

Universal Credit: elements

September 2011

SUMMARY OF ILLUSTRATIVE REGULATIONS

1. This paper contains an initial, illustrative set of regulations on the different elements of a Universal Credit award. These relate to clauses 1 (3), 10 and 12 of the Welfare Reform Bill. They do not represent a final version of the regulations, but are intended to inform debate on these aspects of the Bill in the House of Lords.

Child Responsibility Element

2. Chapter 3 provides for amounts to be payable where a claimant is responsible for a child, and defines what this means. Instead of the Child Tax Credit family element there will be a higher rate for the first or only child. Regulation 7 lists where an award of Universal Credit will not include a child element (such as where the child is in local authority care). The child element will also include two rates for disabled children; however the amounts payable will be aligned to the amount of the additional elements that that disabled adults receive where they have limited capability for work or work related activity. Regulation 9 defines disability.

Limited Capability for Work Element

3. Chapter 5 provides for an element for disabled adults who have limited capability for work. Regulation 12 and Schedule 1 refer to the assessment of limited capability for work, detailing the descriptors and scoring used. Regulation 11 prescribes when an award of Universal Credit is to include this element, for example where a claimant has been assessed or treated as having limited capability for work, and not before the end of an assessment period (13 weeks). Regulation 11 contains new provisions to exclude the limited capability for work element where other elements (the carer element or the limited capability for work and work-related activity element) apply. Regulation 13 provides for claimants to be 'treated as' having limited capability for work where certain conditions apply (for example being terminally ill, or having an uncontrollable disease). Regulations 14 to 16 prescribe when new determinations can be made, for information to be required from the claimant and for claimants to be required to attend a medical examination.

Limited capability for work and work-related activity element

4. Chapter 6 provides for an award of Universal Credit to include an element for limited capability for work and work-related activity. As with

Carer element

5. Chapter 7 provides for an element to be payable for carers. Regulation 25 prescribes that a claimant needs to have regular and substantial unpaid caring responsibilities for a severely disabled person, including where someone will be treated as caring, for example where there are temporary breaks in caring, or for an 8 week period following death of the cared for person. Regulation 26 defines a severely disabled person. Regulation 24 contains exclusions from the carer element, such as where another person is entitled to carer's allowance or the carer element for the same disabled person; and where an individual is also entitled to a limited capability for work (or work related activity) element, only one element is included in the award.

Gaps and further work to be done to the initial elements regulations

6. The precise amounts of the Universal Credit elements in regulation 1 are not included in these illustrative regulations.
7. Housing element regulations will be covered separately.
8. Regulations on the standard allowance and childcare element are not included.
9. Regulations under Chapters 5 and 6 will be developed at a later stage to provide for the assessment of a limited capability for work element, or a limited capability for work and work related activity element, when someone is in paid work.

2013 No.

SOCIAL SECURITY

The Universal Credit Regulations 2013

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State, in exercise of the powers conferred by sections 9(2) and (3), 10(2) to (5), 12, 38(3) to (8), 41 and 42(2) and (3) of, and paragraphs 5 and 7 of Schedule 1 to, the Welfare Reform Act 2011⁽¹⁾, makes the following Regulations:

PART

ELEMENTS OF AWARD

CHAPTER 1

Introduction and rates

Overview

1.—(1) This Part makes provision about the elements to be included in an award of universal credit.

(2) In this Part—

- (a) Chapter 2 makes provision about the standard allowance,
- (b) Chapter 3 makes provision about the child responsibility element,
- (c) Chapter 4 makes provision about the housing costs element,
- (d) Chapter 5 makes provision about the limited capability for work element,
- (e) Chapter 6 makes provision about the limited capability for work and work-related activity element,
- (f) Chapter 7 makes provision about the carer element, and
- (g) Chapter 8 makes provision about the childcare costs element.

(3) In this Part “assessment period”, in relation to a claimant or claimants for universal credit, means—

- (a) the period of one month beginning when the entitlement of the claimant or claimants to universal credit first subsists, and
- (b) each subsequent period of one month during which that entitlement subsists.

⁽¹⁾ 2011 c. 00.

(4) Chapter 9 defines other terms used in this Part.

Amounts of elements

2.—(1) The amount of the child responsibility element for an assessment period is (subject to paragraph (2))—

- (a) if there is only one child or qualifying young person for whom the claimant, or (in the case of a joint claim) either of the claimants, is responsible, £, and
- (b) if there is more than one child or qualifying young person for whom the claimant, or (in the case of a joint claim) either of the claimants, is responsible —
 - (i) £. for the older or oldest of them, and
 - (ii) £. for the other or each of the others.

(2) If a child or qualifying young person is disabled, the amount for the child or qualifying young person is increased by £.; and if a child or qualifying young person is severely disabled, that amount is increased by £.

(3) The amount of the limited capability for work element for an assessment period is £.

(4) The amount of the limited capability for work and work-related activity element for an assessment period is £.

(5) The amount of the carer element for an assessment period is £.

(6) Expressions used in this regulation in relation to an element have the same meaning as in the Chapter of this Part relating to that element.

CHAPTER 2

Standard Allowance

NOT INCLUDED

CHAPTER 3

Child Responsibility Element

Introduction

3.—(1) There is to be included in awards of universal credit an amount in respect of a claimant being responsible for a child or qualifying young person (the “child responsibility element”), with an increase if the child or qualifying young person is disabled or severely disabled.

(2) Regulation 4 specifies when an award is to include the child responsibility element,

(3) Regulation 5 specifies cases in which an award is not to include an amount in respect of a claimant being responsible for a child or qualifying young person.

(4) Regulations 6 and 7 define terms used in this Chapter.

When award is to include child responsibility element

4.—(1) An award of universal credit is to include the child responsibility element if the claimant, or (in the case of a joint claim) either of the claimants, is responsible for a child or qualifying young person (but subject to regulation 5).

(2) Regulation 6 defines “child” and “qualifying young person” for the purposes of this Chapter.

(3) Regulation 25 specifies when a person is responsible for a child or qualifying young person for the purposes of this Chapter.

