

## 1985 No. 1604

### TERMS AND CONDITIONS OF EMPLOYMENT

#### The Statutory Sick Pay (Medical Evidence) Regulations 1985

*Made* - - - - - 22nd October 1985  
*Laid before Parliament* 29th October 1985  
*Coming into Operation* 6th April 1986

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 17(2A) of the Social Security and Housing Benefits Act 1982(a), and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential upon section 20 of the Social Security Act 1985(b) and regulations made under the aforesaid section 17(2A), makes the following regulations:—

#### Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Sick Pay (Medical Evidence) Regulations 1985 and shall come into operation on the 6th April 1986.

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

▶<sup>1</sup>“the 1992 Act” means the Social Security Administration Act 1992;◀  
“signature” means, in relation to a statement given in accordance with these regulations, the name by which the person giving that statement 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.

<sup>1</sup>Words in regs. 1(2) & 2(2) & reg. 2(1) substituted by reg. 3(3) (a) & (b) of S.I. 2010/137 as from 6.4.10.

(3) ▶<sup>2</sup>◀.

<sup>2</sup>Reg. 1(3) deleted by reg. 6(2) of S.I. 1992/247 as from 9.3.92.

#### Medical information

2.—▶<sup>1</sup>(1) Medical information required under section 14(1) of the 1992 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 to these Regulations; or
- (b) by such other means as may be sufficient in the circumstances of any particular case.◀

(2) An employee shall not be required under ▶<sup>1</sup>section 14(1) of the 1992 Act◀ to provide medical information in respect of the first 7 days in any spell of incapacity for work; and for this purpose “spell of incapacity” means a day on which the claimant either worked or was not incapable of work.

(a) 1982 c. 24; section 17(2A) was inserted by the Social Security Act 1985 (c. 53), section 20.  
(b) 1985 c. 53.

SI 1985/1604

**STATUTORY SICK PAY (MEDICAL EVIDENCE)  
REGULATIONS 1985**

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

22nd October 1985

*Tony Newton*  
Minister of State,  
Department of Health and Social Security

<sup>1</sup>SCHEDULE 1

Regulation 2(1)(a)

Sch. 1 substituted by  
reg. 3(4) of S.I. 2010/  
137 as from 6.4.10.

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 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 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.

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(a) 1998 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).

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**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 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

/ /

or

/ /

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

## Sch. 1A

<sup>1</sup>Sch. 1A is omitted by  
reg. 3(5) of S.I. 2010/  
137 as from 6.4.10.

<sup>1</sup>◀

**EXPLANATORY NOTE**

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

These Regulations contain provisions relating to the medical information which an employee may be required to produce for the purposes of statutory sick pay. They are all either made under section 17(2A) of the Social Security and Housing Benefits Act 1982, as inserted by section 20 of the Social Security Act 1985 (“the 1985 Act”) or are otherwise consequential upon section 20. As they are also made before the expiry of the period of 6 months beginning with the commencement of section 20 (6th April 1986), they are exempted by section 27(8)(m) of the 1985 Act from the requirement under section 10(1) of the Social Security Act 1980 (c. 30) to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

The Regulation and Rules in Schedule 1 prescribe the form of the statement to be issued by a registered medical practitioner advising an employee that he need not refrain from work or, as the case may be, that he should refrain from work for a period up to 6 months, or longer in certain circumstances.

Regulation 2(2) provides that medical information cannot be required in respect of an employee’s first 7 days in any spell of incapacity for work.