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STATUTORY INSTRUMENTS

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**1995 No. 311**

**SOCIAL SECURITY**

**The Social Security (Incapacity for Work) (General) Regulations 1995**

*Made* - - - - *10th February 1995*

*Coming into force* - - *13th April 1995*

Whereas a draft of this instrument was laid before Parliament in accordance with section 6(3) of the Social Security (Incapacity for Work) Act 1994<sup>(1)</sup> and approved by resolution of each House of Parliament.

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred by section 61A of the Social Security Administration Act 1992<sup>(2)</sup> and sections 171A, 171B, 171C, 171D, 171E, 171G(2) and 175(2) to (4) of the Social Security Contributions and Benefits Act 1992<sup>(3)</sup> and of all other powers enabling him in that behalf, by this instrument which contains only regulations made by virtue of section 5 and 6 of the Social Security (Incapacity for Work) Act 1994 and which is made before the end of the period of 6 months beginning with the coming into force of that Act<sup>(4)</sup>, after consultation with the Council on Tribunals<sup>(5)</sup>, hereby makes the following Regulations:

**PART I**  
**GENERAL**

**Citation and commencement**

**1.** These Regulations may be cited as the Social Security (Incapacity for Work) (General) Regulations 1995 and shall come into force on 13th April 1995.

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(1) 1994 c. 18.

(2) 1992 c. 5.

(3) 1992 c. 4. Sections 171A, 171B and 171C were inserted by section 5 of the Social Security (Incapacity for Work) Act 1994, sections 171D and 171E were inserted by section 6(1) of that Act and section 61A was inserted by section 6(2) of that Act. Section 171G(2) is cited for the meaning it gives to "prescribed".

(4) See the Social Security Administration Act 1992 (c. 5), section 173(5)(a). This provides that regulations made before the end of six months from the coming into force of the enactment under which they are made are not required to be referred to the Social Security Advisory Committee.

(5) See section 8 of the Tribunals and Enquiries Act 1992 (c. 53).

## Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“activity” means an activity specified in column (1) of Parts I and II of the Schedule;

“adjudication officer” means an officer appointed in accordance with section 38(1) of the Administration Act;

“the Administration Act” means the Social Security Administration Act 1992;

“the all work test” means the test defined in Part III of these Regulations;

“benefit” does not include statutory sick pay or industrial injuries benefit;

“confinement” has the meaning given to it by section 171(1) of the Contributions and Benefits Act;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“descriptor” means, in relation to an activity, the descriptor in column (2) of the Schedule which describes a person’s ability to perform that activity;

“disability appeal tribunal” means a tribunal constituted under section 43 of the Administration Act;

“the Disability Living Allowance Advisory Board” means the board referred to in section 175(1) of the Administration Act;

“doctor” means a registered medical practitioner;

“the own occupation test” means the test defined in section 171B of the Contributions and Benefits Act;

“the President” means the President of the social security appeal tribunals, disability appeal tribunals and medical appeal tribunals;

“social security appeal tribunal” means a tribunal constituted under section 41 of the Administration Act;

“spell or incapacity” has the meaning given to it by section 171B(3) of the Contributions and Benefits Act;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

“volunteer” means a person who is engaged in voluntary work with a charity or voluntary organisation, or who is engaged in voluntary work otherwise than for a close relative, where the only payment received by him or due to be paid to him by virtue of being so engaged in respect of any expenses reasonably incurred by him in connection with that work;

“week” means any period of 7 days.

(2) In these Regulations, unless the context otherwise requires, any reference—

(a) to a numbered regulation is to the regulation in these Regulations bearing that number;

(b) to the Schedule is to the Schedule to these Regulations.

## Application

3. These Regulations do not apply for the purposes of Part V (benefit for industrial injuries) or Part XI (statutory sick pay) of the Contributions and Benefits Act.

**PART II**  
**GENERAL PROVISIONS RELATING TO INCAPACITY FOR WORK**  
**CHAPTER I**  
**OWN OCCUPATION TEST**

**Definition of “remunerative work”**

4.—(1) For the purposes of section 171B of the Contributions and Benefits Act (the own occupation test) “remunerative work” in relation to the period of 21 weeks referred to in that section means work—

- (a) in one occupation in which a person was engaged for 16 or more hours a week for more than 8 weeks; and
  - (b) for which payment was made or which was done in expectation of payment.
- (2) For the purposes of this regulation and regulation 5—
- (a) one occupation comprises either—
    - (i) all work of the same kind, whether or not it is for the same employer and whether a person is employed or self-employed; or
    - (ii) all work for the same employer; and
  - (b) a person who was normally engaged in one occupation for 16 or more hours a week shall be treated as if he had been engaged in that occupation in relation to any week when he was on paid or unpaid leave from that occupation.