(4) If—

- (a) a child or qualifying young person dies, and
- (b) immediately before the death an award of universal credit included (or, had a claim been made, would have included) the child responsibility element as a result of the claimant, or (in the case of a joint claim) either of the claimants, being responsible for the child or qualifying young person,

the claimant is to be treated for the purposes of paragraph (1) as being responsible for the child or qualifying young person for the period beginning with the day of death and ending 8 weeks later or, in the case of a qualifying young person, with the day on which the qualifying young person would have attained the age of 20 (if earlier).

(5) Regulation 7 defines “disabled” and “severely disabled” for the purposes of this Chapter.

Excepted cases

5.—(1) An award is not to include an amount in respect of a claimant being responsible for a child or qualifying young person if—

- (a) in the case of a child, any of conditions A to C, or
- (b) in the case of a qualifying young person, any of conditions A to E,

is met.

(2) Condition A is that—

- (a) the child or qualifying young person is provided with, or placed in, accommodation under Part 3 of the Children Act 1989⁽²⁾ or Part 2 of the Children (Scotland) Act 1995⁽³⁾, and
- (b) the cost of the child’s or qualifying young person’s accommodation or maintenance is borne wholly or partly—
 - (i) out of local authority funds under section 23 of the Children Act 1989⁽⁴⁾ or section 26 of the Children (Scotland) Act 1995⁽⁵⁾, or
 - (ii) out of other public funds.

(3) Condition B is that—

- (a) the child or qualifying young person—
 - (i) is being looked after by a local authority, and
 - (ii) has been placed for adoption by the local authority in the home of a person proposing to adopt the child or qualifying young person, and
- (b) a local authority is making a payment in respect of the child’s or qualifying young person’s accommodation or maintenance (or both) under section 23 of the Children Act 1989 or section 26 of the Children (Scotland) Act 1995.

(4) Condition C is that a custodial sentence—

- (a) for life,
- (b) without limit of time,
- (c) of detention during Her Majesty’s pleasure, or
- (d) for a term or period of more than 4 months,

is being served by the child or qualifying young person.

(5) Condition D is that the qualifying young person is entitled to—

- (a) universal credit,

⁽²⁾ 1989 c. 41.

⁽³⁾ 1995 c. 36.

⁽⁴⁾ Section 23 has been amended by the Courts and Legal Services Act 1990, the Care Standards Act 2000, the Children Act 2004 and the Children and Young Persons Act 2008.

⁽⁵⁾ Section 26 has been amended by the Adoption and Children (Scotland) Act 2007 and the Children and Young Persons Act 2008.

- (b) jobseeker's allowance, or
- (c) contributory employment and support allowance.

(6) Condition E is that the claim is by joint claimants and the qualifying young person is one of the joint claimants.

Meaning of “child” and “qualifying young person”

6.—(1) In this Chapter “child” means a person under the age of 16.

(2) In this Chapter “qualifying young person” means a person who falls within the definition of “qualifying young person” in section 142(2) of the Social Security Contributions and Benefits Act 1992(6) (person aged 16 or over but less than 20 who satisfies various conditions).

Meaning of “disabled” and “severely disabled”

7.—(1) For the purposes of this Chapter—

- (a) a child or qualifying young person is disabled if condition A is met, and
- (b) a child or qualifying young person is severely disabled if condition B is met.

(2) Condition A is that—

- (a) a disability living allowance or a personal independence payment is payable in respect of the child or qualifying young person or has ceased to be so payable solely because the child or qualifying young person is a patient, but
- (b) condition B is not met.

(3) Condition B is that—

- (a) a disability living allowance is payable in respect of the child or qualifying young person by virtue of entitlement to the care component at the highest rate or has ceased to be so payable solely because the child or qualifying young person is a patient,
- (b) a personal independence payment is payable by virtue of entitlement to a daily living component [at the appropriate rate] in respect in respect of the child or qualifying young person or has ceased to be so payable solely because the child or qualifying young person is a patient, or
- (c) the child or qualifying young person is, or has within the period of 28 weeks immediately preceding the date of the claim been—
 - (i) registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948(7), or
 - (ii) registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government etc (Scotland) Act 1994(8) in consequence of having been certified as blind.

CHAPTER 4

Housing Costs Element

SEE SEPARATE DRAFT

(6) 1992 c. 4. Section 142 was substituted by section 1(2) of the Child Benefit Act 2005.

(7) 1948 c. 29. Section 29 has been amended by the Local Government Act 1972, the Employment and Training Act 1973, the Children Act 1989 and the National Health Service and Community Care Act 1990.

(8) 1994 c. 39. Section 2 has been amended by the Environment Act 1995.

CHAPTER 5

Limited Capability for Work Element

Introduction

8.—(1) There is to be included in awards of universal credit an amount in respect of a claimant having limited capability for work (the “limited capability for work element”).

(2) In this Chapter—

- (a) regulation 9 specifies when an award is to include the limited capability for work element,
- (b) regulation 10 (with Schedule 1) makes provision about assessment of limited capability for work,
- (c) regulation 11 specifies when claimants are to be treated as having limited capability for work,
- (d) regulation 12 makes provision for re-determinations of whether claimants have, or are to be treated as having, limited capability for work,
- (e) regulation 13 specifies the evidence and information required for determining whether claimants have limited capability for work, and
- (f) regulation 14 makes provision about medical examinations for determining whether claimants have limited capability for work.

When award is to include limited capability for work element

9.—(1) An award of universal credit is to include the limited capability for work element in respect of a claimant if—

- (a) it has been determined that the claimant has limited capability for work on the basis of an assessment (see regulation 10 and Schedule 1),
- (b) it has been determined that the claimant is to be treated as having limited capability for work by virtue of regulation 11, or
- (c) the claimant is entitled to an employment and support allowance which includes the work-related activity component.

(2) An award is not to include the limited capability for work element—

- (a) by virtue of paragraph (1)(a), or
- (b) except where the claimant is determined to be terminally ill, by virtue of paragraph (1)(b),

for any period falling before the end of the relevant period.

