

2010 No. 55

SOCIAL SECURITY; STATUTORY SICK PAY

**The Social Security (Medical Evidence) and Statutory Sick Pay
(Medical Evidence) (Amendment) Regulations
(Northern Ireland) 2010**

Made - - - - *1st March 2010*

Coming into operation - *6th April 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 5(1)(h) and (j), 12(1) and (2) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(a) and now vested in it(b).

Regulation 3, and regulation 4 in so far as concurrence is required, are made with the concurrence of the Commissioners for Her Majesty's Revenue and Customs(c).

Citation and commencement

1. These Regulations may be cited as the Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 6th April 2010.

Amendment of the Social Security (Medical Evidence) Regulations

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

(2) In regulation 2 (evidence of incapacity for work, limited capability for work and confinement) for paragraph (1)(e) substitute—

“(1) Subject to regulation 5 and paragraph (1A), where a person claims to be entitled to any benefit, allowance or advantage (other than industrial injuries benefit or statutory sick pay) and entitlement to that benefit, allowance or advantage depends on that person being incapable of work or having limited capability for work, then in respect of each day until that person has been assessed for the purposes of the personal capability assessment or the

(a) 1992 c. 8; sections 12(2) and 165(1) were amended respectively by paragraphs 41 and 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) By virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) references to the Commissioners of Inland Revenue in enactments are to be taken as references to the Commissioners for Her Majesty's Revenue and Customs

(d) S.R. 1976 No. 175; relevant amending Regulations are S.R. 1982 No. 153, S.R. 1992 No. 83, S.R. 1994 No. 468, S.R. 1995 No. 149, S.R. 1999 No. 100, S.R. 2000 No. 4 and S.R. 2008 No. 286

(e) Paragraph (1) was amended by regulation 2(1) of S.R. 1982 No. 153, regulation 2(2) of S.R. 1992 No. 83, regulation 2(3)(a) of S.R. 1994 No. 468, regulation 2(2) of S.R. 1995 No. 149, regulation 3(3)(a) and (b) of S.R. 2000 No. 4 and regulation 8(3)(b) of S.R. 2008 No. 286

limited capability for work assessment that person shall provide evidence of such incapacity or limited capability by means of a statement given by a doctor in accordance with the rules set out in Part I of Schedule 1 to these Regulations.

(1A) Where it would be unreasonable to require a person to provide a statement in accordance with paragraph (1) that person shall provide such other evidence as may be sufficient to show that he is incapable of work or has limited capability for work so that he should refrain (or should have refrained) from work by reason of some specific disease or bodily or mental disability.”.

(3) For Schedule 1(a) (rules and form of doctor’s statement) substitute the Schedule set out in Schedule 1 to these Regulations.

(4) Omit Schedules 1A and 1B(b).

Amendment of the Statutory Sick Pay (Medical Evidence) Regulations

3.—(1) The Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985(c) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) for the definition of “the Order” substitute—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;”.

(3) In regulation 2 (medical information)—

(a) for paragraph (1)(d) substitute—

“(1) Medical information required under section 12(1) of the Administration Act 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; or

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

(b) in paragraph (2) for “under Article 19(2) of the Order” substitute “under section 12(1) of the Administration Act”.

(4) For Schedule 1(e) (rules and form of doctor’s statement) substitute the Schedule set out in Schedule 2 to these Regulations.

(5) Omit Schedule 2(f).

