
STATUTORY INSTRUMENTS

1996 No. 3207

The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations 1996

Amendment of the Incapacity General Regulations

2.—(1) The Incapacity General Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “doctor” after the word “practitioner” there shall be inserted—
“, or in the case of a medical practitioner practising outside the United Kingdom of whom the Secretary of State may request a medical opinion, a person registered or recognised as such in the country in which he pursues his medical practice”;
- (b) after the definition of “doctor” there shall be inserted—
““medical evidence” means—
 - (a) evidence from a doctor approved by the Secretary of State, and
 - (b) evidence (if any) from any other doctor, or a hospital or similar institution, or such part of such evidence as constitutes the most reliable evidence available in the circumstances;”;
- (c) after the definition of “the President” there shall be inserted—
““relative” means a close relative, a spouse or, in the case of an unmarried couple, the other member of that couple, grandparent, grandchild, uncle, aunt, nephew or niece;”;
- (d) for the words “spell or incapacity” there shall be substituted the words “spell of incapacity”;
- (e) the definition of “voluntary organisation” shall be omitted;
- (f) for the definition of “volunteer” there shall be substituted—
““volunteer” means a person who is engaged in voluntary work, otherwise than for a close relative, where the only payment received by him or due to be paid to him by virtue of being so engaged is in respect of any expenses reasonably incurred by him in connection with that work;”.

(3) In regulation 10(2)(1) (certain persons with a severe condition to be treated as incapable of work), in sub-paragraph (e)—

- (a) for the words “that a doctor approved by the Secretary of State has certified that he is suffering from any of the following conditions—” there shall be substituted the words “that he is suffering from any of the following conditions, and there exists medical evidence that he is suffering from any of them—”;
- (b) in head (ii), for the words “and muscle” there shall be substituted “or muscle”; and

- (c) for head (viii) there shall be substituted—
 “(viii) a severe mental illness, involving the presence of mental disease, which severely and adversely affects a person’s mood or behaviour, and which severely restricts his social functioning, or his awareness of his immediate environment.”
- (4) In regulation 13 (person receiving certain regular treatment), in sub-paragraph (b) of paragraph (1), for the word “immuno-suppressive” there shall be substituted “immuno-suppressive”.
- (5) In regulation 16(2) (person who works to be treated as capable of work)—
 (a) in paragraph (2) there shall be omitted the word “close”;
 (b) in sub-paragraph (a) of paragraph (3)—
 (i) the words “in any spell of incapacity” shall be omitted, and
 (ii) after the word “work” there shall be inserted “in any period”; and
 (c) in sub-paragraph (b) of paragraph (3), for the words “any spell of incapacity” there shall be substituted the words “any period in which he is incapable of work”.
- (6) In regulation 18(1)(3) (disqualification for misconduct etc.), in sub-paragraph (b), for the words from “which could significantly” to “therefrom or” there shall be substituted “recommended by a doctor with whom, or a hospital or similar institution with which, he is undergoing medical treatment and,”.
- (7) In regulation 25 (assessment under the all work test)—
 (a) in paragraph (2), at the end there shall be added “or, as the case may be, any aid or appliance which he normally wears or uses”; and
 (b) after paragraph (2) there shall be inserted—
 “(3) In determining the extent of a person’s incapacity to perform any activity listed in Part I or Part II, it shall be a condition that the person’s incapacity arises—
 (a) in respect of a disability listed in Part I, from a specific bodily disease or disablement; or
 (b) in respect of a disability listed in Part II, from some specific mental illness or disablement.”.
- (8) In regulation 26(1) (calculation of scores)—
 (a) in sub-paragraph (a), for the words “a score”, where they first appear, there shall be substituted “an aggregate score”;
 (b) in sub-paragraph (b)—
 (i) for the words “a score” there shall be substituted the words “an aggregate score”, and
 (ii) for the words “any descriptor” there shall be substituted the words “the descriptors”.
- (9) For regulation 27 (exceptional circumstances) there shall be substituted—
 “**27.—**(1) A person who does not satisfy the all work test shall be treated as incapable of work if any of the circumstances set out in paragraph (2) apply to him
 (2) The circumstances are that—
 (a) he is suffering from a severe life threatening disease in relation to which—
 (i) there is medical evidence that the disease is uncontrollable, or uncontrolled, by a recognised therapeutic procedure, and

(2) Regulation 16 was amended by S.I. 1995/987.

(3) Regulation 18 was amended by S.I. 1995/987.

- (ii) in the case of a disease which is uncontrolled, there is a reasonable cause for it not to be controlled by a recognised therapeutic procedure;
 - (b) he suffers from a previously undiagnosed potentially life threatening condition which has been discovered during the course of a medical examination carried out for the purposes of the all work test by a doctor approved by the Secretary of State;
 - (c) there exists medical evidence that he requires a major surgical operation or other major therapeutic procedure and it is likely that that operation or procedure will be carried out within three months of the date of a medical examination carried out for the purposes of the all work test.”.
- (10) In regulation 28(4) (conditions for treating the all work test as satisfied until assessment), in paragraph (2)(b), after the word “advantage” there shall be inserted “which is dependent on him being incapable of work”.
- (11) In the Schedule (disabilities which may make a person incapable of work—
 - (a) in Part I (physical disabilities), in column (1) (activity)—
 - (i) in item 8, after the word “carrying” there shall be inserted “by the use of upper body and arms (excluding all other activities specified in Part I of this Schedule)”;
 - (ii) in item 13, after the word “Continence” there shall be inserted “(other than enuresis (bed wetting)).”;
 - (iii) in item 14, for the words “other than for normal periods of sleep” there shall be substituted “without having epileptic or similar seizures during waking moments”;
 - (b) in Part I (physical disabilities), in column (2) (descriptor)—
 - (i) in item 3(b) to (e), after the word “chair” there shall be added “because the degree of discomfort makes it impossible to continue sitting”;
 - (ii) in item 6(b) and (c) for the words “bend or kneel” there shall be substituted the words “either, bend or kneel, or bend and kneel”;
 - (iii) in item 7—
 - (aa) for head (b) there shall be substituted “Cannot turn a sink tap or the control knobs on a cooker with either hand”;
 - (ab) for head (f) there shall be substituted “Cannot turn a sink tap or the control knobs on a cooker with one hand, but can with the other”, and
 - (ac) in head (g) after the word “hand” there shall be added “, but can with the other”;
 - (iv) in item 8, in heads (e) and (f), after the word “hand” there shall be added “, but can with the other”;
 - (v) in item 9—
 - (aa) in head (a), after the word “arm” there shall be inserted “as if”;
 - (ab) in heads (b) and (d) to (f), after the word “head” there shall be inserted “as if”;
 - (ac) in head (c), after the word “back” there shall be inserted “as if”, and
 - (ad) in heads (e) and (f), at the end there shall be added “, but can with the other”;
 - (vi) in item 12—
 - (aa) in head (d), after the word “room” there shall be inserted “at a distance of at least 5 metres”, and

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- (ab) in head (e), after the word “road” there shall be inserted “at a distance of at least 15 metres”;
- (c) in Part II (mental disabilities), in column (2) (descriptor), in item 15—
 - (i) in head (c), after the word “radio” there shall be inserted “or television”, and
 - (ii) in head (g), for the words “mishaps or” there shall be substituted “potentially dangerous”.