
STATUTORY INSTRUMENTS

1992 No. 247

**SOCIAL SECURITY
TERMS AND CONDITIONS OF EMPLOYMENT**

**The Social Security (Miscellaneous
Provisions) Amendment Regulations 1992**

<i>Made</i>	- - - -	<i>12th February 1992</i>
<i>Laid before Parliament</i>		<i>17th February 1992</i>
<i>Coming into force</i>	- -	<i>9th March 1992</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 47A, 47B(2), 82(5), 85(1)(b), 115(1), 119(4)(a), 166(1) to (3) and 165A(1)(a) of, and paragraph 2 of Schedule 13 and Schedule 20 to, the Social Security Act 1975(1), sections 17(2A) and 26(1) of the Social Security and Housing Benefits Act 1982(2) and sections 51(1)(a), (b), (c), (k), (m), (p) and (q), 54(1) and 84(1) of the Social Security Act 1986(3) and all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that the proposals to make these Regulations need not be referred to it(4), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Provisions) Amendment Regulations 1992 and shall come into force on 9th March 1992.

(2) In these Regulations “Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(5).

-
- (1) 1975 c. 14. Section 47A was inserted by paragraph 5(1) of Schedule 1 to the Social Security Act 1980 (c. 30) and amended by paragraph 3(2) of Schedule 6 to the Social Security Act 1990 (c. 27). Section 47B was inserted by section 14(a) of the Health and Social Security Act 1984 (c. 48) and amended by section 9(3) of the Social Security Act 1989 (c. 24). Section 165A was substituted by paragraph 87 of Schedule 10 to the Social Security Act 1986 (c. 50). Section 165A(1)(a) was substituted by paragraph 9(1) of Schedule 8 to the Social Security Act 1989 and amended by section 6(1) of the Social Security Act 1990. Schedule 20 is cited because of the meaning it ascribes to “prescribe” and “regulations”.
- (2) 1982 c. 24. Section 17(2A) was inserted by section 20 of the Social Security Act 1985 (c. 53). Section 26(1) is cited for the meaning it ascribes to “prescribed”.
- (3) 1986 c. 50. Section 84(1) is cited for the meaning it ascribes to “prescribed” and “regulations”.
- (4) See section 61(1)(b) and (10) of the Social Security Act 1986; the definition “regulations” was added to section 61(10) by paragraph 12(4) of Schedule 8 to the Social Security Act 1989.
- (5) S.I.1987/1968; to which the relevant amendments are S.I. 1988/522 and 1725, 1989/136 and 1686 and 1990/2208.

Amendment of the Social Security (Hospital In-Patients) Regulations 1975

2. In paragraph (3)(b)(ii) of regulation 17 of the Social Security (Hospital In-Patients) Regulations 1975(6) (calculation of periods), after the words “incorporated by Royal Charter” there shall be inserted the words “other than a local social services authority”.

Amendment of the Social Security (Medical Evidence) Regulations 1976

3.—(1) The Social Security (Medical Evidence) Regulations 1976(7) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (evidence of incapacity for work and confinement), for the words from “by means of a certificate” to the end there shall be substituted the following words—1

“(a) by means of a certificate in the form of a statement in writing given by a doctor in accordance with the rules set out in Part I of Schedule 1 to these Regulations on the form set out in Part II of that Schedule; or

(b) where a doctor—

(i) has not given a statement under sub-paragraph (a)

of this paragraph since the patient was examined and wishes to give such a statement but more than one day has passed since the examination; or

(ii) advises that the patient should refrain from work on the basis of a written report from another doctor, set out in Part I of Schedule 1A to these Regulations on the form set out in Part II of that Schedule; or

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

(3) After Schedule 1 there shall be inserted the Schedule set out in Schedule 1 to these Regulations.

Amendment of the Social Security Benefit (Dependency) Regulations 1977

4.—(1) The Social Security Benefit (Dependency) Regulations 1977(8) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 9A (apportionment of payments by way of occupational pension made otherwise than weekly), for the words “occupational pensions” in both places where they occur there shall be substituted the words “occupational or personal pension”.

(3) In regulation 13(2) (increase of unemployment benefit, sickness benefit and invalidity pension for persons over pensionable age) after the reference “paragraph 1(b)” there shall be inserted a reference “, paragraph 1(d)”.

Amendment of the Statutory Sick Pay (General) Regulations 1982

5. In regulation 22 of the Statutory Sick Pay (General) Regulations 1982(9) (penalties)—

(a) for paragraph (a) there shall be substituted the following paragraph—1

“(a) for any one offence, level 3 on the standard scale; or”; and

(b) in paragraph (b)—

(i) after the words “continuing any such” there shall be inserted the words “contravention or”, and

(6) S.I. 1975/555; to which the relevant amendment is S.I.1987/1683.