(3) For the purposes of paragraph (2) “the relevant period” is (subject to paragraph (4)) the period of 13 weeks beginning with the first day for which the claimant has provided evidence of limited capability for work in accordance with the Social Security (Medical Evidence) Regulations 1976⁽⁹⁾ (which prescribe the form of doctor’s statement or other evidence required) in connection with—

- (a) the award of universal credit, or
- (b) (in a case within paragraph (1)(c)) the award of an employment and support allowance.

(4) Where—

- (a) it has been determined that a claimant does not have limited capability for work on the basis of—
 - (i) an assessment under this Chapter, or
 - (ii) an assessment for the purposes of employment and support allowance, or

⁽⁹⁾ S.I. 1976/615, amended by S.I. 1982/699, S.I. 1987/409, S.I. 1989/1686, S.I. 1991/2284, S.I. 1994/2975, S.I. 1999/3109, S.I. 2001/2931, S.I. 2002/881, S.I. 2002/2469, S.I. 2004/1771, S.I. 2008/1554 and S.I. 2010/137.

- (b) it has been determined that a claimant is not to be treated as having limited capability for work by virtue of regulation 11 [or of some provisions of the ESA Regulations],

and the period of 6 months has not passed since the date of the previous determination, (subject to paragraph (5)) the relevant period is the period of 6 months beginning with that date.

(5) Paragraph (4) does not apply if—

- (a) the claimant is suffering from a specific disease, illness or disablement from which the claimant was not suffering at the time of the previous determination,
- (b) a specific disease, illness or disablement from which the claimant was suffering at the time of the previous determination has significantly worsened,
- (c) in the case of a claimant who was treated as not having limited capability for work under regulation 13(4) [or regulation 22 of the ESA regulations], the claimant has since provided the requested information, or
- (d) the claimant has made and is pursuing an appeal against a decision that embodies the previous determination and that has not been [finally determined].

(6) An award is not to include the limited capability for work element in respect of a claimant if—

- (a) in a case where the claimant is a single claimant, condition A is met, or
- (b) in a case where the claimant is a joint claimant, condition B is met.

(7) Condition A is that the award includes—

- (a) the limited capability for work and work-related activity element, or
- (b) the carer element.

(8) Condition B is that the award includes—

- (a) the limited capability for work element in respect of the other joint claimant,
- (b) the limited capability for work and work-related activity element in respect of the claimant or the other joint claimant, or
- (c) the carer element in respect of the claimant.

Limited capability for work assessment

10.—(1) A claimant has limited capability for work on the basis of an assessment if the total number of points scored on the assessment by the claimant under Schedule 1 is at least 15.

(2) It to be determined in relation to each activity specified in column 1 of that Schedule which of the descriptors specified in column 2 of that Schedule in relation to the activity applies or apply in the case of the claimant by reason of a specific—

- (a) bodily, or
- (b) mental,

disease, illness or disablement.

(3) If one such descriptor so applies, the claimant scores for the activity the number of points specified in column 3 of that Schedule in relation to that descriptor.

(4) If two or more such descriptors so apply, the claimant scores for the activity the higher or highest number of points so specified in relation to any of them.

(5) The total number of points scored on the assessment by the claimant is the aggregate of the number scored in relation to each descriptor.

(6) The claimant is to be assessed fitted with, wearing or using any prosthesis which the claimant is fitted with, wearing or using and as if fitted with, wearing or using any aid or appliance which is normally fitted, worn or used.

(7) If a descriptor applies in the case of the claimant as a direct result of treatment provided by a registered medical practitioner for a specific disease, illness or disablement, it is to be treated for the purposes of this regulation as applying by reason of the disease, illness or disablement.

Claimants treated as having limited capability for work

11.—(1) Claimants of the following descriptions are to be treated as having limited capability for work.

(2) A claimant who is terminally ill.

(3) A claimant who—

(a) is receiving treatment by way of intravenous, intraperitoneal or intrathecal chemotherapy [or is likely to receive such treatment within the period of 6 months beginning with the date of determination of limited capability for work], or

(b) is recovering from treatment by way of intravenous, intraperitoneal or intrathecal chemotherapy in circumstances in which the Secretary of State is satisfied that the claimant should be treated as having limited capability for work.

(4) A claimant who—

(a) receives regular weekly treatment by way of haemodialysis for chronic renal failure,

(b) receives treatment by way of plasmapheresis or by way of radiotherapy,

(c) receives regular weekly treatment by way of total parenteral nutrition for gross impairment of enteric function, or

(d) is recovering from treatment within any one or more of paragraphs (a) to (c) in circumstances in which the Secretary of State is satisfied that the claimant should be treated as having limited capability for work.

(5) A claimant who—

(a) cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else,

(b) cannot convey food or drink to the claimant's own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort,

(c) cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's physical presence,

(d) due to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving—

(i) physical assistance from someone else, or

(ii) regular prompting given by someone else in the claimant's presence,

(e) cannot chew or swallow food or drink,

(f) cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort,

(g) cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence, or

(h) due to severe disorder of mood or behaviour, fails to—

(i) chew or swallow food or drink, or

(ii) chew or swallow food or drink without regular prompting given by someone else in the claimant's presence.

(6) A claimant who is a pregnant woman if there is a serious risk of damage to her health or to the health of her unborn child if she does not refrain from work.

(7) A claimant who—

- (a) is undergoing medical or other treatment as an inpatient in a hospital or similar institution (which for this purpose includes doing so by attending a residential programme of rehabilitation for the treatment of drug or alcohol addiction), or
- (b) is recovering from such treatment in circumstances in which the Secretary of State is satisfied that the claimant should be treated as having limited capability for work.

(8) A claimant who—

- (a) is excluded or abstains from work[, or from work of such a kind,] pursuant to a request or notice in writing lawfully made under an enactment, or
- (b) is otherwise prevented from working pursuant to an enactment,

by reason of the claimant being a carrier of, or having been in contact with a case of, a relevant disease; and for this purpose “relevant disease” means, in England and Wales, and, in Scotland,

(9) A claimant who has been determined as not having limited capability for work on the basis of an assessment under this Chapter [or an assessment for the purposes of employment and support allowance] and—

- (a) who is suffering from a specific illness, disease or disablement by reason of which there would be a substantial risk to the physical or mental health of any person were the claimant [found not to have limited capability for work], or
- (b) who is suffering from a life-threatening disease in circumstances in which—
 - (i) there is medical evidence that the disease is uncontrollable, or uncontrolled, by a recognised therapeutic procedure, and
 - (ii) if the disease is controllable, but uncontrolled, by a recognised therapeutic procedure, there is a reasonable cause for it not to be controlled by such a procedure.