(a) Schedule 1 was amended by regulation 2(3) of S.R. 1992 No. 83 and regulation 9 of S.R. 1999 No. 100
(b) Schedule 1A was inserted by regulation 2(4) of S.R. 1992 No. 83 and Schedule 1B was inserted by regulation 2(5) of S.R. 1994 No. 468 and amended by regulation 2(3) of S.R. 1995 No. 149 and regulation 3(4) of S.R. 2000 No. 4
(c) S.R. 1985 No. 321; relevant amending Regulations are S.R. 1992 No. 83 and S.R. 1999 No. 100
(d) Paragraph (1) was substituted by regulation 5(3) of S.R. 1992 No. 83
(e) Schedule 1 was amended by regulation 5(4) of S.R. 1992 No. 83 and regulation 10 of S.R. 1999 No. 100
(f) Schedule 2 was added by regulation 5(5) of S.R. 1992 No. 83

Revocations

4. The Regulations specified in column (1) of Schedule 3 are revoked to the extent specified in column (3).

Sealed with the Official Seal of the Department for Social Development on 26th February 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

The Commissioners for Her Majesty's Revenue and Customs concur with regulation 3, and regulation 4 in so far as concurrence is required.

Dave Hartnett
Bernadette Kenny

1st March 2010

Two of the Commissioners for Her Majesty's Revenue and Customs

SCHEDULE 1

Regulation 2(3)

“SCHEDULE 1

Regulation 2(1)

PART I

RULES

1. In these rules—

“assessment” means either a consultation between a patient and a doctor which takes place in person or by telephone or a consideration by a doctor of a written report by another doctor or other health care professional;

“condition” means a specific disease or bodily or mental disability;

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

“other health care professional” means a person (other than a registered medical practitioner and not being the patient) who is a registered nurse, a registered midwife, an occupational therapist or a physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999^(a), or a member of any profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002^(b);

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

2. Where a doctor issues a statement to a patient in accordance with an obligation arising under a contract, agreement or arrangement under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972^(c) the doctor’s statement shall be in a form set out at Part II of this Schedule and shall be signed by that doctor.

3. Where a doctor issues a statement in any case other than in accordance with rule 2, the doctor’s statement shall be in the form set out in Part II of this Schedule or in a form to like effect and shall be signed by the doctor attending the patient.

4. A doctor’s statement must be based on an assessment made by that doctor.

5. A doctor’s statement shall be completed in ink or other indelible substance and shall contain the following particulars—

- (a) the patient’s name;
- (b) the date of the assessment (whether by consultation or consideration of a report as the case may be) on which the doctor’s statement is based;
- (c) the condition in respect of which the doctor advises the patient they are not fit for work;
- (d) a statement, where the doctor considers it appropriate, that the patient may be fit for work;
- (e) a statement that the doctor will or, as the case may be will not, need to assess the patient’s fitness for work again;
- (f) the date on which the doctor’s statement is given;

(a) 1999 c. 8

(b) 2002 c. 17

(c) S.I. 1972/1265 (N.I. 14)

(g) the address of the doctor,

and shall bear, opposite the words “Doctor’s signature”, the signature in ink of the doctor making the statement.

6. Subject to rule 8, the condition in respect of which the doctor is advising the patient is not fit for 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 at the time of the assessment permits.

7. Where a doctor considers that a patient may be fit for work the doctor shall state the reasons for that advice and where this is considered appropriate, the arrangements which the patient might make, with their employer’s agreement, to return to work.

8. The condition may be specified less precisely where, in the doctor’s opinion, disclosure of the precise condition would be prejudicial to the patient’s well-being, or to the patient’s position with their employer.

9. A doctor’s statement may be given on a date after the date of the assessment on which it is based, however, no further statement shall be furnished in respect of that assessment other than a doctor’s statement by way of replacement of an original which has been lost, in which case it shall be clearly marked “duplicate”.

10. Where, in the doctor’s opinion, the patient will become fit for work on a day not later than 14 days after the date of the assessment on which the doctor’s statement is based, the doctor’s statement shall specify that day.

11. Subject to rules 12 and 13, the doctor’s statement shall specify the minimum period for which, in the doctor’s opinion, the patient will not be fit for work or, as the case may be, for which the patient may be fit for work.

12. The period specified shall begin on the date of the assessment on which the doctor’s statement is based and shall not exceed 3 months unless the patient has, on the advice of a doctor, refrained from work for at least 6 months immediately preceding that date.