(7) S.I. 1976/615; to which the relevant amending instruments are S.I. 1982/699, 1987/409 and 1989/1686.

(8) S.I. 1977/343; to which the relevant amendments are S.I.1980/827 and 1989/523.

(9) S.I. 1982/894; to which the relevant amending instruments are S.I. 1983/376, 1986/477 and 1987/868.

(ii) for the sum of “£20” there shall be substituted a sum of “£40”.

Amendment of the Statutory Sick Pay (Medical Evidence) Regulations 1985

6.—(1) The Statutory Sick Pay (Medical Evidence) Regulations 1985⁽¹⁰⁾ shall be amended in accordance with the following provisions of this regulation.

(2) Paragraph (3) of regulation 1 (interpretation of “statement”) is revoked.

(3) For paragraph (1) of regulation 2 (medical information) there shall be substituted the following paragraph—

“(1) Medical information required under section 17(2) of the 1982 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 on the form set out in Part II of that Schedule; or
- (b) where the doctor—
 - (i) has not given a statement under sub-paragraph (a) of this paragraph since the patient was examined and wishes to give such a statement but more than one day has passed since the examination; or
 - (ii) advises that the patient should refrain from work on the basis of a written report from another doctor, set out in Part I of Schedule 1A to these Regulations on the form set out in Part II of that Schedule; or
- (c) by such other means as may be sufficient in the circumstances of any particular case.”.

(4) The heading to the Schedule shall be amended by adding a referenceto “1” after the word Schedule.

(5) After Schedule 1 there shall be inserted the Schedule set out in Schedule 2 to these Regulations.

Amendment of the Social Security (Adjudication) Regulations 1986

7.—(1) The Social Security (Adjudication) Regulations 1986⁽¹¹⁾ shall be amended in accordance with the following provisions of this regulation.

(2) The following regulation shall be inserted after regulation 64A—

“Review of decisions in cases to which section 104(7) of the 1975 Act applies

64B. In any case to which subsection (7) of section 104 of the 1975 Act applies, the decision given on review shall have effect from the date of the relevant determination within the meaning of that subsection whether the decision which is being reviewed was made before, on or after 9th March 1992”.

(3) In regulations 65(3), 66(1), 69(1), both as continued in force by regulation 13 of the Social Security (Adjudication) Amendment (No. 2) Regulations 1987⁽¹²⁾ and as amended by regulation 10 of those Regulations, and 71, after the words “regulation 64A(2) or (3)” there shall be inserted the words “or regulation 64B”.

⁽¹⁰⁾ S.I. 1985/1604.

⁽¹¹⁾ S.I. 1986/2218.

⁽¹²⁾ S.I. 1987/1970.

Amendment of the Statutory Maternity Pay (General) Regulations 1986

8. In regulation 32 of the Statutory Maternity Pay (General) Regulations 1986⁽¹³⁾ (penalties) after the word “regulations” there shall be inserted a reference to “25”.

Amendment of regulation 2 of the Claims and Payments Regulations

9.—(1) Regulation 2 of the Claims and Payments Regulations (interpretation) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), in paragraph (c) of the definition of “claim for benefit”, after the words “any increase of benefit” there shall be inserted the words “in respect of a child or adult dependant under the Social Security Act 1975 or an increase in disablement benefit under section 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Social Security Act 1975”.

(3) In paragraph (3), for the words “every increase of benefit under the Social Security Act 1975” there shall be substituted the words “every increase of benefit in respect of a child or adult dependant under the Social Security Act 1975 or an increase of disablement benefit under sections 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Social Security Act 1975”.

Amendment of regulation 4 of the Claims and Payments Regulations

10. In paragraph (1) of regulation 4 of the Claims and Payments Regulations (making a claim for benefit), after the words “on a form approved by the Secretary of State” there shall be inserted the words “for the purpose of the benefit for which the claim is made”.

Amendment of regulation 8 of the Claims and Payments Regulations

11. In paragraph (1) of regulation 8 of the Claims and Payments Regulations (attendance in person), after the words “in any particular case” there shall be inserted the words “or class of case”.

Amendment of regulation 9 of the Claims and Payments Regulations

12. After paragraph (6) of regulation 9 of the Claims and Payments Regulations (interchange with claims for other benefits) there shall be added the following paragraph—

“(7) In determining whether he should treat a claim alternatively or in addition to another claim (the original claim) under this regulation the Secretary of State shall treat the alternative or additional claim, whenever made, as having been made at the same time as the original claim”.