(10) In paragraph (9) “medical evidence” means—

- (a) evidence from a health care professional approved by the Secretary of State, or
- (b) [evidence (if any) from any health care professional or a hospital or similar institution, or such part of such evidence as constitutes the most reliable evidence available in the circumstances].

Fresh determinations

12.—(1) This regulation applies where—

- (a) it has been determined that a claimant has limited capability for work on the basis of—
 - (i) an assessment under this Chapter, or
 - (ii) an assessment for the purposes of employment and support allowance, or
- (b) it has been determined that a claimant is to be treated as having limited capability for work by virtue of regulation 11 [or of some provisions of the ESA Regulations].

(2) The Secretary of State may determine afresh whether the claimant has limited capability for work on the basis of an assessment, or is to be treated as having limited capability for work by virtue of regulation 11, if any of conditions A to C is met.

(3) Condition A is that the Secretary of State wishes to determine whether there has been a relevant change of circumstances in relation to the claimant’s physical or mental condition.

(4) Condition B is that the Secretary of State wishes to determine whether the previous determination—

- (a) was made in ignorance of a material fact, or
- (b) was based on a mistake as to a material fact.

(5) Condition C is that at least 3 months have passed since the date of the previous determination.

Information requirement

13.—(1) The evidence and information required to determine whether a claimant has limited capability for work is—

- (a) evidence of limited capability for work in accordance with the Social Security (Medical Evidence) Regulations 1976⁽¹⁰⁾ (which prescribe the form of doctor’s statement or other evidence required),
- (b) any information relating to the claimant’s capability to perform the activities specified in column 1 of Schedule 1 which may be requested in the form of a questionnaire, and
- (c) any additional information that may be requested.

(2) But where the Secretary of State is satisfied that there is enough information to determine whether a claimant has limited capability for work without the information mentioned in paragraph (1)(b), that information will not be required for making the determination.

(3) Paragraph (1) does not apply in relation to a determination whether a claimant is to be treated as having limited capability for work by virtue of regulation 11.

(4) Where a claimant fails without a good reason to comply with a request under paragraph (1)(b), the claimant is to be treated as not having limited capability for work.

(5) But paragraph (4) does not apply unless—

- (a) at least 4 weeks have passed since the claimant was sent the first request to provide the information, and
- (b) the claimant was sent a further request to provide the information at least 4 weeks after the date of the first request and at least 2 weeks have passed since the further request was sent.

Medical examinations

14.—(1) Where it falls to be determined whether a claimant has limited capability for work, the claimant may be called by or on behalf of a health care professional approved by the Secretary of State to attend for a medical examination.

(2) Where a claimant who is called by or on behalf of such a health care professional to attend for a medical examination fails without a good reason to attend for or submit to the examination, the claimant is to be treated as not having limited capability for work.

(3) But paragraph (2) does not apply unless—

- (a) notice of the time and place of the examination was given to the claimant at least 7 days in advance, or
- (b) notice was given less than 7 days in advance and the claimant has agreed to accept it.

CHAPTER 6

Limited Capability for Work and Work-Related Activity Element

Introduction

15.—(1) This Chapter makes provision for the inclusion in awards of universal credit of an amount in respect of a claimant having limited capability for work and work-related activity (the “limited capability for work and work-related activity element”).

(2) In this Chapter—

- (a) regulation 16 specifies when an award is to include the limited capability for work element and work-related activity element,

⁽¹⁰⁾ S.I. 1976/615, amended by S.I. 1982/699, S.I. 1987/409, S.I. 1989/1686, S.I. 1991/2284, S.I. 1994/2975, S.I. 1999/3109, S.I. 2001/2931, S.I. 2002/881, S.I. 2002/2469, S.I. 2004/1771, S.I. 2008/1554 and S.I. 2010/137.

- (b) regulation 17 (and Schedule 2) make provision about assessment of limited capability for work and work-related activity,
- (c) regulation 18 specifies when claimants are to be treated as having limited capability for work and work-related activity,
- (d) regulation 19 makes provision for re-determinations of whether claimants have, or are to be treated as having, limited capability for work and work-related activity,
- (e) regulation 20 specifies the information required for determining whether claimants have limited capability for work and work-related activity, and
- (f) regulation 21 makes provision about medical examinations for determining whether claimants have limited capability for work and work-related activity.

When award is to include limited capability for work and work-related activity element

16.—(1) An award of universal credit is to include the limited capability for work and work-related activity element in respect of a claimant for an assessment period if—

- (a) it has been determined that the claimant has limited capability for work and work-related activity on the basis of an assessment (see regulation 17 and Schedule 2),
- (b) it has been determined that the claimant is to be treated as having limited capability for work and work-related activity by virtue of regulation 18, or
- (c) the claimant is entitled to an employment and support allowance which includes the support component.

(2) An award is not to include the limited capability for work and work-related activity element—

- (a) by virtue of paragraph (1)(a) or (c), or
- (b) except where the claimant is determined to be terminally ill, by virtue of paragraph (1)(b),

for any period falling before the end of the period of the relevant period

(3) For the purposes of paragraph (2) “the relevant period” is (subject to paragraph (4)) the period of 13 weeks beginning with the first day for which the claimant has, in accordance with the Social Security (Medical Evidence) Regulations 1976(11) (which prescribe the form of doctor’s statement or other evidence required)—

- (a) provided evidence of limited capability for work and work-related activity in connection with the award of universal credit, or
- (b) (in a case within paragraph (1)(c)) provided evidence of limited capability for work-related activity in connection with an award of employment and support allowance.

