

Status: Point in time view as at 01/07/2008. This version of this cross heading contains provisions that are not valid for this point in time.
Changes to legislation: Welfare Reform Act (Northern Ireland) 2007, Cross Heading: Assessments relating to entitlement is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



2007 CHAPTER 2

PART 1

EMPLOYMENT AND SUPPORT ALLOWANCE

Assessments relating to entitlement

Limited capability for work

8.—(1) For the purposes of this Part, whether a person's capability for work is limited by his physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require him to work shall be determined in accordance with regulations.

(2) Regulations under subsection (1) shall—

- (a) provide for determination on the basis of an assessment of the person concerned;
- (b) define the assessment by reference to the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing such activities as may be prescribed;
- (c) make provision as to the manner of carrying out the assessment.

(3) Regulations under subsection (1) may, in particular, make provision—

- (a) as to the information or evidence required for the purpose of determining the matters mentioned in that subsection;
- (b) as to the manner in which that information or evidence is to be provided;
- (c) for a person in relation to whom it falls to be determined whether he has limited capability for work to be called to attend for such medical examination as the regulations may require.

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(4) Regulations under subsection (1) may include provision—

- (a) for a person to be treated as not having limited capability for work if he fails without good cause—
 - (i) to provide information or evidence which he is required under such regulations to provide,
 - (ii) to provide information or evidence in the manner in which he is required under such regulations to provide it, or
 - (iii) to attend for, or submit himself to, a medical examination for which he is called under such regulations to attend;
- (b) as to matters which are, or are not, to be taken into account in determining for the purposes of any provision made by virtue of paragraph (a) whether a person has good cause for any act or omission;
- (c) as to circumstances in which a person is, or is not, to be regarded for the purposes of any such provision as having good cause for any act or omission.

(5) Regulations may provide that, in prescribed circumstances, a person in relation to whom it falls to be determined whether he has limited capability for work, shall, if prescribed conditions are met, be treated as having limited capability for work until such time as—

- (a) it has been determined whether he has limited capability for work, or
- (b) he falls in accordance with regulations under this section to be treated as not having limited capability for work.

(6) The prescribed conditions referred to in subsection (5) may include the condition that it has not previously been determined, within such period as may be prescribed, that the person in question does not have, or is to be treated as not having, limited capability for work.

Commencement Information

- II** S. 8 wholly in operation at 27.10.2008; s. 8 not in operation at Royal Assent see s. 60(1); s. 8 (except subsection (4)(c)) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by [S.R. 2008/276](#), [art. 2\(2\)\(c\)](#), [Sch. Pt. 1](#); s. 8 in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276](#), [art. 2\(2\)\(d\)](#), [Sch. Pt. 2](#)

Limited capability for work-related activity

9.—(1) For the purposes of this Part, whether a person's capability for work-related activity is limited by his physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require him to undertake such activity shall be determined in accordance with regulations.

(2) Regulations under subsection (1) shall—

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- (a) provide for determination on the basis of an assessment of the person concerned;
 - (b) define the assessment by reference to such matters as the regulations may provide;
 - (c) make provision as to the manner of carrying out the assessment.
- (3) Regulations under subsection (1) may, in particular, make provision—
- (a) as to the information or evidence required for the purpose of determining the matters mentioned in that subsection;
 - (b) as to the manner in which that information or evidence is to be provided;
 - (c) for a person in relation to whom it falls to be determined whether he has limited capability for work-related activity to be called to attend for such medical examination as the regulations may require.
- (4) Regulations under subsection (1) may include provision—
- (a) for a person to be treated as not having limited capability for work-related activity if he fails without good cause—
 - (i) to provide information or evidence which he is required under such regulations to provide,
 - (ii) to provide information or evidence in the manner in which he is required under such regulations to provide it, or
 - (iii) to attend for, or submit himself to, a medical examination for which he is called under such regulations to attend;
 - (b) as to matters which are, or are not, to be taken into account in determining for the purposes of any provision made by virtue of paragraph (a) whether a person has good cause for any act or omission;
 - (c) as to circumstances in which a person is, or is not, to be regarded for the purposes of any such provision as having good cause for any act or omission.

Commencement Information

- I2** S. 9 wholly in operation at 27.10.2008; s. 9 not in operation at Royal Assent see s. 60(1); s. 9 (except subsection (4)(c)) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by [S.R. 2008/276](#), [art. 2\(2\)\(c\)](#), [Sch. Pt. 1](#); s. 9 in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276](#), [art. 2\(2\)\(d\)](#), [Sch. Pt. 2](#)

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VALID FROM 27/10/2008

Report

10 The Department shall lay before the Assembly an independent report on the operation of the assessments under sections 8 and 9 annually for the first five years after these sections come into effect.

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