**Person with more than one occupation**

5. Where a person was engaged in more than one occupation which qualified as remunerative work in the period of 21 weeks referred to in regulation 4, his occupation for the purposes of the own occupation test is the last such occupation in which he was engaged during that period; but if, during his last week of remunerative work in that period, he was engaged in more than one such occupation he must satisfy the own occupation test in respect of each.

**CHAPTER II**  
**INFORMATION AND EVIDENCE**

**Information required for determining capacity for work**

6.—(1) Subject to paragraph (2) the information or evidence required for the purposes of determining whether a person is capable or incapable of work is—

- (a) where the own occupation test or the all work test applies, evidence of his incapacity for work in accordance with the Social Security (Medical Evidence) Regulations 1976(6) (which prescribe the form of doctor’s statement or other evidence required in each case);
- (b) where the all work test applies, such information as the Secretary of State may request in the form of a questionnaire relating to a person’s ability to perform the activities referred to in the Schedule;
- (c) such additional information relating to the relevant test as the Secretary of State may request.

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(6) S.I.1976/615; relevant amending instruments are S.I. 1982/699, S.I. 1989/1686, S.I. 1992/247 and S.I. 1994/2975.

(2) Where the Secretary of State is satisfied that he has sufficient information for a determination whether a person is capable or incapable of work without the information specified in paragraph (1) (b), that information shall not be required for the purposes of that determination.

(3) Where it has been determined that a person is to be treated as incapable of work under regulations 10 to 14 the information referred to in paragraph (1) shall not be required.

**Failure to provide information**

7.—(1) Where a person fails without good cause to comply with a request of the Secretary of State to provide the information referred to in regulation 6(1)(b) (all work test questionnaire) he shall, subject to paragraph (2), be treated as capable of work.

- (2) A person shall not be treated as capable of work under paragraph (1) unless—
- (a) at least 6 weeks have elapsed since the Secretary of State sent that person the first request for that information; and
  - (b) the Secretary of State has sent that person a further request at least 4 weeks after the first, and at least 2 weeks have elapsed since that further request was sent.

**Person may be called for a medical examination**

8.—(1) Where a question arises as to whether a person is capable of work, he may be called by or on behalf of a doctor approved by the Secretary of State to attend for a medical examination.

(2) Subject to paragraph (3) where a person fails without good cause to attend for or submit himself to such an examination, he shall be treated as capable of work.

(3) A person shall not be treated as capable of work under paragraph (2) unless written notice of the time and place for the examination was sent to him at least 7 days beforehand, or unless he agreed to accept a shorter period of notice.

**Matters to be taken into account in determining good cause**

9. The matters which are to be taken into account in determining whether a person has good cause under regulation 7 or 8 (failure to provide information or attend a medical examination) shall include—

- (a) whether he was outside Great Britain at the relevant time;
- (b) his state of health at the relevant time; and
- (c) the nature of any disability from which he suffers.

CHAPTER III

PERSONS TREATED AS INCAPABLE

**Certain persons with a severe condition to be treated as incapable of work**

10.—(1) A person shall be treated as incapable of work on any day on which any of the circumstances set out in paragraph (2) apply to him.

- (2) The circumstances are—
- (a) that he is in receipt of the highest rate care component of disability living allowance;
  - (b) that he is suffering from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months;

- (c) that he is a blind person whose name is on a register compiled and maintained by a local authority under section 29 of the National Assistance Act 1948(7) (welfare services) or, in Scotland, has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a regional or islands council;
- (d) that he is suffering from any of the following conditions—
  - (i) tetraplegia;
  - (ii) persistent vegetative state;
  - (iii) dementia;
  - (iv) paraplegia or uncontrollable involuntary movements or ataxia which effectively renders the sufferer functionally paraplegic;
- (e) that a doctor approved by the Secretary of State has certified that he is suffering from any of the following conditions—
  - (i) a severe learning disability (which, for the purposes of this regulation, means a condition which results from the arrested or incomplete physical development of the brain, or severe damage to the brain, and which involves severe impairment of intelligence and social functioning);
  - (ii) a severe and progressive neurological and muscle wasting disease;
  - (iii) an active and progressive form of inflammatory polyarthritis;
  - (iv) a progressive impairment of cardio-respiratory function which severely and persistently limits effort tolerance;
  - (v) dense paralysis of the upper limb, trunk and lower limb on one side of the body;
  - (vi) multiple effects of impairment of function of the brain or nervous system causing severe and irreversible motor, sensory and intellectual deficits;
  - (vii) a severe and progressive immune deficiency state characterised by the occurrence of opportunistic infections or tumour formation;
  - (viii) a severe mental illness.

