STATUTORY RULES OF NORTHERN IRELAND

# 2010 No. 55

# SOCIAL SECURITY; STATUTORY SICK PAY

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

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| *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(**1**) and now vested in it(**2**).

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(**3**).

### 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(**4**) 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)(**5**) substitute—

(**1**) 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)

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

(**3**) 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

(**4**) 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

(**5**) 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

"(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 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(**6**) (rules and form of doctor's statement) substitute the Schedule set out in Schedule 1 to these Regulations.

(4) Omit Schedules 1A and 1B(**7**).

### Amendment of the Statutory Sick Pay (Medical Evidence) Regulations

**3.**—(1) The Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985(**8**) 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)(**9**) 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(**10**) (rules and form of doctor's statement) substitute the Schedule set out in Schedule 2 to these Regulations.

(5) Omit Schedule 2(**11**).

### Revocations

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

(**6**) Schedule 1 was amended by regulation 2(3) of S.R. 1992 No. 83 and regulation 9 of S.R. 1999 No. 100
(**7**) 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
(**8**) S.R. 1985 No. 321; relevant amending Regulations are S.R. 1992 No. 83 and S.R. 1999 No. 100
(**9**) Paragraph (1) was substituted by regulation 5(3) of S.R. 1992 No. 83
(**10**) Schedule 1 was amended by regulation 5(4) of S.R. 1992 No. 83 and regulation 10 of S.R. 1999 No. 100
(**11**) Schedule 2 was added by regulation 5(5) of S.R. 1992 No. 83

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

1st March 2010

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(**12**), 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(**13**);

"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(**14**) 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;

(g) the address of the doctor,

(**12**) 1999 c. 8
(**13**) 2002 c. 17
(**14**) S.I. 1972/1265 (N.I. 14)