

## 1992 No. 83

**SOCIAL SECURITY; STATUTORY SICK PAY****The Social Security (Miscellaneous Provisions)  
(Amendment) Regulations (Northern Ireland) 1992***Made . . . . . 5th March 1992**Coming into operation in accordance with regulation 1(1)*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 35(5), 37A(2), 47A, 47B(2), 114(1) and (2), 115(1), 119(4)(a) and 154A(1) of, and paragraph 2 of Schedule 13 to, the Social Security (Northern Ireland) Act 1975(a), Article 19(2A) of the Social Security (Northern Ireland) Order 1982(b) and Articles 52(1)(a) to (c), (g), (j), (l) and (o) to (q) and 55 of the Social Security (Northern Ireland) Order 1986(c) and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation, commencement and interpretation*

**1.**—(1) These regulations may be cited as the Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1992 and shall come into operation as follows—

- (a) for the purposes of regulations 1 to 7(1) and 7(2)(a)(ii) to 8(1) on 9th March 1992;
- (b) for the purposes of regulation 7(2)(a)(i) on 10th March 1992; and
- (c) for the purposes of regulation 8(2) on 6th April 1992.

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

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- (a) 1975 c. 15; section 37A(2) was inserted by Article 24(1) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and amended by Article 72(1) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); section 47A was inserted by paragraph 5(1) of Schedule 1 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and amended by paragraph 1(2) of Schedule 6 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)); section 47B was inserted by Article 8(a) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and amended by Article 11(3) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); section 154A was inserted by Article 17 of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), substituted by paragraph 56 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and extended by paragraph 32 of that Schedule, paragraphs (a) and (b) of subsection (1) were substituted by paragraph 8 of Schedule 8 to the Social Security (Northern Ireland) Order 1989 and subsection (1) was amended by Article 8(1) of the Social Security (Northern Ireland) Order 1990. Section 115(1) and paragraph 2 of Schedule 13 were extended by Article 53(3) and (6) of the Social Security (Northern Ireland) Order 1986
  - (b) S.I. 1982/1084 (N.I. 16); paragraph (2A) of Article 19 was inserted by Article 20 of the Social Security (Northern Ireland) Order 1985
  - (c) S.I. 1986/1888 (N.I. 18)
  - (d) 1954 c. 33 (N.I.)

*Amendment of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976*

2.—(1) The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(a) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (evidence of incapacity for work and confinement) for “either by means of a certificate” to the end there shall be substituted—

“either—

(a) by means of a certificate in the form of a statement in writing given by a doctor in accordance with the rules set out in Part I of Schedule 1 to these regulations on the form set out in Part II of that Schedule;

(b) where a doctor—

(i) has not given a statement under sub-paragraph (a) of this paragraph since the claimant was examined and wishes to give such a statement but more than one day has passed since the examination, or

(ii) advises that the claimant should refrain from work on the basis of a written report from another doctor,

by means of a special statement given in accordance with the rules set out in Part I of Schedule 1A to these regulations on the form set out in Part II of that Schedule; or

(c) by such other means as may be sufficient in the circumstances of any particular case.”

(3) In Schedule 1 in the heading for “Regulation 2(1)” there shall be substituted “Regulation 2(1)(a)”.

(4) After Schedule 1 there shall be inserted as Schedule 1A the Schedule set out in Schedule 1 to these regulations.

*Amendment of the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977*

3.—(1) The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(b) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 9A (apportionment of payments by way of occupational pension made otherwise than weekly) for “occupational pensions” in both places where it occurs there shall be substituted “occupational or personal pension”.

(3) In regulation 13(2) (increase of unemployment benefit, sickness benefit or invalidity pension for persons over pensionable age) after “paragraph 1(b)” there shall be inserted “, paragraph 1(d)”.

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(a) S.R. 1976 No. 175; relevant amending regulations are S.R. 1982 No. 153.