#### **Person with an infectious or contagious disease**

11. A person shall be treated as incapable of work on any day in respect of which he is excluded from work on the certificate of a Medical Officer for Environmental Health and is under medical observation by reason of his being a carrier, or having been in contact with a case, of infectious or contagious disease.

#### **Hospital in-patients**

12. A person shall be treated as incapable of work on any day on which he is undergoing medical or other treatment as an in-patient in a hospital or similar institution.

#### **Person receiving certain regular treatment**

- 13.—(1) The following provisions of this regulation apply to a person receiving—
- (a) regular weekly treatment by way of haemodialysis for chronic renal failure or peritoneal dialysis for chronic renal failure;
  - (b) treatment by way of plasmapheresis, by way of parenteral chemotherapy with cytotoxic drugs, anti-tumour agents or immuno-suppressive drugs or by way of radiotherapy; or

- (c) regular weekly treatment by way of total parenteral nutrition for gross impairment of enteric function.
- (2) A person referred to in paragraph (1) shall be treated as incapable of work on any day on which he is engaged in that treatment.
- (3) A person who works during any week in which he receives treatment referred to in paragraph (1) shall be treated as capable of work for the purposes of regulation 16 only on the actual day or days on which he works in that week.
- (4) Section 171B(3) of the Contributions and Benefits Act (which defines a spell of incapacity) shall have effect in relation to a person referred to in paragraph (1) as if the period of 4 days mentioned in that section were a period of 2 days, whether consecutive or not, in a period of 7 consecutive days.

### **Pregnancy**

- 14. A pregnant woman shall be treated as incapable of work—
  - (a) on any day on which, because of her pregnancy, there is a serious risk of damage to her health or to the health of her unborn child if—
    - (i) in a case where the own occupation test applies, she does not refrain from work in the occupation which is relevant for the purposes of that test; or
    - (ii) in a case where the all work test applies, she does not refrain from work in any occupation; or
  - (b) in the case of a woman whose expected or actual date of confinement has been certified in accordance with the Social Security (Medical Evidence) Regulations 1976, on any day in the period—
    - (i) beginning with the first day of the 6th week before the expected week of her confinement or the actual date of her confinement, whichever is earlier; and
    - (ii) ending on the 14th day after the actual date of her confinement,if she would have no entitlement to a maternity allowance or statutory maternity pay were she to make a claim in respect of that period.

### **Person to be treated as incapable of work throughout a day**

- 15. A person who at the commencement of any day is, or thereafter becomes, incapable of work by reason of some specific disease or bodily or mental disablement shall be treated as incapable of work throughout that day.

## CHAPTER IV

### TREATING AS CAPABLE, DISQUALIFICATION ETC.

### **Person who works to be treated as capable of work**

- 16.—(1) Subject to paragraphs (3) and (4) and regulation 13(3) (persons receiving certain regular treatment) a person shall be treated as capable of work on each day of any week commencing on Sunday during which he does work to which this regulation applies (notwithstanding that it has been determined that he is, or is to be treated under regulations 10 to 15 or 26 as, incapable of work or that he meets the conditions set out in regulation 28(2) for treating the all work test as satisfied until assessment) unless that work—
  - (a) falls into any of the categories of exempt work set out in regulation 17(1); and
  - (b) is done within the limits set out in regulation 17(2).

(2) Work to which this regulation applies is any work which a person does (not being work as a councillor that is to be disregarded under section 171F of the Contributions and Benefits Act), whether or not he undertakes it in expectation of payment, apart from care of a close relative or domestic tasks carried out in his own home.

(3) A person who does work to which this regulation applies in a week which is—

(a) the week in any spell of incapacity in which he first becomes entitled to a benefit, allowance or advantage on account of his incapacity for work; or

(b) the last week in any spell of incapacity,

shall be treated as capable of work by virtue of paragraph (1) only on the actual day or days in that week on which he does that work.

(4) A person shall not be treated as capable of work under this regulation by reason only of the fact that, during an emergency, he undertakes any activity to protect another person or to prevent serious damage to property or livestock.

### **Exempt work**

17.—(1) The categories of exempt work referred to in regulation 16(1)(a) are—

(a) work undertaken on the advice of a doctor which—

(i) helps to improve, or to prevent or delay deterioration in, the disease or bodily or mental disablement which causes that person's incapacity for work; or

(ii) is part of a treatment programme and is done under medical supervision while that person is an in-patient or regularly attending as an out-patient of a hospital or similar institution; or

(iii) is done while that person is attending an institution which provides sheltered work for people with disabilities;

(b) work done as a volunteer;

(c) duties undertaken as a member of a disability appeal tribunal or the Disability Living Allowance Advisory Board.

