

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) (No.2)
REGULATIONS 2007

2007 No. 1626

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by command of Her Majesty.

2. **Description**
 - 2.1 These regulations are consequential upon section 62 of the Welfare Reform Act 2007 and include various amendments intended to substitute the words “medical practitioner” with the words “health care professional approved by the Secretary of State”.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None

4. **Legislative Background**
 - 4.1 Prior to the coming into force of the Welfare Reform Act 2007 the powers in sections 19 and 20 of the Social Security Act 1998 applied only to medical practitioners. They made provision for the Secretary of State (s.19) and an eligible member of a tribunal (s.20) to refer a person to a medical practitioner for an examination and report.
 - 4.2 The meaning of “Medical Practitioner” is a registered and qualified doctor. This is defined and interpreted in various Acts of Parliament.
 - 4.3 Section 62 of the Welfare Reform Act 2007 amended sections 19 and 20 of the Social Security Act 1998 to extend the power of the Secretary of State and the eligible member of a tribunal to refer a person to a Health Care Professional and not just a doctor, for medical examination and report, and will come into effect in July 2007
 - 4.4 Section 62 of the Welfare Reform Act 2007 also amended section 39(1) of the Social Security Act 1998 by inserting the definition of a Health Care Professional to be:
 - A registered medical practitioner;
 - a registered nurse;
 - an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999 (c.8), or
 - a member of such other profession regulated by a body mentioned in 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c.17) as the Secretary of State may prescribe

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 As a consequence to the changes being made by the Welfare Reform Act 2007 the relevant Social Security regulations are being amended to allow the Secretary of State to refer a person claiming a Social Security benefit to a specified range of Health Care Professionals for medical examinations and reports.

7.2 The Welfare Reform Act specifies that for the purposes of Employment Support Allowance medical examinations can be carried out by health care professionals rather than just doctors. These Amendment regulations will create consistency across social security benefits by allowing health care professionals to carry out medical examinations for those other social security benefits such as Disability Living Allowance, Attendance Allowance and Incapacity benefits.

7.3 The Government considers that medical examinations for benefit purposes can be carried out by a wider range of health care professionals rather than just doctors. Such health care professionals are increasingly and appropriately sharing in roles and responsibilities previously reserved for doctors. Having the power to use them in medical benefit assessments is appropriate and a prudent use of a finite resource. With proper training and monitoring, nurses occupational therapists and physiotherapists will be fully able to carry out the medical examinations required, and will only be able to do so once they have been approved for that purpose by the Secretary of State. Using a broader range of health care professionals will contribute to improvements in customer service by increasing availability of resources and providing, where needed, particular skills and experience.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8.2 The impact on the public sector is negligible

9. Contact

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