(b) S.R. 1977 No. 74; relevant amending regulations are S.R. 1980 No. 216 and S.R. 1989 No. 103

*Amendment of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982*

4. In regulation 22 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(a) (penalties)—

- (a) in paragraph (a) for “£200” there shall be substituted “£400”; and
- (b) in paragraph (b)—
  - (i) after “continuing any such” there shall be inserted “contravention or”, and
  - (ii) for “£20” there shall be substituted “£40”.

*Amendment of the Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985*

5.—(1) The Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985(b) shall be amended in accordance with paragraphs (2) to (5).

(2) Regulation 1(3) (citation, commencement and interpretation) shall be omitted.

(3) For regulation 2(1) (medical information) there shall be substituted the following paragraph—

“(1) Medical information required under Article 19(2) of the Order relating to incapacity for work shall be provided either—

- (a) in the form of a statement given by a doctor in accordance with the rules set out in Part I of Schedule 1 on the form set out in Part II of that Schedule;
- (b) where a doctor—
  - (i) has not given a statement under sub-paragraph (a) since the patient was examined and wishes to give such a statement but more than one day has passed since the examination, or
  - (ii) advises that the patient should refrain from work on the basis of a written report from another doctor,
    - by means of a special statement given in accordance with the rules set out in Part I of Schedule 2 on the form set out in Part II of that Schedule; or
- (c) by such other means as may be sufficient in the circumstances of any particular case.”.

(4) The existing Schedule shall be numbered as Schedule 1 and in the heading for “Regulation 1(3)” there shall be substituted “Regulation 2(1)(a)”.

(5) After Schedule 1 there shall be added as Schedule 2 the Schedule set out in Schedule 2 to these regulations.

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(a) S.R. 1982 No. 263; relevant amending regulations are S.R. 1986 No. 83  
 (b) S.R. 1985 No. 321

*Amendment of the Social Security (Adjudication) Regulations (Northern Ireland) 1987*

6.—(1) The Social Security (Adjudication) Regulations (Northern Ireland) 1987(a) shall be amended in accordance with paragraphs (2) and (3).

(2) After regulation 64A (date from which revised decision has effect on a review in specified circumstances) there shall be inserted the following regulation—

*“Review of decisions in cases to which section 104(7) of the 1975 Act applies*

**64B.** In any case to which section 104(7) of the 1975 Act applies, the decision given on review shall have effect from the date of the relevant determination within the meaning of that subsection whether the decision which is being reviewed was made before, on or after 9th March 1992.”.

(3) In regulations 65(3), 66(1), 69(1), both as continued in operation by regulation 10 of the Social Security (Adjudication) (Amendment No. 2) Regulations (Northern Ireland) 1987 and as amended by regulation 8 of those regulations, and 71, after “regulation 64A(2) or (3)” there shall be inserted “or regulation 64B”.

*Amendment of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987*

7.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(b) shall be amended in accordance with paragraphs (2) to (10).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) in the definition of “benefit” for “and family credit” there shall be substituted “, family credit and disability working allowance”, and

(ii) in the expression “claim for benefit” in sub-paragraph (c) after “any increase of benefit” there shall be inserted “in respect of a child or adult dependant under the Act or an increase of disablement benefit under section 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Act”; and

(b) in paragraph (2) for “under the Act” there shall be substituted “in respect of a child or adult dependant under the Act or an increase of disablement benefit under section 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Act”.

(3) In regulation 4(1) (making a claim for benefit) after “on a form approved by the Department” there shall be inserted “for the purpose of the benefit for which the claim is made”.

(a) S.R. 1987 No. 82; relevant amending regulations are S.R. 1987 No. 466, S.R. 1988 No. 369 and S.R. 1991 No. 406

(b) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 Nos. 141 and 369, S.R. 1989 No. 398, S.R. 1990 No. 398 and S.R. 1991 No. 488

(4) In regulation 8(1) (attendance in person) after “in any particular case” there shall be inserted “or class of case”.

