

1994 No. 468

SOCIAL SECURITY

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

Made 30th November 1994

Coming into operation 13th April 1995

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 57(1) of, and paragraph 4 of Schedule 3 to, the Social Security Administration (Northern Ireland) Act 1992(a) and Article 14(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(b) and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations made consequential upon the Social Security (Incapacity for Work) (Northern Ireland) Order 1994, hereby makes the following regulations:

Citation, commencement and interpretation

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

(2) The Interpretation Act 1978(c) shall apply to these regulations as it applies to an Act of the United Kingdom Parliament.

Amendment of the Social Security (Medical Evidence) Regulations

2.—(1) The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(d) shall be amended in accordance with paragraphs (2) to (5) of this regulation.

(2) In regulation 1(2) (interpretation) after the definition of “the Act” there shall be inserted the following definitions—

“ “the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(e);

“the all work test” means the test provided for in section 167C of the Contributions and Benefits Act(f);”.

(a) 1992 c. 8

(b) S.I. 1994/1898 (N.I. 12)

(c) 1978 c. 30

(d) S.R. 1976 No. 175; relevant amending regulations are S.R. 1982 No. 153 and S.R. 1992 No. 83

(e) 1992 c. 7

(f) Section 167C was inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

- (3) In regulation 2 (evidence of incapacity for work and confinement)—
(a) in paragraph (1)—

(i) for the words from “where a person claims” to “those days either” there shall be substituted “, 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”;

(ii) in sub-paragraph (b) at the end “or” shall be omitted, and

(iii) for sub-paragraph (c) there shall be substituted the following sub-paragraphs—

“(c) where the all work test applies and the Department so requests, by means of 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, by means of 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) after “applies” there shall be inserted “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) for paragraph (1) there shall be substituted the following paragraph—

“(1) The evidence of incapacity required for the purposes of determining entitlement to a benefit, allowance or advantage referred to in regulation 2(1)—

(a) for a spell of incapacity which last less than 8 days; or

(b) in respect of any of the first 7 days of a longer spell of incapacity,

may consist of a self-certificate instead of a certificate in the form of a statement in writing given by a doctor in accordance with regulation 2(1).”;

(b) in paragraph (2) for the definition of “spell of incapacity” there shall be substituted the following definition—

“ “spell of incapacity” has the meaning given to it by section 167B(3) of the Contributions and Benefits Act(a).”

(a) Section 167B was inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

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

Revocation

3. The provisions relating to the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976 contained in Schedule 2 to the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(b) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 30th November 1994.

(L.S.)

L. Frew

Assistant Secretary

(a) Schedule 1A was inserted by S.R. 1992 No. 83
(b) S.R. 1984 No. 317

SCHEDULE

Regulation 2(5)

"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 Department has requested that the claimant provide an all work test statement, that statement shall be provided in the form set out 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 Department.

FORM OF DOCTOR'S STATEMENT

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 complete 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 signature

Date of signing

--	--

PART III

THE NOTES

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

1. On the doctor's statement, after the words "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 further amend the Social Security (Medical Evidence) Regulations (Northern Ireland) 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 upon the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 ("the Order") which comes into operation on 13th April 1995. The Order provides generally for the determination of capacity for work for the purposes of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and in particular provides for two tests of incapacity for work (the own occupation test and the all work test).

The regulations make consequential amendments to the principal regulations in preparation for the coming into operation of the Order, 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)(iii) and the Schedule).

Regulation 3 contains a consequential revocation.

Article 14 of the Order is one of the enabling provisions under which these regulations are made. It is brought into operation on 21st November 1994 by virtue of Article 2(a) of, and Part I of the Schedule to, the Social Security (Incapacity for Work) (1994 Order) (Commencement) Order (Northern Ireland) 1994 (S.R. 1994 No. 450 (C. 15)). Since these regulations are made before the end of a period of 6 months from the commencement of the said Article 14, they are accordingly exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8), from reference to the Social Security Advisory Committee.

1994 No. 469

Medicines (Pharmacies) (Applications for Registration and Fees) Amendment Regulations 1994

These Regulations have been made by the Secretaries of State respectively concerned with health in England, in Wales and in Scotland and the Department of Health and Social Services for Northern Ireland, acting jointly as the Health Ministers in exercise of powers conferred by sections 75(1), 76(1)(2) and (6) and 129(5) of the Medicines Act 1968.

In pursuance of paragraph 11 of Schedule 4 to that Act these Regulations have been registered as a Northern Ireland statutory rule under the Statutory Rules (Northern Ireland) Order 1979. They are printed in full in the volume of United Kingdom Statutory Instruments for 1994 and have been numbered 2936 in that series.