Amendment of regulation 13 of the Claims and Payments Regulations

13. At the end of regulation 13(5)⁽¹⁴⁾ of the Social Security (Claims and Payments) Regulations 1987 there shall be added the words “save that in their application to paragraph 4(c) those regulations shall be read as though for the words “not less than 24 hours” there were substituted the words “not less than 16 hours but less than 24 hours””.

Amendment of regulation 19 of the Claims and Payments Regulations

14.—(1) Regulation 19 of the Claims and Payments Regulations (time for claiming benefit) shall be amended in accordance with the following provisions of this regulation.

⁽¹³⁾ S.I. 1986/1960; relevant amending instrument is S.I.1991/2284.

⁽¹⁴⁾ Paragraph (5) of regulation 13 was added by S.I.1991/2284.

(2) After paragraph (2) there shall be inserted the following paragraph—

“(2A) In the case of a claim for income support or family credit, where the claimant does not prove that there was good cause for the failure to claim throughout the period specified in paragraph (2) but does prove that there was good cause throughout the period from a date subsequent to the expiry of the prescribed time to the date on which the claim was made, the claim shall be treated as made on—

- (a) that subsequent date if it is not more than 12 months before the date on which the claim was made; or
- (b) in any other case the date 12 months before the date on which the claim was made.”.

(3) In paragraph (6)(a) after the words “child benefit and” there shall be inserted the words “except in a case to which section 165C(3) of the Social Security Act 1975(15) (late claims for widowhood benefits where death is difficult to establish) applies”.

Amendment of regulation 21 of the Claims and Payments Regulations

15.—(1) Regulation 21 of the Claims and Payments Regulations (direct credit transfer) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) for the words “any benefit” there shall be substituted the words “benefit to which this regulation applies”; and
- (b) the words “or other direct” shall be omitted.

(3) After paragraph (5) there shall be added the following paragraph—

“(6) This regulation applies to the payment of retirement pension, widow’s pension, widowed mother’s allowance, child benefit, attendance allowance, disability living allowance, disability working allowance, mobility allowance, family credit and any increase of those benefits payable in respect of a child or adult dependant.”.

Amendment of regulation 37 of the Claims and Payments Regulations

16. For regulation 37 of the Claims and Payments Regulations there shall be substituted the following regulations—

“Suspension in individual cases

37.—(1) Where it appears to the Secretary of State that a question arises whether—

- (a) the conditions for entitlement are or were fulfilled;
- (b) an award ought to be revised; or
- (c) subject to paragraph (2), an appeal ought to be brought against an award, award be suspended, in whole or in part, pending the determination of that question on review, appeal or reference.

(2) Where it appears to the Secretary of State that a question arises under paragraph (1) (c), he may only give directions that payment of benefit under the award be suspended on or before the relevant date.

(3) A suspension under paragraph (1)(c) shall cease unless, on or before the relevant date, the claimant is given notice in writing that either an appeal or an application or petition for leave to appeal, whichever is appropriate, has been made against that decision.

(4) Where the claimant has been given notice on or before the relevant date that either an appeal or an application or petition for leave to appeal has been made, the suspension may continue until the appeal or the application or the petition and any subsequent appeal have been determined.

(5) In this regulation—

- (a) “relevant date” means a date one month from the date on which notice in writing of the decision resulting in an award is received by the adjudication officer;
- (b) notice of a decision of an adjudicating authority resulting in an award is only received by an adjudication officer when he has received notice in writing of the decision together with the reasons for that decision.

Suspension in identical cases

37A.—(1) Where it appears to the Secretary of State that a question arises in relation to a person’s entitlement to benefit under an award or that an award ought to be revised and the question is the same question which arises in relation to an award made to another person involving the same or another benefit and a question arises whether an appeal ought to be brought against that award, the Secretary of State may direct that payment of benefit under the first-mentioned award shall be suspended, in whole or part, pending determination of that question on appeal brought against the second-mentioned award.

(2) In this regulation “appeal” means an appeal to a Social Security Commissioner, the Court of Appeal, the Court of Session and the House of Lords, and an application for judicial review made in accordance with Order 53 of the Rules of the Supreme Court 1965(16) .

Withholding payment of arrears of benefit

37B. Where it appears to the Secretary of State that a question arises whether any amount paid or payable to a person by way of, or in connection with, a claim for benefit is recoverable under section 27 or section 53 of the Social Security Act 1986, or regulations made under either section, he may direct that any payment of arrears of benefit to that person shall be withheld in whole or in part, pending determination of that question.”.

