

1976 No. 615

SOCIAL SECURITY

The Social Security (Medical Evidence) Regulations 1976

<i>Made</i> - - - -	<i>21st April 1976</i>
<i>Laid before Parliament</i>	<i>30th April 1976</i>
<i>Coming into Operation</i>	<i>4th October 1976</i>

The Secretary of State for Social Services, in exercise of powers conferred upon him by section 115(1) of, and Schedule 13 to, the Social Security Act 1975(a) and of all other powers enabling him in that behalf, after reference to the National Insurance Advisory Committee, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Medical Evidence) Regulations 1976, and shall come into operation on 4th October 1976.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1975;

▶¹“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992(b);◀

▶²“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;

▶³“limited capability for work” has the meaning—

(a) for the purposes of employment and support allowance, given in section 1(4) of the Welfare Reform Act 2007; and

(b) for the purposes of universal credit, given in section 37 of the Welfare Reform Act 2012;◀

▶³“limited capability for work assessment” means the assessment of whether a person has limited capability for work—

(a) for the purposes of old style ESA, under Part 5 of the Employment and Support Allowance Regulations;

(b) for the purposes of new style ESA, under Part 4 of the Employment and Support Allowance Regulations 2013;

(c) for the purposes of universal credit, under Part 5 of the Universal Credit Regulations 2013;◀

▶⁴“personal capability assessment” means the assessment provided for in section 171C of the Contributions and Benefits Act(c);◀

▶⁵◀

▶⁶“registered midwife” means a midwife who is registered as a midwife with the United Kingdom Central Council for Nursing, Midwifery and Health Visiting under the Nurses, Midwives and Health Visitors Act 1979(d);◀

¹Defn. inserted in reg. 1(2) by reg. 2(2) of S.I. 1994/2975 as from 13.4.95.

²Defns. of “the Employment and Support Allowance Regulations” inserted by reg. 68(2) of S.I. 2008/1554 as from 27.10.08.

³Defns. of “limited capability for work” and “limited capability for work assessment” substituted by reg. 24(a)(i) & (ii) of S.I. 2013/630 as from 29.4.13.

⁴Defn. “personal capability assessment” inserted by reg. 5(a) of S.I. 1999/3109 as from 3.4.00.

⁵Defn. of “primary care trust” omitted by para. 9(2) of Sch. 2 to S.I. 2013/235 as from 1.4.13.

⁶Defn. substituted in reg. 1(2) by reg. 2 of S.I. 1987/409 as from 6.4.87.

(a) 1975 c. 14.

(b) 1992 c. 4.

(c) 1992 c. 4. Section 171C was inserted by section 5 of the Social Security (Incapacity for Work) Act 1994 (c. 18) and amended by section 61 of the Welfare Reform and Pensions Act 1999 (c. 30).

(d) 1979 c. 36.

Regs. 1-2

“doctor” means a registered medical practitioner;

“signature” means, in relation to any statement or certificate given in accordance with these regulations, the name by which the person giving that statement or certificate, as the case may be, is usually known (any name other than the surname being either in full or otherwise indicated) written by that person in his own handwriting; and “signed” shall be construed accordingly.

(3) Any reference in these regulations to any provisions made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(a) shall apply in relation to this instrument and in relation to the revocation effected by it as if this instrument, the regulations revoked by it and regulations revoked by the regulations so revoked were Acts of Parliament, and as if each revocation were a repeal.

¹Para. (5) inserted in reg. 1 by reg. 24(b) of S.I. 2013/630 as from 29.4.13.

►¹(5) For the purposes of the definition of “limited capability for work assessment” in paragraph (2)–

- (a) “old style ESA” means an allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance; and
- (b) “new style ESA” means an allowance under Part 1 of the Welfare Reform Act 2007 as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance.◄

²Words inserted in heading to reg. 2 & 2(2) by reg. 68(3)(a)-(c) of S.I. 2008/1554 as from 27.10.08.

³Words in reg. 2(1) substituted by reg. 2(2) of S.I. 2010/137 as from 6.4.10.

Evidence of incapacity for work ►², limited capability for work ◄ and confinement

►³2.—(1) Subject to regulation 5 and paragraph (1A) below, 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 limited capability for work assessment they 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) above that person shall provide such other evidence as may be sufficient to show that they are incapable of work or have limited capability for work so that they should refrain (or should have refrained) from work by reason of some specific disease or bodily or mental disability.◄

⁴Words inserted in reg. 2(2) by reg. 2(3) of S.I. 1994/2975 as from 13.4.95.