(2) The weekly limits in relation to exempt work are—

(a) that earnings from work referred to in paragraph (1)(a) do not exceed £43;

(b) that, subject to paragraph (3), the combined total of the number of hours spent doing work referred to in paragraph (1)(a)(i) or (b) is less than 16;

(c) that work referred to in paragraph (1)(c) is not undertaken on more than one day.

(3) A person shall not be treated as capable of work because he has exceeded the limit referred to in paragraph (2)(b) in any week, if he has worked or would be expected to work, as the case may be, an average of less than 16 hours a week—

(a) in a case where a recognisable cycle in respect of that person's work has been established, in the period of that cycle in which the week in question falls; or

(b) in any other case, in the period which comprises that week and the 4 weeks preceding it.

### **Disqualification for misconduct etc.**

18.—(1) Paragraph (2) applies where a person—

(a) has become incapable of work through his own misconduct, except that this disqualification shall not apply in a case where the incapacity is due to pregnancy or a sexually transmitted disease; or

- (b) fails without good cause to attend for or submit himself to medical or other treatment (excluding vaccination, inoculation or major surgery) which could significantly improve his medical condition or any disability arising therefrom or which would be likely to render him capable of work; or
  - (c) fails without good cause to observe any of the following rules of behaviour, namely—
    - (i) to refrain from behaviour calculated to retard his recovery; or
    - (ii) not to be absent from his place of residence without leaving word where he may be found.
- (2) A person referred to in paragraph (1) shall—
- (a) if he is entitled to incapacity benefit or severe disablement allowance, be disqualified for receiving that benefit or allowance; or
  - (b) in the case of any other benefit, allowance or advantage, be treated as capable of work, for such period not exceeding 6 weeks as may be determined under Part II of the Administration Act.

## CHAPTER V

### ADJUDICATION

#### **Effect of a determination as to capacity for work**

**19.** A determination whether a person is, or is to be treated as, capable or incapable of work, which is made for the purposes of determining his entitlement to any benefit, allowance or advantage, shall be treated as conclusive for the purposes of his entitlement to any other benefit, allowance or advantage in respect of any day or any period to which that determination relates.

#### **Adjudication officer to determine capacity for work**

**20.** Where a question as to whether a person is, or is to be treated as, capable or incapable of work arises in respect of a claim for any benefit, allowance or advantage, that question shall be determined by an adjudication officer notwithstanding that any other question falls to be determined by another authority.

#### **Social security appeal tribunal to sit with a medical assessor**

**21.** Where a matter before a social security appeal tribunal involves a question as to whether a person satisfies the all work test that tribunal shall sit with a medical assessor.

#### **Appointment of medical assessors**

**22.—(1)** The President shall constitute for the whole of Great Britain a panel of doctors to act as medical assessors for such areas as he thinks fit.

(2) The President may appoint to the panel any doctor with at least 5 years post-registration experience who is not—

- (a) a civil servant in any government department; or
- (b) an employee of, or adviser to, an organisation which represents, or promotes the rights of, people with disabilities.

(3) The President may appoint a person to the panel for such term as he thinks fit and may terminate that appointment at any time.



## PART III

### ALL WORK TEST

#### **Interpretation of Part III and the Schedule**

23. In this Part and the Schedule, unless the context otherwise requires, any reference to a numbered part is to the part in the Schedule bearing that number.

#### **The all work test**

24. The all work test is a test of the extent of a person's incapacity, by reasons of some specific disease or bodily or mental disablement, to perform the activities prescribed in the Schedule.

#### **Assessment under the all work test**

25.—(1) A person satisfies the all work test when one or more of the descriptors in Part I or Part II apply to him if, by adding the points listed in column (3) of the Schedule against the descriptor, he obtains a total score of at least—

- (a) 15 points in respect of descriptors specified in Part I; or
- (b) 10 points in respect of descriptors specified in Part II; or
- (c) 15 points in respect of descriptors specified in Parts I and II.

(2) In determining the extent of a person's incapacity to perform any activity listed in Part I he shall be assessed as if he were wearing any prosthesis with which he is fitted.

#### **Calculation of scores**

26.—(1) In determining a person's score for the purposes of regulation 25(1)(c)—

- (a) a score of between 6 and 9 points in respect of those descriptors specified in Part II shall be treated as a score of 9 points when added to the score in respect of descriptors specified in Part I;
- (b) a score of less than 6 points in respect of any descriptor specified in Part II shall be disregarded.

(2) In determining a person's score where descriptors specified for the activities 1 and 2 in Part I apply to him, only one descriptor shall be counted and that shall be the descriptor with the highest score in respect of either activity which applies to him.

(3) In determining a person's score in respect of descriptors specified in Part I where more than one descriptor specified for any activity applies to him, only one descriptor shall be counted and that shall be the descriptor with the highest score in respect of each activity which applies to him.