Amendment of Schedule 7 to the Claims and Payments Regulations

17.—(1) Schedule 7 to the Claims and Payments Regulations (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (3) of paragraph 6 (commencement of entitlement to income support), the following words shall be added at the end—

“except where income support is paid in advance, when entitlement shall commence on the relevant day, if that day is a day for payment as determined under paragraph 3 but otherwise on the first day for payment after the relevant day.”.

(3) In sub-paragraph (3) of paragraph 7 (date when change of circumstances is to take effect), after paragraph (d) there shall be inserted the following paragraph—

- “(dd) a person referred to in paragraph 8 of Schedule 7 to the Income Support Regulations either—
 - (i) ceases to be a prisoner, or
 - (ii) becomes a prisoner”.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulation 3(4)

SCHEDULE TO BE INSERTED AS SCHEDULE 1A TO THE
SOCIAL SECURITY (MEDICAL EVIDENCE) REGULATIONS 1976

“SCHEDULE 1A

Regulation 2(1)

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;
 - “special statement” means the form prescribed in Part II of this Schedule.
2. Where a doctor advises a claimant to refrain from work on the basis of a written report which he has received from another doctor or where a doctor has not issued a statement since the claimant was examined and he wishes to issue a statement more than a day after the examination he shall use the special statement.
3. The special statement shall be completed in the manner described in paragraph 5 of Part I to Schedule 1.
4. Subject to rules 5 and 6 below, the diagnosis of the claimant’s 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 shall be specified as precisely as the doctor’s knowledge of the claimant’s condition 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. In a case of a disorder stated by the claimant to have caused incapacity for work, where—
 - (a) no clinical signs have been found of that disorder, and
 - (b) in the doctor’s opinion, the claimant need not refrain from work, “unspecified” may be entered.
7. Part B of the special statement must only be given on a date not later than one month after the date of the written report on which the special statement is based and that part shall only be used where the claimant is being advised to refrain from work for a specified period of not more than one month.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART II

form of special statement

PART II

FORM OF SPECIAL STATEMENT

FOR SOCIAL SECURITY AND
STATUTORY SICK PAY
PURPOSES ONLY

Special Statement
by the Doctor

In confidence to

Mr/Mrs/Miss/Ms

(A) I examined you on the

(B) I have not examined you but, on the basis of a recent written report from-

following dates

Doctor (Name if known)

.....

of

.....

.....

and advised you that you should refrain from work

..... (Address)

I have advised you that you should refrain

From to

from work for/until

Diagnosis of your disorder causing absence from work

Doctor's remarks

Doctor's signature

Date of signing

The special circumstances in which this form may be used are described in the handbook "Medical Evidence for Social Security and Statutory Sick Pay purposes".

”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 2

Regulation 6(4)

SCHEDULE TO BE ADDED AS SCHEDULE 1A TO THE STATUTORY
SICK PAY (MEDICAL EVIDENCE) REGULATIONS 1985

“SCHEDULE 1A

Regulation 2(1)

PART I

rules

1. In these rules, unless the context otherwise requires—
 - “patient” 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 patient;
 - “special statement” means the form prescribed in Part II of this Schedule.
2. Where a doctor advises a patient to refrain from work on the basis of a written report which he has received from another doctor or where a doctor has not issued a statement since the claimant was examined and he wishes to issue a statement more than a day after the examination he shall use the special statement.
3. The special statement shall be completed in the manner described in paragraph 5 of Part I to Schedule 1.
4. Subject to rules 5 and 6 below, the diagnosis of the patient’s disorder in respect of which the doctor is advising the patient to refrain from 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 permits.
5. The diagnosis may be specified less precisely where in the doctor’s opinion, a disclosure of the precise disorder would be prejudicial to the patient’s well being, or to the patient’s position with his employer.
6. In a case of a disorder stated by the patient to have caused incapacity for work, where—
 - (a) no clinical signs have been found of that disorder, and
 - (b) in the doctor’s opinion, the patient need not refrain from work, “unspecified” may be entered.
7. Part B of the special statement must only be given on a date not later than one month after the date of the written report on which the special statement is based and that part shall only be used where the patient is being advised to refrain from work for a specified period of not more than one month.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART II

form of special statement

PART II FORM OF SPECIAL STATEMENT

FOR SOCIAL SECURITY AND
STATUTORY SICK PAY
PURPOSES ONLY

Special Statement
by the Doctor

In confidence to

Mr/Mrs/Miss/Ms

(A) I examined you on the (B) I have not examined you but, on the basis of a
recent written report from—

following dates Doctor (Name if known)

..... of

.....

and advised you that you should (Address)
refrain from work I have advised you that you should refrain

From to from work for/until

Diagnosis of your disorder
causing absence from work

Doctor's remarks

Doctor's
signature

Date of
signing

The special circumstances in which this form may be used are described in the handbook
"Medical Evidence for Social Security and Statutory Sick Pay Purposes".

