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STATUTORY INSTRUMENTS

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**1995 No. 311**

**The Social Security (Incapacity for Work) (General) Regulations 1995**

**PART II**

**GENERAL PROVISIONS RELATING TO INCAPACITY FOR WORK**

**CHAPTER II**

**INFORMATION AND EVIDENCE**

**Information required for determining capacity for work**

6.—(1) [<sup>F1</sup>Subject to paragraphs (2) and (3)] the information or evidence required for the purposes of determining whether a person is capable or incapable of work [<sup>F2</sup>and the information or evidence required which is capable of being used for assisting or encouraging a person to obtain work or to enhance his prospects of obtaining it,] is—

(a) where the own occupation test <sup>F3</sup> ... applies, [<sup>F4</sup>or where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment,] evidence of his incapacity for work in accordance with the Social Security (Medical Evidence) Regulations 1976 <sup>F5</sup> (which prescribe the form of doctor's statement or other evidence required in each case);

[<sup>F6</sup>(b) [<sup>F7</sup>where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment], such information—

- (i) relating to a person's ability to perform the activities referred to in the Schedule, or
- (ii) capable of being used for assisting or encouraging a person to obtain work or to enhance his prospects of obtaining it,

as the Secretary of State may request in the form of a questionnaire;]

(c) such additional information [<sup>F8</sup>as is capable of being used for the purpose referred to in paragraph (b)(ii), or relating to the own occupation test or the personal capability assessment] as the Secretary of State may request.

(2) Where the Secretary of State is satisfied that he has sufficient information for a determination whether a person is capable or incapable of work without the information specified in [<sup>F9</sup>paragraph (1)(b)(i)], that information shall not be required for the purposes of that determination.

[<sup>F10</sup>(3) Paragraph (1) shall not apply in relation to a determination—

(a) whether a person is capable of work for the purposes of a claim for [<sup>F11</sup>jobseeker's allowance]; or

(b) whether a person is to be treated as incapable of work under any of [<sup>F12</sup>regulations 10, 11 to 14].]

[<sup>F13</sup>(4) Information requested for the purpose referred to in paragraph (1)(b)(ii) shall not be used for the purposes of determining whether a person is capable or incapable of work in accordance with Part XIIA of the Contributions and Benefits Act.]

**Annotations:**

- F1** Words in reg. 6(1) substituted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#) , regs. 1(2) , **2(2)(a)**
- F2** Words in reg. 6(1) inserted (13.12.1999) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(2) , **2(2)(a)**
- F3** Words in reg. 6(1)(a) omitted (3.4.2000) by virtue of [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **2(2)(b)**
- F4** Words in reg. 6(1)(a) inserted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **2(2)(b)**
- F5** [S.I. 1976/615](#) ; relevant amending instruments are [S.I. 1982/699](#) , [S.I. 1989/1686](#) , [S.I. 1992/247](#) and [S.I. 1994/2975](#) .
- F6** Reg. 6(1)(b) substituted (13.12.1999) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(2) , **2(2)(c)**
- F7** Words in reg. 6(1)(b) substituted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **2(2)(d)**
- F8** Words in reg. 6(1)(c) substituted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **2(2)(e)**
- F9** Words in reg. 6(2) substituted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **2(2)(f)**
- F10** Reg. 6(3) substituted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#) , regs. 1(2) , **2(2)(b)**
- F11** Words in reg. 6(3)(a) substituted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#) , regs. 1 , **20(2)**
- F12** Words in reg. 6(3)(b) substituted (3.4.2000) by [The Social Security \(Approved Work\) Regulations 2000 \(S.I. 2000/678\)](#) , regs. 1 , **4(2)**
- F13** Reg. 6(4) inserted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **2(2)(g)**

**Failure to provide information**

7.—(1) Where a person fails without good cause to comply with a request of the Secretary of State to provide the information referred to in regulation 6(1)(b)<sup>F14</sup>... he shall, subject to paragraph (2), be treated as capable of work.

(2) A person shall not be treated as capable of work under paragraph (1) unless—

- (a) at least [<sup>F15</sup>4 weeks] have elapsed since the Secretary of State sent that person the first request for that information; and
- (b) the Secretary of State has sent that person a further request at least [<sup>F16</sup>3 weeks] after the first, and at least [<sup>F17</sup>1 week has] elapsed since that further request was sent.

**Annotations:**

- F14** Words in reg. 7(1) deleted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **2(3)**
- F15** Words in reg. 7(2)(a) substituted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#) , regs. 1(2) , **9(2)(a)** (with reg. 2)
- F16** Words in reg. 7(2)(b) substituted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#) , regs. 1(2) , **9(2)(b)(i)** (with reg. 2)

**F17** Words in reg. 7(2)(b) substituted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **9(2)(b)(ii)** (with reg. 2)

### **Person may be called for a medical examination**

**8.**—(1) Where [<sup>F18</sup>it falls to be determined] whether a person is capable of work, he may be called by or on behalf of a [<sup>F19</sup>health care professional] approved by the Secretary of State to attend for a medical examination.

(2) Subject to paragraph (3) where a person fails without good cause to attend for or submit himself to such an examination, he shall be treated as capable of work.

(3) A person shall not be treated as capable of work under paragraph (2) unless written notice of the time and place for the examination was sent to him at least 7 days beforehand, or unless he agreed to accept a shorter period of notice.

#### **Annotations:**

**F18** Words in reg. 8(1) substituted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#), regs. 1(1), **2(4)**

**F19** Words in reg. 8(1) substituted (3.7.2007) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2007 \(S.I. 2007/1626\)](#), regs. 1, **3(3)**

### **Matters to be taken into account in determining good cause**

**9.** The matters which are to be taken into account in determining whether a person has good cause under regulation 7 or 8 (failure to provide information or attend a medical examination) shall include—

- (a) whether he was outside Great Britain at the relevant time;
- (b) his state of health at the relevant time; and
- (c) the nature of any disability from which he suffers.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Incapacity for Work) (General) Regulations 1995, CHAPTER II.