(5) In regulation 9 (interchange with claims for other benefits) after paragraph (6) there shall be added the following paragraph—

“(7) In determining whether it should treat a claim alternatively or in addition to another claim (the original claim) under this regulation, the Department shall treat the alternative or additional claim, whenever made, as having been made at the same time as the original claim.”.

(6) In regulation 13(5) after “1987” there shall be inserted “save that in their application to paragraph (4)(c) those regulations shall be read as though for “not less than 24 hours” there were substituted “not less than 16 hours but less than 24 hours” ”.

(7) In regulation 19 (time for claiming benefit)—

(a) after paragraph (2) there shall be inserted the following paragraph—

“(2A) In the case of a claim for income support or family credit, where the claimant does not prove that there was good cause for the failure to claim throughout the period specified in paragraph (2) but does prove that there was good cause throughout the period from a date subsequent to the expiry of the prescribed time to the date on which the claim was made, the claim shall be treated as made on—

(a) that subsequent date if it is not more than 12 months before the date on which the claim was made; or

(b) in any other case the date 12 months before the date on which the claim was made.”; and

(b) in paragraph (6)(a) after “child benefit and” there shall be inserted “, except in a case to which section 154C(3) of the Act(a) (late claims for widowhood benefits where death is difficult to establish) applies,”.

(8) In regulation 21 (direct credit transfer)—

(a) in paragraph (1)—

(i) for “any benefit” there shall be substituted “benefit to which this regulation applies”, and

(ii) the words “or other direct” shall be omitted; and

(b) after paragraph (5) there shall be added the following paragraph—

“(6) This regulation only applies to the payment of retirement pension, widow’s pension, widowed mother’s allowance, child benefit, family credit and any increase of those benefits payable in respect of a child or adult dependant.”.

(9) For regulation 36 (suspension) there shall be substituted the following regulations—

“*Suspension in individual cases*

**36.**—(1) Where it appears to the Department that a question arises whether—

(a) the conditions for entitlement are or were fulfilled;

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(a) Section 154C was inserted by Article 8(2) of the Social Security (Northern Ireland) Order 1990

- (b) an award ought to be revised; or
- (c) subject to paragraph (2), an appeal ought to be brought against an award,

the Department may direct that payment of benefit under an award be suspended, in whole or in part, pending the determination of that question on review, appeal or reference.

(2) Where it appears to the Department that a question arises under paragraph (1)(c), it may only give directions that payment of benefit under the award be suspended on or before the relevant date.

(3) A suspension under paragraph (1)(c) shall cease unless, on or before the relevant date, the claimant is given notice in writing that either an appeal or an application or petition for leave to appeal, whichever is appropriate, has been made against that decision.

(4) Where the claimant has been given notice on or before the relevant date that either an appeal or an application or petition for leave to appeal has been made, the suspension may continue until the appeal or the application or the petition and any subsequent appeal have been determined.

(5) In this regulation—

- (a) “relevant date” means a date one month from the date on which notice in writing of the decision resulting in an award is received by the adjudication officer; and
- (b) notice of a decision of an adjudicating authority resulting in an award is only received by an adjudication officer when he has received notice in writing of the decision together with the reasons for that decision.

#### *Suspension in identical cases*

**36A.**—(1) Where it appears to the Department that a question arises in relation to a person’s entitlement to benefit under an award or that an award ought to be revised and the question is the same question which arises in relation to an award made to another person involving the same or another benefit and a question arises whether an appeal ought to be brought against that award, the Department may direct that payment of benefit under the first-mentioned award shall be suspended, in whole or in part, pending determination of that question on appeal brought against the second-mentioned award.

(2) In this regulation “appeal” means an appeal to a Social Security Commissioner, the Court of Appeal, the Court of Session and the House of Lords, and an application for judicial review made in accordance with Order 53 of the Rules of the Supreme Court (Northern Ireland) 1980(a).

#### *Withholding payment of arrears of benefit*

**36B.** Where it appears to the Department that a question arises whether any amount paid or payable to a person by way of, or in

connection with, a claim for benefit is recoverable under Article 28 (prevention of duplication of payments) or 54 (overpayments) of the Order, or regulations made under either Article, it may direct that any payment of arrears of benefit to that person shall be suspended, in whole or in part, pending determination of that question.”.