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

12th February 1992

Nicholas Scott
Minister of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

12th February 1992

Nicholas Scott
Minister of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security Benefit (Hospital In-Patients) Regulations 1975, the Social Security (Medical Evidence) Regulations 1976, the Social Security Benefit (Dependency) Regulations 1977, the Statutory Sick Pay (General) Regulations 1982, the Statutory Sick Pay (Medical Evidence) Regulations 1985, Social Security (Adjudication) Regulations 1986, the Statutory Maternity Pay (General) Regulations 1986 and the Social Security (Claims and Payments) Regulations 1987.

The Social Security (Hospital In-Patients) Regulations 1975 are amended so as to clarify the position of a person admitted to hospital from local authority residential accommodation.

The Social Security (Medical Evidence) Regulations 1976 and the Statutory Sick Pay (Medical Evidence) Regulations 1985 are amended to prescribe the form of the statement to be issued by a medical practitioner either when he has not given a statement within one day of examining a person or when he is advising a person to refrain from work and the basis of his assessment is a report from another medical practitioner (regulations 3, 6 and Schedules 1 and 2).

The Statutory Sick Pay (General) Regulations 1982 are amended to increase the daily penalty for a continuing offence under regulation 22 of those Regulations, and to prescribe a penalty for single offences by reference to the standard scale (regulation 5).

The Statutory Maternity Pay (General) Regulations 1986 are amended so as to restore a provision which provides that a woman claiming statutory maternity pay or any other party who fails to furnish information required to help determine any question arising in proceedings under the Social Security Act 1986 shall be guilty of an offence (regulation 8).

The Social Security (Adjudication) Regulations 1986 are amended by inserting a new regulation 64B which provides that where a decision in a case to which subsection (7) of section 104 of the Social Security Act 1975 applies is reviewed, the review decision takes effect from the date of the relevant determination as defined in that subsection.

Subsection (7) of section 104 applies to any case in which a decision falls to be reviewed on the grounds that it is erroneous in point of law following the determination (“the relevant determination”) of a Commissioner or a court in another case that that other case is erroneous in point of law (regulation 7(2)).

The Social Security (Claims and Payments) Regulations 1987 are amended in the following respects—

(1) regulation 4 is amended to specify which form a claim to benefit should be made on (regulation 10);

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) regulation 8 is amended to enable the Secretary of State to make directions waiving the requirement to attend an unemployment benefit office in classes of case as well as in individual cases (regulation 11);

(3) regulation 9 is amended to ensure that where the Secretary of State contemplates treating a claim for one benefit as a claim for another benefit, he shall treat the alternative claim as having been made at the time of the original claim (regulation 12);

(4) regulation 13 is amended to allow the words “remunerative work” and “engaged and normally engaged in remunerative work” to be construed for the purposes of paragraph 4(c) of those regulations consistently with regulations 4 and 5 of the Family Credit (General) Regulations 1987 in all respects except that those regulations shall be read as if the words “not less than 16 hours but less than 24 hours” were substituted for the words “not less than 24 hours” (regulation 13);

(5) regulation 19 is amended to provide that in the case of income support and family credit where there has been good cause for failure to claim for benefit for only part of the period the claim shall be treated as made on the date on which good cause for failure to make the claim commenced subject to an overriding 12 month limit (regulation 14);

(6) regulation 21 is amended to prescribe the benefits for which direct credit transfer may be used (regulation 15);

(7) regulation 37 is replaced by three new regulations dealing with the suspension and withholding of benefits, namely, suspension in an individual case, suspension in cases which are identical to another case where a similar question arises and withholding of payment of arrears of benefit (regulation 16);

(8) Schedule 7 is amended to ensure that where claims are made in advance under regulation 13 entitlement to income support begins on the day on which entitlement to the benefit claimed in advance begins if that is the pay day for that benefit but otherwise on the first pay day after entitlement begins (regulation 17(2)).

Minor amendments of a drafting nature are also made of the Social Security Benefit (Dependency) Regulations 1977.