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 S T A T U T O R Y I N S T R U M E N T S
 

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**1999 No. 3109**
**SOCIAL SECURITY**
**The Social Security (Incapacity for Work) Miscellaneous  
Amendments Regulations 1999**

*Made - - - - - 18th November 1999*

*Laid before Parliament 22nd November 1999*

*Coming into force*

*except for regulations 1,  
2(2)(a) and (c) 3rd April 2000*

*regulations 1, 2(2)(a) and (c) 13th December 1999*

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 171A, 171C, 171D, 171G(2) and 175(2) to (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 61 and 85(6) of the Welfare Reform and Pensions Act 1999(b), by this Instrument which contains only regulations made by virtue of or consequential upon the provisions of the Welfare Reform and Pensions Act 1999 and which is made before the end of the period of six months beginning with the coming into force of those provisions(c), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART 1**
**GENERAL**
**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Incapacity for Work) Miscellaneous Amendments Regulations 1999 and shall, subject to paragraph (2), come into force on 3rd April 2000.

(2) This regulation and regulation 2(2)(a) and (c) shall come into force on 13th December 1999.

(3) In these Regulations, “the principal Regulations” means the Social Security (Incapacity for Work) (General) Regulations 1995(d) and any reference in Part II of these Regulations to a regulation or a Part is a reference to a regulation or a Part of the principal Regulations.

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(a) 1992 c. 4. Sections 171A, 171C, 171D and 171G were inserted by sections 5 and 6 of the Social Security (Incapacity for Work) Act 1994 (c. 18); section 171A was amended by paragraph 23, Part II of Schedule 8 to, and section 171C was substituted by section 61 of, the Welfare Reform and Pensions Act (1999 c. 30). Section 171G(2) is cited because of the meaning ascribed to the word “prescribed”.

(b) 1999 c. 30.

(c) See section 173(5)(b) of the Social Security Administration Act 1992 (c. 5).

(d) S.I. 1995/311.

## PART II

### AMENDMENT OF THE PRINCIPAL REGULATIONS

#### Amendment of Parts I and II

2.—(1) In regulation 2(1)(a) (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(b) (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 XIII A 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(c) (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(d) (welfare to work beneficiary)—

(a) in paragraph (1)(d)(ii), for the words “an assessment made in respect of the all work

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(a) Regulation 2 was amended by S.I. 1996/3207 and 1992/2422.

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

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

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

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(a) (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(b) (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 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)(c) 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(d) (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)(e) (conditions for treating the all work test as satisfied until assessment), there shall be substituted—

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(a) Regulation 16 was amended by S.I. 1995/987 and 1996/3207.  
(b) Regulation 17A was inserted by S.I. 1995/987 and amended by S.I. 1996/1345.  
(c) Regulation 25 was amended by S.I. 1996/3207.  
(d) Regulation 27 was substituted by S.I. 1996/3207.  
(e) Regulation 28 was amended by S.I. 1995/987 and 1996/3207.

**“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.”

## PART III

### TRANSITIONAL PROVISION

#### Person determined or treated as satisfying the all work test

**4.**—(1) For the purposes of Part XIIA of the Social Security Contributions and Benefits Act 1992 (incapacity for work) a determination under the all work test made before 3rd April 2000 shall from that date be treated as if it were a determination under the personal capability assessment.

(2) For the purposes of regulation 28, where before 3rd April 2000 the all work test was treated as satisfied in relation to a person under that regulation, from that date regulation 28 shall apply in relation to that person as if he had been treated as incapable of work in accordance with the personal capability assessment.

## PART IV

### CONSEQUENTIAL AMENDMENTS

#### The Social Security (Medical Evidence) Regulations 1976

**5.** The Social Security (Medical Evidence) Regulations 1976(a) shall be amended as follows—

- (a) in regulation 1(2) for the definition of “the all work test” there shall be substituted the following—
 

““personal capability assessment” means the assessment provided for in section 171C of the Contributions and Benefits Act(b);”;
- (b) in regulation 2(2) and in Part II of Schedule 1B for the words “all work test” wherever they appear there shall be substituted “personal capability assessment”; and
- (c) in paragraphs 1, 2 and 3 of Part I of Schedule 1B for the words “all work test statement” wherever they appear there shall be substituted “personal capability assessment statement”.

#### The Income Support (General) Regulations 1987

**6.** Regulations 22A(1) and (3) of, and paragraph 25 of Schedule 1B to, the Income Support (General) Regulations 1987(c) shall be amended by the substitution for the words “all work test” of “personal capability assessment”.

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(a) S.I. 1976/615. Relevant amendments were made by S.I. 1994/2975 and 1995/987.

(b) 1992 c. 4. Section 171C was inserted by section 5 of the Social Security (Incapacity for Work) Act 1994 (c. 18) and amended by section 61 of the Welfare Reform and Pensions Act 1999 (c. 30).

(c) S.I. 1987/1967. Relevant amendments were made and Schedule 1B was inserted by S.I. 1996/206.

**The Social Security (Incapacity Benefit) (Transitional) Regulations 1995**

7. The Social Security (Incapacity Benefit) (Transitional) Regulations 1995(a) shall be amended as follows—

(a) in regulation 31(1)—

(i) for the words “the all work test shall apply to him” there shall be substituted the words “the question of whether he is capable or incapable of work shall fall to be determined in accordance with the personal capability assessment”;

(ii) for the words “that test” there shall be substituted “that assessment”; and

(iii) for the words “(the all work test)” there shall be substituted “(the personal capability assessment)”;

(b) in regulation 31(3) for the words “shall be treated as having satisfied” to the end there shall be substituted “shall be treated as being incapable of work in accordance with regulations made under section 171C of the 1992 Act (the personal capability assessment)”;

(c) in regulation 32 the words “(period after which the all work test applies)” shall be omitted.

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

18th November 1999

*Hugh Bayley*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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(a) S.I. 1995/310. Relevant amendments were made by S.I. 1996/3207.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations further amend the Social Security (Incapacity for Work) (General) Regulations 1995 (S.I. 1995/311), in consequence of the coming into force of the Welfare Reform and Pensions Act 1999—

- (a) on 13th December 1999 so that as well as requesting information about a person's incapacity for work the Secretary of State can request information, in the form of a questionnaire or additional information, capable of being used to assist or encourage a person to obtain work or enhance his prospects of doing so (regulation 2(2)(a) and (c)); and
- (b) on 3rd April 2000, to change references to the all work test to references to the personal capability assessment (regulations 2 and 3, except 2(2)(a) and (c)).

Regulation 4 makes transitional provision where the all work test has been satisfied or treated as satisfied before 3rd April 2000.

These Regulations also amend the following Regulations by changing references to the all work test to references to the personal capability assessment: the Social Security (Medical Evidence) Regulations 1976, the Income Support (General) Regulations 1987 and the Social Security (Incapacity Benefit) (Transitional) Regulations 1995.

These Regulations do not impose a charge on business.

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