(10) In Schedule 7 (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases)—

(a) in paragraph 6(3) (commencement of entitlement to income support) after “that regulation” there shall be inserted “, except where income support is paid in advance, when entitlement shall commence on the relevant day, if that day is a day for payment as determined under paragraph 3 but otherwise on the first day for payment after the relevant day”; and

(b) in paragraph 7(3) (date when change of circumstances is to take effect) after head (d) there shall be inserted the following head—

“(dd) a person referred to in paragraph 8 of Schedule 7 to the Income Support Regulations either—

(i) becomes a prisoner, or

(ii) ceases to be a prisoner;”.

### *Revocations*

8.—(1) Regulation 11(a) of the Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 1988(a) is hereby revoked.

(2) The Social Security (Attendance Allowance and Claims and Payments) (Amendment) Regulations (Northern Ireland) 1990(b) and the Social Security (Mobility Allowance and Adjudication) (Amendment) Regulations (Northern Ireland) 1991(c) insofar as previously unrevoked are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 5th March 1992.

(L.S.)

*A. N. Burns*

Assistant Secretary

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(a) S.R. 1988 No. 141  
 (b) S.R. 1990 No. 340  
 (c) S.R. 1991 No. 107

## “SCHEDULE 1A

Regulation 2(1)(b)

## 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;

“special statement” means the form set out in Part II of this Schedule.

2. Where a doctor advises a claimant to refrain from work on the basis of a written report which he has received from another doctor or where a doctor has not given a statement since the claimant was examined and he wishes to give a statement more than one day after the examination, he shall use the special statement.

3. The special statement shall be completed in the manner described in paragraph 5 of Part I of Schedule 1.

4. Subject to rules 5 and 6 below, the diagnosis of the claimant’s 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 shall be specified as precisely as the doctor’s knowledge of the claimant’s condition 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. In the case of a disorder stated by the claimant to have caused incapacity for work where—

(a) no clinical signs have been found of that disorder; and

(b) in the doctor’s opinion, the claimant need not refrain from work, instead of specifying a diagnosis “unspecified” may be entered.

7. Part B of the special statement must only be given on a date not later than one month after the date of the written report on which the special statement is based and that Part shall only be used where the claimant is being advised to refrain from work for a specified period of not more than one month.



PART II

FORM OF SPECIAL STATEMENT

For Social Security and  
Statutory Sick Pay Purposes Only

Special Statement  
by the Doctor

In confidence to

Mr/Mrs/Miss/Ms .....

(A) I examined you on the (B) I have not examined you but, on the basis of  
a recent written report from

following dates ..... Doctor ..... (Name)

..... of .....

.....

and advised you that you should (Address)  
refrain from work I have advised you that you should refrain from  
work

from ..... to ..... for/until .....

Diagnosis of your disorder  
causing absence from work .....

Doctor's remarks

Doctor's  
signature

Date of  
signing

The special circumstances in which this form may be used are described in the  
handbook "Medical Evidence for Social Security and Statutory Sick Pay  
Purposes".

“SCHEDULE 2

Regulation 2(1)(b)

PART I

RULES

1. In these rules—

“patient” 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 patient;

“special statement” means the form set out in Part II.

2. Where a doctor advises a patient to refrain from work on the basis of a written report which he has received from another doctor or where a doctor has not given a statement since the patient was examined and he wishes to give a statement more than one day after the examination he shall use the special statement.

3. The special statement shall be completed in the manner described in paragraph 5 of Part I of Schedule 1.

4. Subject to rules 5 and 6, the diagnosis of the patient’s disorder in respect of which the doctor is advising the patient to refrain from work or, as the case may be, which has caused the patient’s absence from work shall be specified as precisely as the doctor’s knowledge of the patient’s condition permits.