13. Where—

- (a) the patient has been advised by a doctor that they are not fit for work and, in consequence, has refrained from work for at least 6 months immediately preceding the date of the assessment on which the doctor’s statement is based; and
- (b) in the doctor’s opinion, the patient will not be fit for work for the foreseeable future,

instead of specifying a period, the doctor may, having regard to the circumstances of the particular case, enter, after the words “case for”, the words “an indefinite period”.

PART II
FORM OF DOCTOR'S STATEMENT

**STATEMENT OF FITNESS FOR WORK
FOR SOCIAL SECURITY OR STATUTORY SICK PAY**

Patient's name

I assessed your case on:

and, because of the following condition(s):

I advise you that: you are not fit for work.
 you may be fit for work taking account of the following advice:

If available, and with your employer's agreement, you may benefit from:

<input type="checkbox"/> a phased return to work	<input type="checkbox"/> amended duties
<input type="checkbox"/> altered hours	<input type="checkbox"/> workplace adaptations

Comments, including functional effects of your condition(s):

This will be the case for

or from to

I will/will not need to assess your fitness for work again at the end of this period.
(Please delete as applicable)

Doctor's signature

Date of statement

Doctor's address

“SCHEDULE 1

Regulation 2(1)(a)

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Comments, including functional effects of your condition(s):

This will be the case for

or from to

I will/will not need to assess your fitness for work again at the end of this period.
(Please delete as applicable)

Doctor's signature

Date of statement

Doctor's address

SCHEDULE 3

Regulation 4

Revocations

<i>Column (1)</i> <i>Citation</i>	<i>Column (2)</i> <i>Reference</i>	<i>Column (3)</i> <i>Extent of revocation</i>
The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976	S.R. 1976 No. 175	Schedules 1A and 1B
The Social Security (Medical Evidence, Claims and Payments) (Amendment) Regulations (Northern Ireland) 1982	S.R. 1982 No. 153	Regulation 2(1)
The Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985	S.R. 1985 No. 321	Schedule 2
The Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1992	S.R. 1992 No. 83	Regulations 2 and 5 and Schedules 1 and 2
The Social Security (Medical Evidence) (Amendment) Regulations (Northern Ireland) 1994	S.R. 1994 No. 468	Regulation 2(3)(a) and (5) and the Schedule
The Social Security (Incapacity for Work) (Miscellaneous Amendments) Regulations (Northern Ireland) 1995	S.R. 1995 No. 149	Regulation 2
The Health Services (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations (Northern Ireland) 1999	S.R. 1999 No. 100	Regulations 9 and 10
The Social Security (Incapacity for Work) (Miscellaneous Amendments) Regulations (Northern Ireland) 2000	S.R. 2000 No. 4	Regulation 3(3)(a) and (b) and (4)
The Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008	S.R. 2008 No. 286	Regulation 8(3)(b)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976 (“the 1976 Regulations”) and the Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985 (“the 1985 Regulations”).

Regulation 2 amends the 1976 Regulations by substituting Schedule 1, omitting Schedules 1A and 1B and making consequential amendments. Part I of the substituted Schedule contains new rules concerning the completion of a doctor’s statement and Part II prescribes the form of the doctor’s statement to which those rules relate. The doctor’s statement will help a person claim certain health-related social security benefits such as Employment and Support Allowance.

Regulation 3 amends the 1985 Regulations by substituting Schedule 1, omitting Schedule 2 and making consequential amendments. Part I of the substituted Schedule contains new rules concerning the completion of a doctor’s statement and Part II prescribes the form of the doctor’s statement to which those rules relate. The doctor’s statement will help employees claim Statutory Sick Pay.

Regulation 4 makes consequential revocations.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

An assessment of the costs to business of these Regulations is detailed in a Regulatory Impact Assessment, copies of which have been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA or from the website: <http://www.dsdni.gov.uk/ssani-reports-plans.htm>.

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