
STATUTORY INSTRUMENTS

1999 No. 3109

**The Social Security (Incapacity for Work)
Miscellaneous Amendments Regulations 1999**

PART II

Amendment of the Principal Regulations

Amendment of Parts I and II

2.—(1) In regulation 2(1)(1) (interpretation), the definition of “the all work test” shall be omitted and there shall be inserted after the definition of “the own occupation test” the following—

““personal capability assessment” means the assessment defined in Part III of these Regulations;”.

(2) In regulation 6(2) (information required for determining capacity for work)—

- (a) in paragraph (1), after the word “work” there shall be inserted “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,”;
- (b) in sub-paragraph (a) of paragraph (1), the words “or the all work test” shall be omitted and after “applies,” there shall be inserted “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,”;
- (c) for sub-paragraph (b) of paragraph (1), there shall be substituted—
 - “(b) where the all work test applies, 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;”;
- (d) in sub-paragraph (b) of paragraph (1) as amended by these Regulations for the words “where the all work test applies” there shall be substituted the words “where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment”;
- (e) in sub-paragraph (c) of paragraph (1), for the words “relating to the relevant test” there shall be substituted “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”;
- (f) in paragraph (2), for the words “paragraph (1)(b)” there shall be substituted “paragraph (1) (b)(i)”;

(g) after paragraph (3) there shall be inserted the following—

“(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.”.

(3) In paragraph (1) of regulation 7 (failure to provide information) the words “(all work test questionnaire)” shall be deleted.

(4) In paragraph (1) of regulation 8 (person may be called for a medical examination), for the words “a question arises as to” there shall be substituted “it falls to be determined”.

(5) In paragraph (1) of regulation 10(3) (certain persons with a severe condition to be treated as incapable of work), for the words “Where the all work test applies” there shall be substituted the words “Where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment”.

(6) In regulation 13A(4) (welfare to work beneficiary)—

(a) in paragraph (1)(d)(ii), for the words “an assessment made in respect of the all work test or a determination in respect of the own occupation test” there shall be substituted “a determination made in respect of the personal capability assessment or the own occupation test” and the words “assessment or” shall be omitted;

(b) in paragraph (2)(c)(i), for the words “satisfied the all work test in accordance with Part III” there shall be substituted “determined to be incapable of work in accordance with the personal capability assessment under Part III”.

(7) In regulation 14(a) (ii) (pregnancy) for the words “where the all work test applies,” there shall be substituted “where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment,”.

(8) In paragraph (1) of regulation 16(5) (person who works to be treated as capable of work), for the words “the all work test as satisfied until assessment” there shall be substituted “a person as incapable of work in accordance with the personal capability assessment until a determination has been made in accordance with that assessment”.

(9) In regulation 17A(6) (person who claims unemployment benefit to be treated as capable of work), there shall be substituted—

(a) for the words “Where the all work test applies” the words “Where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment”, and

(b) for the word “test” the word “assessment”.

Amendment of Part III

3.—(1) In Part III, for the words constituting the heading “ALL WORK TEST” there shall be substituted “PERSONAL CAPABILITY ASSESSMENT”.

(2) For regulation 24 there shall be substituted—

“The personal capability assessment

24. For the purposes of section 171C(2)(a) of the Contributions and Benefits Act the personal capability assessment is an assessment of the extent to which a person who has some specific disease or bodily or mental disablement is capable of performing the activities

(3) Regulation 10 was amended by S.I. 1995/987, 1996/3207 and 1997/1009.

(4) Regulation 13A was inserted by S.I. 1998/2231.

(5) Regulation 16 was amended by S.I. 1995/987 and 1996/3207.

(6) Regulation 17A was inserted by S.I. 1995/987 and amended by S.I. 1996/1345.

prescribed in the Schedule, or is incapable by reason of such disease or bodily or mental disablement of performing those activities.”.

(3) For regulation 25(1)(7) there shall be substituted—

“Incapacity under the personal capability assessment

25.—(1) For the purposes of section 171C(2)(b) of the Contributions and Benefits Act a person is incapable of work in accordance with the personal capability assessment when one or more of the descriptors in Part I or Part II apply to him if, by adding the points listed in column (3) of the Schedule against the descriptor, he obtains a total score of at least—

- (a) 15 points in respect of descriptors specified in Part I; or
- (b) 10 points in respect of descriptors specified in Part II; or
- (c) 15 points in respect of descriptors specified in Parts I and II.”.

(4) In regulation 27(8) (exceptional circumstances), for the words “does not satisfy the all work test” there shall be substituted “is not incapable of work in accordance with the personal capability assessment”.

(5) For regulation 28(1)(9) (conditions for treating the all work test as satisfied until assessment), there shall be substituted—

“Conditions for treating a person as incapable of work until the personal capability assessment is carried out

28.—(1) Where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment that person shall, if the conditions set out in paragraph (2) are met, be treated as incapable of work in accordance with the personal capability assessment until such time as he has been assessed or he falls to be treated as capable of work in accordance with regulation 7 or 8.”.

(7) Regulation 25 was amended by S.I. [1996/3207](#).

(8) Regulation 27 was substituted by S.I. [1996/3207](#).

(9) Regulation 28 was amended by S.I. [1995/987](#) and [1996/3207](#).