(4) In determining a person's score in respect of descriptors specified in Part II the score in respect of each descriptor which applies to him shall be counted.

#### **Exceptional circumstances**

27. A person who does not satisfy the all work test shall be treated as incapable of work if in the opinion of a doctor approved by the Secretary of State—

- (a) he suffers from a previously undiagnosed potentially life-threatening condition; or
- (b) he suffers from some specific disease or bodily or mental disablement and, by reasons of such disease or disablement, there would be a substantial risk to the mental or physical health of any person if he were found capable of work; or

- (c) he suffers from a severe uncontrolled or uncontrollable disease; or
- (d) he will, within three months of the date on which the doctor so approved examines him, have a major surgical operation or other major therapeutic procedure.

**Conditions for treating the all work test as satisfied until assessment**

**28.**—(1) Where the all work test applies, the test shall, if the conditions set out in paragraph (2) are met, be treated as satisfied until a person has been assessed or until he falls to be treated as capable of work in accordance with regulation 7 or 8.

(2) The conditions are—

- (a) that the person provides evidence of his incapacity for work in accordance with the Social Security (Medical Evidence) Regulations 1976 (which prescribe the form of doctor's statement or other evidence required in each case); and
- (b) that it has not within the preceding 6 months been determined, in relation to his entitlement to any benefit, allowance or advantage, that the person is capable of work, or is to be treated as capable of work under regulation 7 or 8, unless—
  - (i) he is suffering from some specific disease or bodily or mental disablement which he was not suffering from at the time of that determination; or
  - (ii) a disease or bodily or mental disablement which he was suffering from at the time of that determination has significantly worsened; or
  - (iii) in the case of a person who was treated as capable of work under regulation 7 (failure to provide information), he has since satisfied any requirements of the Secretary of State under that regulation.

Signed by authority of the Secretary of State for Social Security.

Department of Social Security  
10th February 1995

*William Hague*  
Minister of State,

## SCHEDULE

Regulations 6(1)(b), 24.

## DISABILITIES WHICH MAY MAKE A PERSON INCAPABLE OF WORK

## part i

## PHYSICAL DISABILITIES

| <i>(1)</i><br><i>Activity</i>  |      | <i>(2)</i><br><i>Descriptor</i>   | <i>(3)</i><br><i>Points</i> |
|--|------|---|-----------------------------|
| 1. Walking on level ground with a walking stick or other aid if such aid is normally used. | 1(a) | Cannot walk at all.   | 15                          |
|  | (b)  | Cannot walk more than a few steps without stopping or severe discomfort.            | 15                          |
|  | (c)  | Cannot walk more than 50 metres without stopping or severe discomfort.              | 15                          |
|  | (d)  | Cannot walk more than 200 metres without stopping or severe discomfort.             | 7                           |
|  | (e)  | Cannot walk more than 400 metres without stopping or severe discomfort.             | 3                           |
|  | (f)  | Cannot walk more than 800 metres without stopping or severe discomfort.             | 0                           |
|  | (g)  | No walking problem.   | 0                           |
| 2. Walking up and down stairs.   | 2(a) | Cannot walk up and down one stair.  | 15                          |
|  | (b)  | Cannot walk up and down a flight of 12 stairs.                                      | 15                          |
|  | (c)  | Cannot walk up and down a flight of 12 stairs without holding on and taking a rest. | 7                           |

**Status:** This is the original version (as it was originally made).

| <i>(1)</i><br><i>Activity</i>  | <i>(2)</i><br><i>Descriptor</i>  | <i>(3)</i><br><i>Points</i> |
|--|--|-----------------------------|
|  | (d) Cannot walk up and down a flight of 12 stairs without holding on.                          | 3                           |
|  | (e) Can only walk up and down a flight of 12 stairs if he goes sideways or one step at a time. | 3                           |
|  | (f) No problem in walking up and down stairs.  | 0                           |
| 3. Sitting in an upright chair with a back, but no arms.                                       | 3(a) Cannot sit comfortably.   | 15                          |
|  | (b) Cannot sit comfortably for more than 10 minutes without having to move from the chair.     | 15                          |
|  | (c) Cannot sit comfortably for more than 30 minutes without having to move from the chair.     | 7                           |
|  | (d) Cannot sit comfortably for more than 1 hour without having to move from the chair.         | 3                           |
|  | (e) Cannot sit comfortably for more than 2 hours without having to move from the chair.        | 0                           |
|  | (f) No problem with sitting.   | 0                           |
| 4. Standing without the support of another person or the use of an aid except a walking stick. | 4(a) Cannot stand unassisted.  | 15                          |
|  | (b) Cannot stand for more than a minute before needing to sit down.                            | 15                          |
|  | (c) Cannot stand for more than 10 minutes before needing to sit down.                          | 15                          |