(4) Where—

- (a) it has been determined that a claimant—
 - (i) does not have limited capability for work and work-related activity on the basis of an assessment under this Chapter, or
 - (ii) does not have limited capability for work-related activity on the basis of an assessment for the purposes of employment and support allowance, or
- (b) it has been determined that a claimant—
 - (i) is not to be treated as having limited capability for work and work-related activity by virtue of regulation 18, [or
 - (ii) is not to be treated as having limited capability for work-related activity by virtue of some provisions of the ESA Regulations],

and the period of 6 months has not passed since the date of the previous determination, (subject to paragraph (5)) the relevant period is the period of 6 months beginning with that date.

(11) S.I. 1976/615, amended by S.I. 1982/699, S.I. 1987/409, S.I. 1989/1686, S.I. 1991/2284, S.I. 1994/2975, S.I. 1999/3109, S.I. 2001/2931, S.I. 2002/881, S.I. 2002/2469, S.I. 2004/1771, S.I. 2008/1554 and S.I. 2010/137.

(5) Paragraph (4) does not apply if—

- (a) the claimant is suffering from a specific disease, illness or disablement from which the claimant was not suffering at the time of the previous determination,
- (b) a specific disease, illness or disablement from which the claimant was suffering at the time of the previous determination has significantly worsened,
- (c) in the case of a claimant who was treated as not having limited capability for work and work-related activity under regulation 20(4) [or as not having limited capability for work-related activity regulation 37 of the ESA regulations], the claimant has since provided the requested information, or
- (d) the claimant has made and is pursuing an appeal against a decision that embodies the previous determination and that has not been [finally determined].

(6) An award is not to include the limited capability for work and work-related activity element in respect of a claimant who is a joint claimant if the award includes the limited capability for work and work-related activity element in respect of the other joint claimant.

Limited capability for work and work-related activity assessment

17.—(1) A claimant has limited capability for work and work-related activity on the basis of an assessment if on the assessment it is decided that any of the descriptors listed in column 2 of Schedule 2—

- (a) applies in the case of the claimant by reason of a specific—
 - (i) bodily, or
 - (ii) mental,disease, illness or disablement, and
- (b) does so for the majority of the time when, or on the majority of the occasions on which, the claimant undertakes (or attempts to undertake) the activity in column 1 of that Schedule in relation to which the descriptor is specified.

(2) The claimant is to be assessed fitted with, wearing or using any prosthesis which the claimant is fitted with, wearing or using and as if fitted with, wearing or using any aid or appliance which is normally fitted, worn or used.

(3) If a descriptor applies in the case of the claimant as a direct result of treatment provided by a registered medical practitioner for a specific disease, illness or disablement, it is to be treated for the purposes of this regulation as applying by reason of the disease, illness or disablement.

Claimants treated as having limited capability for work and work-related activity

18.—(1) Claimants of the following descriptions are to be treated as having limited capability for work and work-related activity.

(2) A claimant who is terminally ill.

(3) A claimant who—

- (a) is receiving treatment by way of intravenous, intraperitoneal or intrathecal chemotherapy [or is likely to receive such treatment within the period of 6 months beginning with the date of determination of limited capability for work and work-related activity], or
- (b) is recovering from treatment by way of intravenous, intraperitoneal or intrathecal chemotherapy in circumstances in which the Secretary of State is satisfied that the claimant should be treated as having limited capability for work and work-related activity.

(4) A claimant who is a pregnant woman if there is a serious risk of damage to her health or to the health of her unborn child if she does not refrain from work.

(5) A claimant—

- (a) who has been determined as not having limited capability for work and work-related activity on the basis of an assessment under this Chapter [or as not having limited capability for work-related activity on the basis of an assessment for the purposes of employment and support allowance], and
- (b) who is suffering from a specific illness, disease or disablement by reason of which there would be a substantial risk to the physical or mental health of any person were the claimant [found not to have limited capability for work and work-related activity].

Fresh determinations

19.—(1) This regulation applies where—

- (a) it has been determined that a claimant—
 - (i) has limited capability for work and work-related activity on the basis of an assessment on the basis of an assessment under this Chapter, or
 - (ii) has limited capability for work-related activity on an assessment for the purposes of employment and support allowance, or
- (b) it has been determined that a claimant—
 - (i) is to be treated as having limited capability for work and work-related activity by virtue of regulation 18, [or
 - (ii) is to be treated as having limited capability for work-related activity by virtue of some provisions of the ESA Regulations].

(2) The Secretary of State may determine afresh whether a claimant has limited capability for work and work-related activity on the basis of an assessment, or is to be treated as having limited capability for work and work-related activity by virtue of regulation 18, if any of conditions A to C is met.

(3) Condition A is that the Secretary of State wishes to determine whether there has been a relevant change of circumstances in relation to the claimant's physical or mental condition.

(4) Condition B is that the Secretary of State wishes to determine whether the previous determination—

- (a) was made in ignorance of a material fact, or
- (b) was based on a mistake as to a material fact.

(5) Condition C is that at least 3 months have passed since the date of the previous determination.

Information requirement

20.—(1) The information required to determine whether a claimant has limited capability for work and work-related activity is—

- (a) any information relating to the descriptors specified in Schedule 2 which may be requested in the form of a questionnaire, and
- (b) any additional information that may be requested.

(2) But where the Secretary of State is satisfied that there is enough information to determine whether a claimant has limited capability for work and work-related activity without the information mentioned in paragraph (1)(a), that information will not be required for making the determination.

(3) Paragraph (1) does not apply in relation to a determination whether a claimant is to be treated as having limited capability for work and work-related by virtue of regulation 18.

(4) Where a claimant fails without a good reason to comply with a request under paragraph (1)(a), the claimant is to be treated as not having limited capability for work and work-related activity.

(5) But paragraph (4) does not apply unless—

- (a) at least 4 weeks have passed since the claimant was sent the first request to provide the information, and
- (b) the claimant was sent a further request to provide the information at least 4 weeks after the date of the first request and at least 2 weeks have passed since the further request was sent.

Medical examinations

21.—(1) Where it falls to be determined whether a claimant has limited capability for work and work-related activity, the claimant may be called by or on behalf of a health care professional approved by the Secretary of State to attend for a medical examination.

(2) Where a claimant who is called by or on behalf of such a health care professional to attend for a medical examination fails without a good reason to attend for or submit to the examination, the claimant is to be treated as not having limited capability for work and work-related activity.

