
STATUTORY INSTRUMENTS

2013 No. 376

The Universal Credit Regulations 2013

PART 5

CAPABILITY FOR WORK OR WORK-RELATED ACTIVITY

Work Capability Assessment

When an assessment may be carried out

41.—(1) The Secretary of State may carry out an assessment under this Part where—

- (a) it falls to be determined for the first time whether a claimant has limited capability for work or for work and work-related activity; or
- (b) there has been a previous determination and 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 or whether that determination was made in ignorance of, or was based on a mistake as to, some material fact,

but subject to paragraphs (2) to (4).

(2) If the claimant has [^{F1}monthly] earnings that are equal to or exceed the relevant threshold, the Secretary of State may not carry out an assessment under this Part unless—

- (a) the claimant is entitled to attendance allowance, disability living allowance[^{F2}, child disability payment][^{F3}, adult disability payment] or personal independence payment; or
- (b) the assessment is for the purposes of reviewing a previous determination that a claimant has limited capability for work or for work and work-related activity that was made on the basis of an assessment under this Part or under Part 4 or 5 of the ESA Regulations,

and, in a case where no assessment may be carried out by virtue of this paragraph, the claimant is to be treated as not having limited capability for work unless they are treated as having limited capability for work or for work and work-related activity by virtue of regulation 39(6) or 40(5).

(3) The relevant threshold for the purposes of paragraph (2) is the amount that a person would be paid at the hourly rate set out in [^{F4}regulation 4 of the National Minimum Wage Regulations] for 16 hours a week[^{F5}, converted to a monthly amount by multiplying by 52 and dividing by 12].

(4) If it has previously been determined on the basis of an assessment under this Part or under Part 4 or 5 of the ESA Regulations that the claimant does not have limited capability for work, no further assessment is to be carried out unless there is evidence to suggest that—

- (a) the determination was made in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been a relevant change of circumstances in relation to the claimant's physical or mental condition.

Textual Amendments

- F1** Word in reg. 41(2) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Universal Credit and Miscellaneous Amendments Regulations 2015 (S.I. 2015/1754), regs. 1(1), **2(4)(a)**
- F2** Words in reg. 41(2)(a) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), art. 1(2), **Sch. 11 para. 5**
- F3** Words in reg. 41(2)(a) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **13(5)**
- F4** Words in reg. 41(3) substituted (25.7.2016) by The Social Security (Jobseeker's Allowance, Employment and Support Allowance and Universal Credit) (Amendment) Regulations 2016 (S.I. 2016/678), regs. 1, **5(3)**
- F5** Words in reg. 41(3) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Universal Credit and Miscellaneous Amendments Regulations 2015 (S.I. 2015/1754), regs. 1(1), **2(4)(b)**

Changes to legislation:

There are currently no known outstanding effects for the The Universal Credit Regulations 2013, Section 41.