| <i>(1)</i><br><i>Activity</i>  | <i>(2)</i><br><i>Descriptor</i>  | <i>(3)</i><br><i>Points</i> |
|--|--|-----------------------------|
|  | (d) Cannot stand for more than 30 minutes before needing to sit down.  | 7                           |
|  | (e) Cannot stand for more than 10 minutes before needing to move around.                                     | 7                           |
|  | (f) Cannot stand for more than 30 minutes before needing to move around.                                     | 3                           |
|  | (g) No problem standing.   | 0                           |
| 5. Rising from sitting in an upright chair with a back but no arms without the help of another person. | 5(a) Cannot rise from sitting to standing.   | 15                          |
|  | (b) Cannot rise from sitting to standing without holding on to something.                                    | 7                           |
|  | (c) Sometimes cannot rise from sitting to standing without holding on to something.                          | 3                           |
|  | (d) No problem with rising from sitting to standing.   | 0                           |
| 6. Bending and kneeling.   | 6(a) Cannot bend to touch his knees and straighten up again.   | 15                          |
|  | (b) Cannot bend or kneel as if to pick up a piece of paper from the floor and straighten up again.           | 15                          |
|  | (c) Sometimes cannot bend or kneel as if to pick up a piece of paper from the floor and straighten up again. | 3                           |
|  | (d) No problem with bending or kneeling.   | 0                           |

**Status:** This is the original version (as it was originally made).

| <i>(1)</i><br><i>Activity</i> |      | <i>(2)</i><br><i>Descriptor</i>  | <i>(3)</i><br><i>Points</i> |
|-------------------------------|------|--|-----------------------------|
| 7. Manual dexterity.          | 7(a) | Cannot turn the pages of a book with either hand.  | 15                          |
|                               | (b)  | Cannot turn a tap or control knobs on a cooker with either hand.                               | 15                          |
|                               | (c)  | Cannot pick up a coin which is 2.5 centimetres or less in diameter with either hand.           | 15                          |
|                               | (d)  | Cannot use a pen or pencil.  | 15                          |
|                               | (e)  | Cannot tie a bow in laces or string.   | 10                          |
|                               | (f)  | Cannot turn a tap or control knobs on a cooker with one hand.                                  | 6                           |
|                               | (g)  | Cannot pick up a coin which is 2.5 centimetres or less in diameter with one hand.              | 6                           |
|                               | (h)  | No problem with manual dexterity.  | 0                           |
| 8. Lifting and carrying.      | 8(a) | Cannot pick up a paper-back book with either hand.   | 15                          |
|                               | (b)  | Cannot pick up and carry a 0.5 litre carton of milk with either hand.                          | 15                          |
|                               | (c)  | Cannot pick up and pour from a full saucepan or kettle of 1.7 litre capacity with either hand. | 15                          |
|                               | (d)  | Cannot pick up and carry a 2.5 kilogramme bag of potatoes with either hand.                    | 8                           |

| <i>(1)</i><br><i>Activity</i> |       | <i>(2)</i><br><i>Descriptor</i>   | <i>(3)</i><br><i>Points</i> |
|-------------------------------|-------|---|-----------------------------|
|                               | (e)   | Cannot pick up and carry a 0.5 litre carton of milk with one hand.              | 6                           |
|                               | (f)   | Cannot pick up and carry a 2.5 kilogramme bag of potatoes with one hand.        | 0                           |
|                               | (g)   | No problem with lifting and carrying.   | 0                           |
| 9. Reaching.                  | 9(a)  | Cannot raise either arm to put something in the top pocket of a coat or jacket. | 15                          |
|                               | (b)   | Cannot raise either arm to his head to put on a hat.                            | 15                          |
|                               | (c)   | Cannot put either arm behind back to put on a coat or jacket.                   | 15                          |
|                               | (d)   | Cannot raise either arm above his head to reach for something.                  | 15                          |
|                               | (e)   | Cannot raise one arm to his head to put on a hat.                               | 6                           |
|                               | (f)   | Cannot raise one arm above his head to reach for something.                     | 0                           |
|                               | (g)   | No problem with reaching.   | 0                           |
| 10. Speech.                   | 10(a) | Cannot speak.   | 15                          |
|                               | (b)   | Speech cannot be understood by family or friends.                               | 15                          |
|                               | (c)   | Speech cannot be understood by strangers.                                       | 15                          |
|                               | (d)   | Strangers have great difficulty understanding speech.                           | 10                          |