(3) But paragraph (2) does not apply unless—

- (a) notice of the time and place of the examination was given to the claimant at least 7 days in advance, or
- (b) notice was given less than 7 days in advance and the claimant agreed to accept it.

CHAPTER 7

Carer Element

Introduction

22.—(1) There is to be included in awards of universal credit an amount in respect of a claimant having regular and substantial unpaid caring responsibilities for a severely disabled person (the “carer element”).

(2) But an award is not to include the carer element in respect of the claimant having regular and substantial unpaid caring responsibilities for a severely disabled person if—

- (a) the award contains the limited capability for work and work-related activity element in respect of the claimant,
- (b) the award contains the carer element in respect of the claimant having regular and substantial unpaid caring responsibilities for a different severely disabled person,
- (c) the claimant is a joint claimant and the award includes the carer element in respect of the other joint claimant having regular and substantial unpaid caring responsibilities for the same severely disabled person,
- (d) any other award of universal credit includes the carer element in respect of a claimant having regular and substantial unpaid caring responsibilities for the same severely disabled person, or
- (e) a person other than the claimant is entitled to carer’s allowance in respect of the same severely disabled person.

(3) Where (apart from this paragraph) 2 or more persons would be entitled to the carer element as part of separate awards of universal credit in respect of the same severely disabled person, the only one who is so entitled is the one whom they jointly elect by notice given in writing to the Secretary of State.

(4) In this Chapter—

- (a) regulation 23 specifies when a claimant has regular and substantial unpaid caring responsibilities for a severely disabled person, and
- (b) regulation 24 defines “severely disabled person”.

When claimant has regular and substantial unpaid caring responsibilities for severely disabled person

23.—(1) A claimant has regular and substantial unpaid caring responsibilities for a severely disabled person if condition A or B is met.

(2) Condition A is that the claimant is entitled to carer’s allowance [or would be but for regulations under section 73 of the Social Security Administration Act 1992(12) (overlapping benefits)].

(3) Condition B is that the claimant regularly cares, or is likely regularly to care, for a severely disabled person for at least 35 hours a week without receiving earnings in consideration of providing the care.

(4) For the purposes of paragraph (3), if a claimant cares for 2 or more severely disabled persons the claimant is not to be regarded as regularly caring for a severely disabled person for at least 35 hours a week unless the claimant regularly cares for at least one of them for at least 35 hours a week.

(5) A claimant is to be treated for the purposes of paragraph (3) as regularly caring for a severely disabled person for at least 35 hours a week if the claimant establishes—

- (a) that the claimant has only temporarily ceased to care for a severely disabled person for at least 35 hours a week (for example, because of a holiday or the severely disabled person being in residential care for a short stay), and
- (b) that the claimant cared for the severely disabled person for at least 35 hours a week for at least 14 weeks of the last 26 weeks and would have done so for at least 22 of the last 26 weeks but for the fact that the severely disabled person for whom the claimant was caring, or the claimant, was undergoing medical or other treatment as an inpatient in a hospital or other institution.

(6) If a severely disabled person for whom the claimant was regularly caring for at least 35 hours a week dies, the claimant is to be treated for the purposes of paragraph (3) as regularly caring for a severely disabled person for the period of 8 weeks beginning with the Sunday on which, or the Sunday next after the day on which, the severely disabled person dies.

(7) In paragraph (3) “earnings” has the same meaning as in Parts 1 to 5 of the Social Security Contributions and Benefits Act 1992 (see section 3 of that Act(13)).

Meaning of “severely disabled person”

24.—(1) In this Chapter “severely disabled person” means a person in respect of whom there is payable—

- (a) an attendance allowance,
- (b) a disability living allowance by virtue of entitlement to the care component at the highest or middle rate,
- (c) a personal independence payment by virtue of entitlement to a daily living component, or
- (d) a constant attendance allowance (see paragraph (2)) at a weekly rate not less than the amount specified in paragraph 2(a) of Part 5 of Schedule 4 to the Social Security Contributions and Benefits Act 1992(14).

(2) In paragraph (1)(d) “constant attendance allowance” means—

- (a) a payment under section 104 of the Social Security Contributions and Benefits Act 1992 (increase of disablement pension where constant attendance needed),
- (b) a payment of a corresponding increase such as is referred to in regulation 20(1) of the Social Security (General Benefits) Regulations 1982(15),

(12) 1992 c. 5. Section 73 has been amended by the Jobseekers Act 1995, the Civil Partnership Act 2004, the Child Benefit Act 2005 and the Welfare Reform Act 2007

(13) Section 3 has been amended by the Social Security Act 1998 and the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(14) Paragraph 2(a) of Part 5 of Schedule 4 was last substituted by S.I. 2011/821.

- (c) a payment such as is referred to in paragraph 6(4)(b) of Schedule 8 to the Social Security Contributions and Benefits Act 1992 (increase of an allowance by virtue of paragraph 4(1)(a) of that Schedule where the person in respect of whom the allowance is payable requires constant attendance as a result of disablement), or
- (d) a payment by way of an allowance in respect of constant attendance on account of disablement for which the person is in receipt of a war disablement pension within the meaning of section 150 of the Social Security Contributions and Benefits Act 1992(16).

CHAPTER 8

Childcare Costs Element

NOT INCLUDED

CHAPTER 9

Interpretation of Part

When a person is “responsible” for another person

25.—(1) For the purposes of this Part a person (P) is responsible for another person (R) if R is normally living with P (but subject as follows).

(2) Where R spends equal amounts of time in different households, or where there is a question as to which household R is living in, R is to be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of R, or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of R, the person who made that claim, and
 - (ii) otherwise, the person who has primary responsibility for R.

(3) Paragraph (1) applies even if R is temporarily living away from P.

(4) For the purposes of this Part only one person is responsible for another person in any assessment period and any person other than the one treated as responsible for the person under this regulation is to be treated as not so responsible.

Other definitions

26. In this Part—

“attendance allowance” means an attendance allowance under section 64 of the Social Security Contributions and Benefits Act 1992(17);

“carer’s allowance” means a carer’s allowance under section 70 of that Act(18);

“contributory employment and support allowance” means an employment and support allowance entitlement to which is based on section 1(2)(a) of the Welfare Reform Act 2007(19);

“custodial sentence” means—

(15) S.I. 1982/1408.

