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STATUTORY INSTRUMENTS

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**2010 No. 137**

**The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010**

**Amendment of the 1976 Regulations**

2.—(1) The 1976 Regulations are amended as follows.

(2) In regulation 2 (evidence of incapacity for work, limited capability for work and confinement) for paragraph (1) substitute the following—

“2.—(1) Subject to regulation 5 and paragraph (1A) below, where a person claims to be entitled to any benefit, allowance or advantage (other than industrial injuries benefit or statutory sick pay) and entitlement to that benefit, allowance or advantage depends on that person being incapable of work or having limited capability for work, then in respect of each day until that person has been assessed for the purposes of the personal capability assessment or the limited capability for work assessment they shall provide evidence of such incapacity or limited capability by means of a statement given by a doctor in accordance with the rules set out in Part 1 of Schedule 1 to these Regulations.

(1A) Where it would be unreasonable to require a person to provide a statement in accordance with paragraph (1) above that person shall provide such other evidence as may be sufficient to show that they are incapable of work or have limited capability for work so that they should refrain (or should have refrained) from work by reason of some specific disease or bodily or mental disability.”.

(3) For Schedule 1 (rules) substitute—

“SCHEDULE 1

Regulation 2(1)

**PART 1**

**RULES**

1. In these rules, unless the context otherwise requires—

“assessment” means either a consultation between a patient and a doctor which takes place in person or by telephone or a consideration by a doctor of a written report by another doctor or other health care professional;

“condition” means a specific disease or bodily or mental disability;

“doctor” means a registered medical practitioner, not being the patient;

“other health care professional” means a person (other than a registered medical practitioner and not being the patient) who is a registered nurse, a registered midwife, an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999(1), or a member of any profession regulated

by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002<sup>(2)</sup>;

“patient” means the person in respect of whom a statement is given in accordance with these rules.

**2.** Where a doctor issues a statement to a patient in accordance with an obligation arising under a contract, agreement or arrangement under Part 4 of the National Health Service Act 2006<sup>(3)</sup> or Part 4 of the National Health Service (Wales) Act 2006<sup>(4)</sup> or Part 1 of the National Health Service (Scotland) Act 1978<sup>(5)</sup> the doctor’s statement shall be in a form set out at Part 2 of this Schedule and shall be signed by that doctor.

**3.** Where a doctor issues a statement in any case other than in accordance with rule 2, the doctor’s statement shall be in the form set out in Part 2 of this Schedule or in a form to like effect and shall be signed by the doctor attending the patient.

**4.** A doctor’s statement must be based on an assessment made by that doctor.

**5.** A 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 assessment (whether by consultation or consideration of a report as the case may be) on which the doctor’s statement is based;
- (c) the condition in respect of which the doctor advises the patient they are not fit for work;
- (d) a statement, where the doctor considers it appropriate, that the patient may be fit for work;
- (e) a statement that the doctor will or, as the case may be will not, need to assess the patient’s fitness for work again;
- (f) the date on which the doctor’s statement is given;
- (g) the address of the doctor,

and shall bear, opposite the words “Doctor’s signature”, the signature in ink of the doctor making the statement.

**6.** Subject to rule 8, the condition in respect of which the doctor is advising the patient is not fit for 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 assessment permits.

**7.** Where a doctor considers that a patient may be fit for work the doctor shall state the reasons for that advice and where this is considered appropriate, the arrangements which the patient might make, with their employer’s agreement, to return to work.

**8.** The condition may be specified less precisely where, in the doctor’s opinion, disclosure of the precise condition would be prejudicial to the patient’s well-being, or to the patient’s position with their employer.

**9.** A doctor’s statement may be given on a date after the date of the assessment on which it is based, however no further statement shall be furnished in respect of that assessment other than a doctor’s statement by way of replacement of an original which has been lost, in which case it shall be clearly marked “duplicate”.

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(2) 2002 c.17.

(3) 2006 c.41.

(4) 2006 c.42.

(5) 1978 c.29; Part 1 was amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), sections 1(2) and 4 and Schedule 1, paragraph 1(7).

**10.** Where, in the doctor’s opinion, the patient will become fit for work on a day not later than 14 days after the date of the assessment on which the doctor’s statement is based, the doctor’s statement shall specify that day.

**11.** Subject to rules 12 and 13, the doctor’s statement shall specify the minimum period for which, in the doctor’s opinion, the patient will not be fit for work or, as the case may be, for which they may be fit for work.

**12.** The period specified shall begin on the date of the assessment on which the doctor’s statement is based and shall not exceed 3 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 been advised by a doctor that they are not fit for work and, in consequence, has refrained from work for at least 6 months immediately preceding the date of the assessment on which the doctor’s statement is based; and

(b) in the doctor’s opinion, the patient will not be fit for 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 words “case for”, the words “an indefinite period”.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## PART 2

### FORM OF DOCTOR'S STATEMENT

#### **STATEMENT OF FITNESS FOR WORK FOR SOCIAL SECURITY OR STATUTORY SICK PAY**

Patient's name

I assessed your case on:

and, because of the following condition(s):

I advise you that:  
 you are not fit for work.  
 you may be fit for work taking account of the following advice:

If available, and with your employer's agreement, you may benefit from:

<input type="checkbox"/> a phased return to work	<input type="checkbox"/> amended duties
<input type="checkbox"/> altered hours	<input type="checkbox"/> workplace adaptations

Comments, including functional effects of your condition(s):

This will be the case for

or from  to

I will/will not need to assess your fitness for work again at the end of this period.  
*(Please delete as applicable)*

Doctor's signature

Date of statement

Doctor's address

(4) Schedules 1A and 1B are omitted.