
STATUTORY INSTRUMENTS

1985 No. 1604

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Sick Pay (Medical Evidence) Regulations 1985

<i>Made</i>	- - - -	<i>22nd October 1985</i>
<i>Laid before Parliament</i>		<i>29th October 1985</i>
<i>Coming into Operation</i>		<i>6th April 1986</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 17(2A) of the Social Security and Housing Benefits Act 1982⁽¹⁾, and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential upon section 20 of the Social Security Act 1985 and regulations made under the aforesaid section 17(2A), makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Sick Pay (Medical Evidence) Regulations 1985 and shall come into operation on 6th April 1986.

(2) In these regulations, unless the context otherwise requires—

“the 1982 Act” means the Social Security and Housing Benefits Act 1982;

“signature” means, in relation to a statement given in accordance with these regulations, the name by which the person giving that statement is usually known (any name other than the surname being either in full or otherwise indicated) written by that person in his own handwriting; and “signed” shall be construed accordingly.

(3) Any reference in these regulations to a statement is a reference to a statement in writing given by a registered medical practitioner in accordance with rules set out in Part I of the Schedule to these regulations on the form set out in Part II of the Schedule and includes a reference to a statement substantially to the like effect with such variations as the circumstances may require.

Medical information

2.—(1) Medical information relating to incapacity for work required under section 17(2) of the 1982 Act shall be provided in the form of a statement.

(2) An employee shall not be required under section 17(2) of the 1982 Act to provide medical information in respect of the first 7 days in any spell of incapacity for work; and for this purpose

⁽¹⁾ section 17(2A) was inserted by the Social Security Act 1985 (c.53), section 20.

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“spell of incapacity” means a continuous period of incapacity for work which is immediately preceded by a day on which the claimant either worked or was not incapable of work.

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

22nd October 1985

Tony Newton
Minister of State
Department of Health and Social Security

SCHEDULE

Regulation 1(3)

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;

“2 weeks” means any period of 14 consecutive days.

2. The doctor's statement shall be in the form set out in Part II of this Schedule.

3. Where the patient is on the list of a doctor providing general medical services under the National Health Service Act 1977, or the National Health Service (Scotland) Act 1978, and is being attended by such a doctor, the doctor's statement shall be on a form provided by the Secretary of State for the purpose and shall be signed by that doctor.

4. In any other case, the doctor's statement shall be on a form provided by the Secretary of State for the purpose and shall be signed by the doctor attending the patient.

5. Every doctor's statement shall be completed in ink or other indelible substance and shall contain the following particulars:—

(a) the patient's name;

(b) the date of the examination on which the doctor's statement is based;

(c) 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;

(d) the date on which the doctor's statement is given;

(e) the address of the doctor,

and shall bear, opposite the words “Doctor's signature”, the signature of the doctor making the statement written after there have been entered the patient's name and the doctor's diagnosis.

6. Subject to rules 7 and 8 below, the diagnosis of the 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 at the time of the examination permits.

7. 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.

8. In the case of an initial examination by a doctor in respect of a disorder stated by the patient to have caused incapacity for work, where—

(a) there are no clinical signs of that disorder, and

(b) in the doctor's opinion, the patient need not refrain from work,

instead of specifying a diagnosis “unspecified” may be entered.

9. A doctor's statement must be given on a date not later than one day after the date of the examination on which it is based, and no further doctor's statement based on the same examination

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shall be furnished other than a doctor's statement by way of replacement of an original which has been lost or mislaid, in which case it shall be clearly marked "duplicate".

10. Where, in the doctor's opinion, the patient will become fit to resume work on a day not later than 2 weeks after the date of the examination on which the doctor's statement is based, the doctor's statement shall specify that day.

11. Subject to rules 12 and 13 below, the doctor's statement shall specify the minimum period during which, in the doctor's opinion, the patient should, by reason of his disorder, refrain from work.

12. The period specified shall begin on the date of the examination on which the doctor's statement is based and shall not exceed 6 months unless the patient has, on the advice of a doctor, refrained from work for at least 6 months immediately preceding that date.

13. Where—

- (a) the patient has, on the advice of a doctor, refrained from work for at least 6 months immediately preceding the date of the examination on which the doctor's statement is based, and
- (b) in the doctor's opinion, it will be necessary for the patient to refrain from work for the foreseeable future,

instead of specifying a period, the doctor may, having regard to the circumstances of the particular case, enter, after the word "until", the words "further notice".

14. The Notes set out in Part III of this Schedule shall accompany the form of doctor's statement provided by the Secretary of State.

PART II

FORM OF DOCTOR'S STATEMENT

PART III

NOTES

The following notes shall accompany the form of doctor's statement provided by the Secretary of State:—

- (1) On the doctor's statement:—
 - (1) After the words "you should refrain from work for", the period entered must not exceed 6 months unless the patient has, on the advice of a doctor, already refrained from work for a continuous period of 6 months.
 - (2) After the words "you should refrain from work until"—
 - (a) if the patient is being given a date when he can return to work, the date entered should not be more than 2 weeks after the date of the examination,
 - (b) if the patient has already been incapable of work for at least 6 months and recovery of capacity for work in the foreseeable future is not expected, "further notice" may be entered.

EXPLANATORY NOTE

These Regulations contain provisions relating to the medical information which an employee may be required to produce for the purposes of statutory sick pay. They are all either made under section 17(2A) of the Social Security and Housing Benefits Act 1982, as inserted by section 20 of the Social Security Act 1985 (“the 1985 Act”) or are otherwise consequential upon section 20. As they are also made before the expiry of the period of 6 months beginning with the commencement of section 20 (6th April 1986), they are exempted by section 27(8)(m) of the 1985 Act from the requirement under section 10(1) of the Social Security Act 1980 (c.30) to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

The Regulations and Rules in Schedule 1 prescribe the form of the statement to be issued by a registered medical practitioner advising an employee that he need not refrain from work or, as the case may be, that he should refrain from work for a period up to 6 months, or longer in certain circumstances.

Regulation 2(2) provides that medical information cannot be required in respect of an employee's first 7 days in any spell of incapacity for work.