(16) The definition of “war disablement pension” was amended by the Income Tax (Earnings and Pensions) Act 2003.

(17) Section 64 has been amended by the Welfare Reform and Pensions Act 1999 and the Pensions Act 2007.

(18) Section 70 has been amended by S.I. 1994/2556 and S.I. 2002/1457.

(19) 2007 c. 5.

(a) in England and Wales, has the meaning given by section 76 of the Powers of Criminal Courts Sentencing) Act 2000(20), and

(b) in Scotland, means detention imposed by a court under section 44, 205, 207 or 208 of the Criminal Procedure (Scotland) Act 1995(21);

“disability living allowance” means a disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992 (22);

“employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act 2007;

“health care professional” means—

(a) a registered medical practitioner,

(b) a registered nurse, or

(c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999(23);

“jobseeker’s allowance” means a jobseeker’s allowance under the Jobseekers Act 1995(24);

“personal independence payment” means a personal independence payment under Part 4 of the Welfare Reform Act 2011;

“support component” is to be construed in accordance with section 2 of the Welfare Reform Act 2007;

“terminally ill”, in relation to a claimant, means that—

(a) the claimant is suffering from a progressive disease, and

(b) death in consequence of that disease can reasonably be expected within 6 months;

“work-related activity component” is to be construed in accordance with section 2 of the Welfare Reform Act 2007.

SCHEDULES

SCHEDULE 1

Regulations 8, 9, 10 and 13

ASSESSMENT OF WHETHER A CLAIMANT HAS LIMITED CAPABILITY FOR WORK

PART 1

Physical Assessment

<i>Column (1)</i> <i>Activity</i>	<i>Column (2)</i> <i>Descriptors</i>	<i>Column (3)</i> <i>Points</i>
1. Mobilising unaided by another person with or without a walking stick, manual	(a) Cannot either— (i) mobilise more than 50 metres on level	15

(20) 2000 c. 6. Section 76 has been amended by the Criminal Justice and Court Services Act 2000 and the Criminal Justice Act 2003.

(21) 1995 c. 46. Section 44 has been amended by the Crime and Punishment (Scotland) Act 1997 and the Antisocial Behaviour etc. (Scotland) Act 2004; section 205 has been amended by Convention Rights (Compliance) (Scotland) Act 2001; section 207 has been amended by the Crime and Punishment (Scotland) Act 1997 and the Violent Crime Reduction Act 2006; section 208 has been amended by the Criminal Justice Act 2003, the Violent Crime Reduction Act 2006, the Antisocial Behaviour etc. (Scotland) Act 2004 and the Criminal Justice and Licensing (Scotland) Act 2010.

(22) Section 71 has been amended by the Welfare Reform and Pensions Act 1999.

(23) 1999 c. 21.

(24) 1995 c. 18.

wheelchair or other aid if such aid can reasonably be used.	<p>ground without stopping in order to avoid significant discomfort or exhaustion, or</p> <p>(ii) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.</p>	9
	(b) Cannot mount or descend 2 steps unaided by another person, even with the support of a handrail.	9
	(c) Cannot either—	
	<p>(i) mobilise more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or</p> <p>(ii) repeatedly mobilise 100 metres within a reasonable timescale because of significant discomfort or exhaustion.</p>	6
	(d) Cannot either—	
	<p>(i) mobilise more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or</p> <p>(ii) repeatedly mobilise 200 metres within a reasonable timescale because of significant discomfort or exhaustion.</p>	0
	(e) None of the above apply.	
2. Standing and sitting.	(a) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	15
	(b) Cannot, for the majority of the time, remain at a work station, either—	9
	<p>(i) standing unassisted by another person (even if free to move around), or</p> <p>(ii) sitting (even in an adjustable chair),</p> <p>for more than 30 minutes before needing to move away in order to avoid significant discomfort or exhaustion.</p>	
	(c) Cannot, for the majority of the time, remain at a work station, either—	9
	<p>(i) standing unassisted by another person (even if free to move around), or</p> <p>(ii) sitting (even in an adjustable chair),</p> <p>for more than an hour before needing to move away in order to avoid significant discomfort or exhaustion.</p>	
	(d) None of the above apply.	0
3. Reaching.	(a) Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
	(b) Cannot raise either arm to top of head as if to put on a hat.	9
	(c) Cannot raise either arm above head height as if to reach for something.	6

	(d) None of the above apply.	0
4. Picking up and moving or transferring by the use of the upper body and arms.	(a) Cannot pick up and move a 0.5 litre carton full of liquid with either hand.	15
	(b) Cannot pick up and move a 1 litre carton full of liquid with either hand.	9
	(c) Cannot pick up and move a light but bulky object such as an empty cardboard box.	6
	(d) None of the above apply.	0
5. Manual dexterity.	(a) Cannot either—	15
	(i) press a button, such as a telephone keypad, or	
	(ii) turn the pages of a book,	
	with either hand.	15
	(b) Cannot pick up a £1 coin or equivalent with either hand.	9
	(c) Cannot use a pen or pencil to make a meaningful mark.	9
	(d) Cannot use a suitable keyboard or mouse.	0
	(e) None of the above apply.	0
6. Making self understood through speaking, writing, typing, or other means normally used, unaided by another person.	(a) Cannot convey a simple message, such as the presence of a hazard.	15
	(b) Has significant difficulty conveying a simple message to strangers.	15
	(c) Has some difficulty conveying a simple message to strangers.	6
	(d) None of the above apply.	0
7. Understanding communication by both verbal means (such as hearing or lip reading) and non-verbal means (such as reading 16 point print) using any aid it is reasonable to expect the claimant to use, unaided by another person.	(a) Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.	15
	(b) Has significant difficulty understanding a simple message from a stranger due to sensory impairment.	15
	(c) Has significant difficulty understanding a simple message from a stranger due to sensory impairment.	6
	(d) None of the above apply.	0
8. Navigation and maintaining safety, using a guide dog or other aid if normally used.	(a) Unable to navigate around familiar surroundings, without being accompanied by another person, due to sensory impairment.	15
	(b) Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another person, due to sensory impairment	15
	(c) Unable to navigate around unfamiliar surroundings, without being accompanied by another person, due to sensory impairment.	9
	(d) None of the above apply.	0

