should refrain from work by reason of some specific disease or bodily or mental disablement.”; and
- (b) in paragraph (2) there shall be inserted after “applies”—
- “who has not been assessed for the purposes of the all work test”.
- (4) In regulation 5 (self-certificate for first 7 days of a spell of incapacity for work)—
- (a) in paragraph (1) there shall be substituted for the words from the beginning of that paragraph up to and including “right to benefit”—
- “The evidence of incapacity required for the purposes of determining entitlement to a benefit, allowance or advantage referred to in regulation 2(1)”; and
- (b) in paragraph (2) there shall be substituted for the definition of “spell of incapacity”—
- ““spell of incapacity” has the meaning given to it by section 171B(3) of the Contributions and Benefits Act.”.

Insertion of Schedule 1B into the principal Regulations

- 3.** The Schedule to these Regulations shall be Schedule 1B to the principal Regulations.

Signed by authority of the Secretary of State for Social Security.

Department of Social Security
23rd November 1994

William Hague
Minister of State,

SCHEDULE

Regulation 3

“SCHEDULE 1B

Regulation 2(1)(c)

PART I

Rules

1. In these rules, unless the context otherwise requires—

“claimant” means the person in respect of whom a statement is given in accordance with these rules;

“doctor” means a registered medical practitioner not being the claimant;

“all work test statement” means a statement given by a doctor in accordance with these rules.

2. Where the Secretary of State has requested that the claimant provide an all work test statement, that statement shall be provided in the form prescribed in Part II of this Schedule notwithstanding that the claimant has already provided a statement in accordance with Schedule 1 or 1A.

3. The all work test statement shall be completed in accordance with rules 3, 4, 5, 10 and 11 of Part I to Schedule 1.

4. Subject to rule 5 below, the diagnosis of—

(a) the disorder in respect of which the doctor is advising the claimant to refrain from work or, as the case may be, which has caused the claimant’s absence from work; and

(b) any other condition which could affect the claimant’s capacity for work,

shall be specified as precisely as the doctor’s knowledge of the claimant’s condition at the time of the examination permits.

5. Where, in the doctor’s opinion, a disclosure to the claimant of the precise disorder would be prejudicial to his well being, the diagnosis may be specified less precisely.

6. The notes set out in Part III of this Schedule shall accompany the form of doctor’s statement provided by the Secretary of State.

PART II

FORM OF DOCTOR'S STATEMENT

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

THIS STATEMENT SHOULD NOT BE USED FOR PEOPLE CLAIMING STATUTORY SICK PAY FROM THEIR EMPLOYER.

Doctor's Statement

In confidence to
Mr/Mrs/Miss/Ms

Note for Doctor—We are making an assessment of your patient's eligibility for Incapacity Benefit and other state benefits under the terms of the all work test. Please complete the following boxes.

Main diagnosis (be as precise as possible)

Other diagnoses

Doctor's remarks

(Including comments on the disabling effects of the condition, treatment and progress—accuracy and detail will avoid requests for completion of a medical report).

Note for Doctor—While the all work test is being carried out, we need evidence that your patient should refrain from his usual occupation. Please provide the following information (which will not be part of the all work assessment).

I am issuing the following statement based upon the current guidance to certifying medical practitioners. I examined you today/yesterday and advised you that:

(a) You need not refrain from your usual occupation

(b) You should refrain from your usual occupation

for (insert period)

OR until

Doctor's

Date of

signature

signing

Form Med 4

PART III

The Notes

The following notes shall accompany the form of doctor's statement provided by the Secretary of State:

1. After the words on the doctor's statement "you should refrain from your usual occupation"—
 - (i) if the patient is being given a date when he can return to work, the date entered should not be more than 2 weeks after the date on which the statement is issued;
 - (ii) if recovery of capacity for work in the foreseeable future is not expected, "further notice" may be entered.
2. The "remarks" box should be used to provide additional information; including further details of diagnosed conditions, the disabling effect of such conditions, and notes on the patient's treatment and progress. Accuracy and detail will avoid requests for completion of a medical report.
3. The "remarks" box should also be used to state whether or not the patient is able to travel a reasonable distance to a medical examination as a result of his condition. If no entry is made, it will be assumed that the patient can travel.
4. This form of doctor's statement should not be used where the patient is claiming statutory sick pay from their employer. Form Med 3 should be used for that purpose."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Medical Evidence) Regulations 1976 ("the principal Regulations"), which set out the medical evidence required for determining capacity for work in relation to benefits other than statutory sick pay and industrial injuries benefit.

These Regulations are consequential on the Social Security (Incapacity for Work) Act 1994 ("the 1994 Act"), which comes into force on 13th April 1995. That Act provides generally for the determination of capacity for work for the purposes of the Social Security Contributions and Benefits Act 1992 and in particular provides for two tests of incapacity (the own occupation test and the all work test). These Regulations make consequential amendments to the principal Regulations in preparation for the coming into force of the 1994 Act, including:

- (a) provision that a claimant's obligation to provide a doctor's statement or other evidence specified in the principal Regulations applies only in respect of days up to assessment for the purposes of the all work test (regulation 2(3)(a)(i)); and
- (b) provision for a new form of doctor's statement in cases where the all work test applies (regulation 2(3)(a)(ii) and the Schedule).

As these Regulations are consequential upon the 1994 Act and are made before the expiry of 6 months from the date of coming into force of that Act, they are accordingly exempt by section 173(5) (b) of the Social Security Administration Act 1992 from reference to the Social Security Advisory Committee and have not been so referred.

These Regulations do not impose any costs on business.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.