**Status:** This is the original version (as it was originally made).

| <i>(1)</i><br><i>Activity</i>  |       | <i>(2)</i><br><i>Descriptor</i>   | <i>(3)</i><br><i>Points</i> |
|--|-------|---|-----------------------------|
|  | (e)   | Strangers have some difficulty understanding speech.                                      | 8                           |
|  | (f)   | No problems with speech.  | 0                           |
| 11. Hearing with a hearing aid or other aid if normally worn.  | 11(a) | Cannot hear sounds at all.  | 15                          |
|  | (b)   | Cannot hear well enough to follow a television programme with the volume turned up.       | 15                          |
|  | (c)   | Cannot hear well enough to understand someone talking in a loud voice in a quiet room.    | 15                          |
|  | (d)   | Cannot hear well enough to understand someone talking in a normal voice in a quiet room.  | 10                          |
|  | (e)   | Cannot hear well enough to understand someone talking in a normal voice on a busy street. | 8                           |
|  | (f)   | No problem with hearing.  | 0                           |
| 12. Vision in normal daylight or bright electric light with glasses or other aid to vision if such aid is normally worn. | 12(a) | Cannot tell light from dark.  | 15                          |
|  | (b)   | Cannot see the shape of furniture in the room.  | 15                          |
|  | (c)   | Cannot see well enough to read 16 point print at a distance greater than 20 centimetres.  | 15                          |



| <i>(1)</i><br><i>Activity</i>                                   |       | <i>(2)</i><br><i>Descriptor</i>   | <i>(3)</i><br><i>Points</i> |
|---|-------|---|-----------------------------|
|   | (d)   | Cannot see well enough to recognise a friend across the room.                         | 12                          |
|   | (e)   | Cannot see well enough to recognise a friend across the road.                         | 8                           |
|   | (f)   | No problem with vision.   | 0                           |
| 13. Continence.   | 13(a) | No voluntary control over bowels.   | 15                          |
|   | (b)   | No voluntary control over bladder.  | 15                          |
|   | (c)   | Loses control of bowels at least once a week.   | 15                          |
|   | (d)   | Loses control of bowels at least once a month.  | 15                          |
|   | (e)   | Loses control of bowels occasionally.   | 9                           |
|   | (f)   | Loses control of bladder at least once a month.                                       | 3                           |
|   | (g)   | Loses control of bladder occasionally.  | 0                           |
|   | (h)   | No problem with continence.   | 0                           |
| 14. Remaining conscious other than for normal periods of sleep. | 14(a) | Has an involuntary episode of lost or altered consciousness at least once a day.      | 15                          |
|   | (b)   | Has an involuntary episode of lost or altered consciousness at least once a week.     | 15                          |
|   | (c)   | Has an involuntary episode of lost or altered consciousness at least once a month.    | 15                          |
|   | (d)   | Has had an involuntary episode of lost or altered consciousness at least twice in the | 12                          |

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| <i>(1)</i><br><i>Activity</i> | <i>(2)</i><br><i>Descriptor</i>   | <i>(3)</i><br><i>Points</i> |
|-------------------------------|---|-----------------------------|
|                               | 6 months before the day in respect to which it falls to be determined whether he is incapable of work for the purposes of entitlement to any benefit, allowance or advantage.   |                             |
|                               | (e) Has had an involuntary episode of lost or altered consciousness once in the 6 months before the day in respect to which it falls to be determined whether he is incapable of work for the purposes of entitlement to any benefit, allowance or advantage. | 8                           |
|                               | (f) Has had an involuntary episode of lost or altered consciousness once in the 3 years before the day in respect to which it falls to be determined whether he is incapable of work for the purposes of entitlement to any benefit, allowance or advantage.  | 0                           |
|                               | (g) Has no problems with consciousness.   | 0                           |

part ii

MENTAL DISABILITIES

| <i>(1)</i><br><i>Activity</i> | <i>(2)</i><br><i>Descriptor</i>                                | <i>(3)</i><br><i>Points</i> |
|-------------------------------|--|-----------------------------|
| 15. Completion of tasks.      | 15(a) Cannot answer the telephone and reliably take a message. | 2                           |

| <i>(1)</i><br><i>Activity</i> |       | <i>(2)</i><br><i>Descriptor</i>   | <i>(3)</i><br><i>Points</i> |
|-------------------------------|-------|---|-----------------------------|
|                               | (b)   | Often sits for hours doing nothing.   | 2                           |
|                               | (c)   | Cannot concentrate to read a magazine article or follow a radio programme.  | 1                           |
|                               | (d)   | Cannot use a telephone book or other directory to find a number.  | 1                           |
|                               | (e)   | Mental condition prevents him from undertaking leisure activities previously enjoyed.   | 1                           |
|                               | (f)   | Overlooks or forgets the risk posed by domestic appliances or other common hazards due to poor concentration.   | 1                           |
|                               | (g)   | Agitation, confusion or forgetfulness has resulted in mishaps or accidents in the 3 months before the day in respect to which it falls to be determined whether he is incapable of work for the purposes of entitlement to any benefit, allowance or advantage. | 1                           |
|                               | (h)   | Concentration can only be sustained by prompting.   | 1                           |
| 16. Daily living.             | 16(a) | Needs encouragement to get up and dress.  | 2                           |
|                               | (b)   | Needs alcohol before midday.  | 2                           |
|                               | (c)   | Is frequently distressed at some time of the day due to fluctuation of mood.  | 1                           |