9. Absence or loss of control leading to extensive evacuation of the bowel and/or bladder, other than enuresis (bedwetting,) despite the presence of any aids or adaptations normally used.	(a) At least once a month experiences—	15
	(i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, or	
	(ii) substantial leakage of the contents of a collecting device, sufficient to require cleaning and a change in clothing.	
	(b) At risk of loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, sufficient to require cleaning and a change in clothing, if not able to reach a toilet quickly.	6
	(c) None of the above apply	0
10. Consciousness during waking moments.	(a) At least once a week has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	15
	(b) At least once a month has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	6
	(c) None of the above apply.	0

PART 2

Mental, Cognitive and Intellectual Function Assessment

<i>Column (1)</i> <i>Activity</i>	<i>Column (2)</i> <i>Descriptors</i>	<i>Column (3)</i> <i>Points</i>
11. Learning tasks.	(a) Cannot learn how to complete a simple task, such as setting an alarm clock.	15
	(b) Cannot learn anything beyond a simple task, such as setting an alarm clock.	9
	(c) Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine to clean clothes.	6
	(d) None of the above apply.	0
12. Awareness of everyday hazards (such as boiling water or sharp objects).	(a) Reduced awareness of everyday hazards leads to a significant risk of— (i) injury to self or others, or (ii) damage to property or possessions, such that the claimant requires supervision for the majority of the time to maintain safety.	15
	(b) Reduced awareness of everyday hazards leads to a significant risk of— (i) injury to self or others, or (ii) damage to property or possessions, such that the claimant frequently requires	9

	supervision to maintain safety.	
	(c) Reduced awareness of everyday hazards leads to a significant risk of—	6
	(i) injury to self or others, or	
	(ii) damage to property or possessions,	
	such that the claimant occasionally requires supervision to maintain safety.	
	(d) None of the above apply.	0
	.	
13. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	(a) Cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions.	15
	(b) Cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions for the majority of the time.	9
	(c) Frequently cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions for the majority of the time.	6
	(d) None of the above apply.	0
14. Coping with change.	(a) Cannot cope with any change to the extent that day to day life cannot be managed.	15
	(b) Cannot cope with minor planned change (such as a pre-arranged permanent change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult.	9
	(c) Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that overall day to day life is made significantly more difficult.	6
	(d) None of the above apply.	0
15. Getting about.	(a) Cannot get to any specified place with which the claimant is familiar.	15
	(b) Is unable to get to a specified place with which the claimant is familiar without being accompanied by another person.	9
	(c) Is unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person.	6
	(d) None of the above apply.	0
16. Coping with social engagement due to cognitive impairment or mental disorder.	(a) Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the claimant.	15
	(b) Engagement in social contact with someone unfamiliar to the claimant is always precluded due to difficulty relating to others or significant distress experienced by the claimant.	9
	(c) Engagement in social contact with someone unfamiliar to the claimant is not possible for the majority of the time due to difficulty relating to	6

	others or significant distress experienced by the claimant.	
	(d) None of the above apply.	0
17. Appropriateness of behaviour with other people due to cognitive impairment or mental disorder.	(a) Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
	(b) Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
	(c) Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	9
	(d) None of the above apply.	0

SCHEDULE 2

Regulations 15, 16, 17 and 20

ASSESSMENT OF WHETHER A CLAIMANT HAS LIMITED CAPABILITY FOR WORK AND WORK-RELATED ACTIVITY

<i>Column (1)</i> <i>Activity</i>	<i>Column (2)</i> <i>Descriptors</i>
1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used.	Cannot either— (a) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or (b) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.
2. Transferring from one seated position to another.	Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.
3. Reaching.	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.
4. Picking up and moving or transferring by the use of the upper body and arms (excluding standing, sitting, bending or kneeling and all other activities specified in this Schedule).	Cannot pick up and move a 0.5 litre carton full of liquid.
5. Manual dexterity.	Cannot either— (a) press a button, such as a telephone keypad, or (b) turn the pages of a book, with either hand.
6. Making self understood through speaking, writing, typing or other	Cannot convey a simple message, such as the presence of a hazard.

means normally used.

- | | |
|---|--|
| 7. Understanding communication by hearing, lip reading, reading 16 point print or using any aid if reasonably used. | Cannot understand a simple message due to sensory impairment, such as the location of a fire escape. |
| 8. Absence or loss of control over extensive evacuation of the bowel and/or voiding of the bladder, other than enuresis (bed-wetting), despite the presence of any aids or adaptations normally used. | At least once a week experiences—
(a) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder,
(b) substantial leakage of the contents of a collecting device,
sufficient to require cleaning and a change in clothing. |
| 9. Learning tasks. | Cannot learn how to complete a simple task, such as setting an alarm clock, due to cognitive impairment or mental disorder. |
| 10. Awareness of hazard. | Reduced awareness of everyday hazards, due to cognitive impairment or mental disorder, leads to a significant risk of—
(a) injury to self or others, or
(b) damage to property or possessions,
such the claimant requires supervision for the majority of the time to maintain safety. |
| 11. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks). | Cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions. |
| 12. Coping with change. | Cannot cope with any change, due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed. |
| 13. Coping with social engagement due to cognitive impairment or mental disorder. | Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the claimant. |
| 14. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder. | Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace. |
| 15. Conveying food or drink to the mouth. | (a) Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else;
(b) Cannot convey food or drink to the claimant's own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort;
(c) Cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's physical presence; |

(d) Due to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving—

- (i) physical assistance from someone else, or
- (ii) regular prompting given by someone else in the claimant's presence.

16. Chewing or swallowing food or drink.

(a) Cannot chew or swallow food or drink;

(b) Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort;

(c) Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence;

(d) Due to severe disorder of mood or behaviour, fails to—

- (i) chew or swallow food or drink, or
- (ii) chew or swallow food or drink without regular prompting given by someone else in the claimant's presence.