⁵Words substituted in reg. 2(2) by reg. 5(b) of S.I. 1999/3109 as from 3.4.00.

(2) Every person to whom paragraph (1) applies ►⁴who has not been assessed for the purposes of the ►⁵personal capability assessment◄►² or the limited capability for work assessment◄ shall, before he returns to work, furnish evidence of the date on which he will become fit to resume work either in accordance with rule 10 of Part I of Schedule 1 to these regulations, or by such other means as may be sufficient in the circumstances of the case.

(3) Every woman who claims maternity benefit shall furnish evidence–

- (a) where the claim is made in respect of expectation of confinement, that she is pregnant and as to the stage which she has reached in her pregnancy; or
- (b) where the claim is made by virtue of the fact of confinement, that she has been confined.

(a) 1889 c. 63, to be construed in accordance with the Interpretation Act 1978 (c. 30) s. 25(2).

and shall furnish such evidence ▶¹by means of a maternity certificate◀ given by a doctor or by a ▶¹registered midwife◀ ▶²not earlier than the beginning of the 20th week before the week in which she is expected to be confined,◀ in accordance with the rules set out in Part I of Schedule 2 to these regulations in the appropriate form as set out in Part II of that Schedule or by such other means as may be sufficient in the circumstances of any particular case.

[Regulation 3 (amendment of the Social Security (Claims and Payments) Regulations 1975) revoked by regulation 32 of and Schedule 5 to S.I. 1979/628 as from 9.7.79.]

[Regulation 4 (transitional provisions and revocation) revoked by regulation 2(3) of S.I. 1982/699 as from 14.6.82.]

▶³Self-certificate for first 7 days of a spell of incapacity for work ▶⁴or limited capability for work◀

5.—▶⁵(1) ▶⁶The evidence of incapacity ▶⁴or limited capability for work◀ 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 lasts less than 8 days, ▶⁴◀

(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).◀

▶⁴(c) for a period of limited capability for work which lasts less than 8 days; or

(d) in respect of any of the first 7 days of a longer period of limited capability for work,◀

(2) For the purpose of this regulation:—

▶⁷“self-certificate” means either—

(i) a declaration made by the claimant in writing, on a form approved for the purpose by the Secretary of State; or

(ii) where the claimant has made a claim for employment and support allowance in accordance with regulation 4G of the Social Security (Claims and Payments) Regulations 1987, an oral declaration by the claimant.

that the claimant has been unfit for work from a date or for a period specified in the declaration and may include a statement that the claimant expects to continue to be unfit for work on days subsequent to the date on which it is made;◀

▶⁶“spell of incapacity” has the meaning given to it by section 171B(3) of the Contributions and Benefits Act.◀◀

¹Words substituted in reg. 2(3) by reg. 3 of S.I. 1987/409 as from 6.4.87.

²Words inserted in reg. 2(3) by reg. 2(2) of S.I. 2001/2931 as from 28.9.01.

³Reg. 5 inserted by reg. 2(2) of S.I. 1982/699 as from 14.6.82.

⁴Words inserted in heading to reg. 5 and para. (1), words omitted in sub-para. (a) & sub-para. (c) & (d) added by reg. 68(4)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

⁵Para. (1) of reg. 5 substituted by reg. 2 of S.I. 1989/1686 as from 9.10.89.

⁶Words substituted in reg. 5(1) & (2) and defn. of “spell of incapacity” by reg. 2(4)(a) & (b) of S.I. 1994/2975 as from 13.4.95.

⁷Defn. of “self certificate” substituted by reg. 68(4)(c) of S.I. 2008/1554 as from 27.10.08.

21st April 1976

David Ennals
Secretary of State for Social Services

Sch. 1

¹Sch. 1 substituted by reg. 2(3) of S.I. 2010/137 as from 6.4.10.

►¹SCHEDULE 1

Regulation 2(1)

PART 1

RULES

1. In these rules, unless the context otherwise requires—
 - “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 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 professional 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 4 of the National Health Service Act 2006(c) or Part 4 of the National Health Service (Wales) Act 2006(d) or Part 1 of the National Health Service (Scotland) Act 1978(e) the doctor’s statement shall be in a form set out at Part 2 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 2 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;
 - (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.

(a) 1999 c. 8.

(b) 2002 c. 17.

(c) 2006 c. 41.

(d) 2006 c. 42.

(e) 1978 c. 29; Part 1 was amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), sections 1(2) and 4 and Schedule 1, paragraph 1(7).