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| <i>(1)</i><br><i>Activity</i>      |       | <i>(2)</i><br><i>Descriptor</i>   | <i>(3)</i><br><i>Points</i> |
|------------------------------------|-------|---|-----------------------------|
|                                    | (d)   | Does not care about his appearance and living conditions.   | 1                           |
|                                    | (e)   | Sleep problems interfere with his daytime activities.   | 1                           |
| 17. Coping with pressure.          | 17(a) | Mental stress was a factor in making him stop work.   | 2                           |
|                                    | (b)   | Frequently feels scared or panicky for no obvious reason.   | 2                           |
|                                    | (c)   | Avoids carrying out routine activities because he is convinced they will prove too tiring or stressful.     | 1                           |
|                                    | (d)   | Is unable to cope with changes in daily routine.  | 1                           |
|                                    | (e)   | Frequently finds there are so many things to do that he gives up because of fatigue, apathy or disinterest. | 1                           |
|                                    | (f)   | Is scared or anxious that work would bring back or worsen his illness.                                      | 1                           |
| 18. Interaction with other people. | 18(a) | Cannot look after himself without help from others.   | 2                           |
|                                    | (b)   | Gets upset by ordinary events and it results in disruptive behavioural problems.                            | 2                           |
|                                    | (c)   | Mental problems impair ability to communicate with other people.  | 2                           |
|                                    | (d)   | Gets irritated by things that would not have bothered him before he became ill.                             | 1                           |

| <i>(1)</i><br><i>Activity</i> | <i>(2)</i><br><i>Descriptor</i>                        | <i>(3)</i><br><i>Points</i> |
|-------------------------------|--|-----------------------------|
| (e)                           | Prefers to be left alone for 6 hours or more each day. | 1                           |
| (f)                           | Is too frightened to go out alone.                     | 1                           |

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations contain provisions affecting determinations as to capacity for work for the purposes of the Social Security Contributions and Benefits Act 1992 (“the Act”).

Part I contains general provisions, including commencement, definitions and application. These Regulations do not apply for the purposes of industrial injuries benefit and statutory sick pay.

Part II contains general provisions relating to incapacity for work, including provisions which are supplementary to Part XIAA of the Act and provisions relating to adjudication:

Regulation 4 defines “remunerative work” for the purposes of the own occupation test (which is set out in section 171B of the Act) and regulation 5 provides for the application of that test to persons with more than one occupation.

Regulations 6 to 9 provide for the evidence or information required for the purposes of determining capacity for work and the consequences of failing to provide it. In particular a person may be called for a medical examination and may be treated as capable for work if he fails to attend.

Regulations 10 to 15 provide for the circumstances in which a person is to be treated as incapable for work.

Regulations 16 to 18 provide for the circumstances in which a person is to be treated as capable of work or disqualified for receiving certain benefits. Subject to certain exceptions, persons are to be treated as capable of work for the whole of any week in which they do work which is not in an exempt category and within defined limits. Persons may also be treated as capable of work or disqualified for receiving benefit on the grounds of misconduct or failure to observe certain rules of behaviour.

Regulations 19 to 22 affect adjudication on questions relating to incapacity for work. In particular they provide for a determination in relation to one benefit to be conclusive for other benefits. They also provide for social security appeal tribunals to sit with a medical assessor in certain cases and for the constitution of panels of such assessors.

Part III relates to the all work test, which is defined in these Regulations in accordance with section 30C(1) of the Act:

Regulation 23 provides for interpretation of Part III and the Schedule.

Regulations 24 to 26 set out the all work test and establish how it is to be satisfied.

**Status:** This is the original version (as it was originally made).

Regulation 27 states when a doctor approved by the Secretary of State may determine that a person who does not satisfy the all work test may nonetheless be treated as incapable of work.

Regulation 28 sets out conditions whereby the all work test shall be treated as satisfied until a person has been assessed or until he is treated as capable of work as the case may be.

The Schedule sets out the disabilities which may make a person incapable of work. Part I of the Schedule deals with physical disabilities and Part II with mental disabilities.

These Regulations are made before the expiry of 6 months from the commencement of the provisions under which they are made and are accordingly exempt by section 173(5)(a) of the Social Security Administration Act 1992 from reference to the Social Security Advisory Committee and have not been so referred.

These Regulations do not impose any costs on business.