

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Personal independence payment

Section 78: Daily living component

363. *Section 78* sets out the entitlement conditions to the different rates of the daily living component of personal independence payment.
364. *Subsection (1)* provides that a person is entitled to the standard rate of the daily living component if their ability to carry out daily living activities is limited by their physical or mental condition. If a person's ability is severely limited by their physical or mental condition *subsection (2)* provides for that person to be entitled to the enhanced rate. Whether an individual has limited ability or severely limited ability will be determined by an assessment set out in regulations made under *section 80*. Sensory, intellectual and cognitive impairments may be relevant to a person's physical or mental condition and therefore to the question of whether the person's ability to carry out daily living activities is limited or severely limited.
365. *Subsections (1)(b)* and *(2)(b)* provide that to be entitled to either the standard or enhanced rate of the daily living component, the person must also meet the required period condition. This is outlined in the notes relating to *section 81*. The required period condition also applies where personal independence payment is subject to review, subject to certain exceptions which will be set out in regulations under powers in *section 81*.
366. *Subsection (3)* provides that the standard and enhanced rates are weekly rates which are to be specified in regulations.
367. *Subsection (4)* provides for the activities relating to the daily living component – “daily living activities” – to be prescribed in regulations. It is envisaged that these may include, but not be limited to, activities relating to accessing food and drink; managing personal health needs; managing personal care needs; and communication. The first regulations under this subsection will be subject to the affirmative resolution procedure.
368. *Subsection (5)* refers to *sections 80* and *81* which set out how a person's ability to carry out daily living activities is to be assessed and how the required period condition operates.
369. *Subsection (6)* makes clear that this section is subject to other provisions of Part 4, or to regulations under it, for example in circumstances when the person is terminally ill (see *section 82*).