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 they 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 2
FORM OF DOCTOR'S STATEMENT

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

Patient's name Mr, Mrs, Miss, Ms

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:
 a phased return to work amended duties
 altered hours 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



►²SCHEDULE 2

Regulation 2(3)

PART I

RULES

¹Schedules 1A and 1B omitted by reg. 3(4) of S.I. 2010/137 as from 6.4.10.

²Sch. substituted by reg. 4 of S.I. 1987/409 as from 6.4.87

1. In these rules any reference to a woman is a reference to the woman in respect of whom a maternity certificate is given in accordance with these rules.

2. A maternity certificate shall be given by a doctor or registered midwife attending the woman and shall not be given by the woman herself.

3. The maternity certificate shall be on a form provided by the Secretary of State for the purpose and the wording shall be that set out in the appropriate part of the form specified in Part II of this Schedule.

4. Every maternity certificate shall be completed in ink or other indelible substance and shall contain the following particulars—

- (a) the woman’s name;
- (b) the week in which the woman is expected to be confined or, if the maternity certificate is given after confinement, the date of that confinement and the date the confinement was expected to take place ►³◄;
- (c) the date of the examination on which the maternity certificate is based;
- (d) the date on which the maternity certificate is signed; and
- (e) the address of the doctor or where the maternity certificate is signed by a ►³registered midwife the personal identification number given to her by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (“UKCC”) on her registration in Part 10 of the register maintained under section 10 of the Nurses, Midwives and Health Visitors Act 1979(a) and the expiry date of that registration◄,

³Words deleted from and words substituted in para. 4 by reg. 21 of S.I. 1991/2284 as from 1.11.91.

and shall bear opposite the word “Signature”, the signature of the person giving the maternity certificate written after there has been entered on the maternity certificate the woman’s name and the expected date or, as the case may be, the date of confinement.

5. After a maternity certificate has been given, no further maternity certificate bases on the same examination shall be furnished other than a maternity certificate by way of replacement of an original which has been lost or mislaid, in which case it shall be clearly marked “duplicate”.

(a) 1979 c.36.

▶¹PART II

FORM OF CERTIFICATE

¹Part II of Sch. 2 substituted by reg. 22 of S.I. 1991/2284 as from 1.11.91.

MATERNITY CERTIFICATE

Please fill in this form in ink

Name of patient

Fill in this part if you are giving the certificate before the confinement.

Do not fill this in more ▶²than 20 weeks ◀ before the week the baby is expected.

I certify that I examined you on the date given below. In my opinion you can expect to have your baby in the week that includes/...../.....

Week means a period of 7 days starting on a Sunday and ending on a Saturday.

Fill in this part if you are giving the certificate after the confinement.

I certify that I attended you in connection with the birth which took place on/...../..... when you were In my opinion your babay was expected in the week that includes/...../.....

²Words substituted in Part II of Sch. 2 by reg. 2(3)(a) of S.I. 2001/2931 as from 28.9.01.

Date of examination/...../.....

Registered midwives

Date of signing/...../.....

Please give your UKCC Personal Identification Number and the expiry date of your registration with the UKCC.

Signature

[Signature box]

Doctors Please stamp your name and address here ▶³(unless the form has been stamped, in Wales, by the Local Health Board in whose medical performers list you are included or, in Scotland, ◀ ▶⁴by the Health Board in whose primary medical services performers list you are included) ◀.

[Doctors stamp box]

³Words substituted by para. 9(3) of Sch. 2 to S.I. 2013/235 as from 1.4.13.

⁴Words substituted by para. 1(3) of Sch. 1 to S.I. 2004/865 as from 1.4.04.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

The Regulations provide for the manner in which evidence of incapacity for work or of expected confinement or confinement is to be given for the purposes of a claim for benefit under the Social Security Act 1975 for which evidence is required. The Regulations replace the Social Security (Medical Certification) Regulations 1975 (“the 1975 Regulations”) which are revoked.

The Regulations and Rules in Schedule 1 prescribe a certificate in the form of a doctor’s statement in which the issuing doctor advises the claimant that he need not refrain from work or, as the case may be, that he should refrain from work for a period of up to 6 months, or longer in certain circumstances. Certificates for the purposes of maternity benefit are prescribed in Schedule 2 and correspond to those in the 1975 Regulations. The Regulations amend the Social Security (Claims and Payments) Regulations 1975 so that a doctor’s statement and a special statement based on a written report from another doctor may be accepted for the purposes of forward allowances of certain benefits.

The Report of the National Insurance Advisory Committee dated 10th March 1976 on the draft of these Regulations referred to them is contained in House of Commons Paper No. 349 (Session 1975-76) published by Her Majesty’s Stationery office.