5. The diagnosis may be specified less precisely where, in the doctor’s opinion, a disclosure of the precise disorder would be prejudicial to the patient’s well-being, or to the patient’s position with his employer.

6. In the case of a disorder stated by the patient to have caused incapacity for work, where—

(a) no clinical signs have been found of that disorder; and

(b) in the doctor’s opinion, the patient need not refrain from work, instead of specifying a diagnosis “unspecified” may be entered.

7. Part B of the special statement must only be given on a date not later than one month after the date of the written report on which the special statement is based and that Part shall only be used where the patient is being advised to refrain from work for a specified period of not more than one month.

FORM OF SPECIAL STATEMENT

**For Social Security and  
Statutory Sick Pay Purposes Only**

**Special Statement  
by the Doctor**

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In confidence to

Mr/Mrs/Miss/Ms .....

(A) I examined you on the

(B) I have not examined you but, on the basis of  
a recent written report from

following dates .....

Doctor ..... (Name)

.....  
.....

of .....

and advised you that you should  
refrain from work

....., (Address)  
I have advised you that you should refrain from  
work

from ..... to .....

for/until .....

Diagnosis of your disorder  
causing absence from work .....

Doctor's remarks

Doctor's  
signature

Date of  
signing

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The special circumstances in which this form may be used are described in the handbook "Medical Evidence for Social Security and Statutory Sick Pay Purposes".

*(This note is not part of the Regulations.)*

These regulations make in relation to Northern Ireland only provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976 and the Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985 are amended to prescribe the form of special statement a doctor must use either when he has not given a statement within one day of examining a person or when he is advising a person to refrain from work and the basis of his assessment is a written report from another doctor (regulations 2 and 5 and Schedules 1 and 2).

Regulation 6 inserts a new regulation 64B into the Social Security (Adjudication) Regulations (Northern Ireland) 1987 to provide that where a decision in a case to which section 104(7) of the Social Security (Northern Ireland) Act 1975 applies is reviewed, the review decision takes effect from the date of the relevant determination as defined in that subsection. Section 104(7) applies to any case in which a decision falls to be reviewed on the grounds that it is erroneous in point of law following the determination (“the relevant determination”) of a Commissioner or a court in another case that that other case is erroneous in point of law.

In the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987—

- (a) regulation 4(1) is amended to provide that claims must be made on the form provided for the purpose of the benefit being claimed (regulation 7(3));
- (b) regulation 8(1) is amended to enable the Department to make directions about the attendance in person of anyone claiming unemployment benefit or income support in any particular class of case (regulation 7(4));
- (c) regulation 9 is amended to ensure that where the Department considers treating a claim for one benefit as a claim for another benefit, it shall treat the alternative or additional claim as having been made at the time of the original claim (regulation 7(5));
- (d) regulation 13(5) is amended to allow “remunerative work” and “engaged and normally engaged in remunerative work” to be construed in accordance with regulations 4 and 5 of the Family Credit (General) Regulations (Northern Ireland) 1987 in all respects except that those regulations shall be read as if “not less than 16 hours but less than 24 hours” were substituted for “not less than 24 hours” (regulation 7(6));

- (e) regulation 19 is amended to provide that where there has been good cause for failure to claim income support or family credit from a date subsequent to the prescribed time for claiming until the date the claim was made, the claim shall be treated as made on that subsequent date subject to a 12 month limitation (regulation 7(7));
- (f) regulation 21 is amended to prescribe the benefits for which automated credit transfer may be used (regulation 7(8));
- (g) regulation 36 is replaced by three new regulations dealing with the suspension and withholding of benefit, namely, suspension in individual cases, suspension in identical cases and withholding payment of arrears of benefit (regulation 7(9)); and
- (h) Schedule 7 is amended to ensure that where claims are made in advance under regulation 13 entitlement to income support commences on the first day of entitlement if that day is a day for payment of that benefit and otherwise from the first day for payment after entitlement begins (regulation 7(10)).

A number of other amendments of a minor nature are also made.

Regulation 8 contains consequential revocations.