
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

**The Disability Assistance for Children and
Young People (Scotland) Regulations 2021**

PART 3

Eligibility

Mobility requirements: higher rate mobility component

13.—(1) An individual aged 3 years or more is entitled to be given the mobility component at the higher rate (see regulation 23(2)(a)) if the individual satisfies at least one of the conditions mentioned in paragraph (2).

(2) The conditions referred to in paragraph (1) are—

- (a) taking account of the individual's physical condition as a whole, the individual's condition is such that, without having regard to the nature of the location where the individual resides—
 - (i) the individual is unable to walk,
 - (ii) the individual's ability to walk out of doors is so limited, as regards the distance over which or the speed at which or the length of time for which or the manner in which the individual can make progress on foot without severe discomfort, that the individual is virtually unable to walk, or
 - (iii) the exertion required to walk would constitute a danger to the individual's life, or would be likely to lead to a serious deterioration in the individual's health, from which there would no recovery, or from which recovery would take a significant period of time,
- (b) the individual has no legs or no feet (regardless of the use of artificial limbs),
- (c) the individual has a severe visual impairment,
- (d) the individual is blind and deaf,
- (e) the individual has a severe mental impairment and severe behavioural difficulties and satisfies both of the conditions mentioned in regulation 11(1)(c) and (d).

(3) Where paragraph (2)(a) applies in relation to an individual, the test of being unable or virtually unable to walk is not met where the individual—

- (a) is not unable or virtually unable to walk with the use of an artificial limb or artificial aid which the individual normally wears or uses, or
- (b) would not be unable or virtually unable to walk if the individual wore or used an artificial limb or artificial aid which is suitable to the individual's circumstances.

(4) Paragraph (3) is not relevant for the purpose of determining whether an individual is to be taken to satisfy the conditions set out in paragraphs (2)(b) to (e).

(5) An individual is to be taken to have a severe visual impairment, for the purpose of paragraph (2)(c), if the individual has a severe visual impairment fulfilling the definition given by the Visual Impairment Network for Children and Young People⁽¹⁾.

(6) An individual is taken to be blind and deaf, for the purpose of paragraph (2)(d), if the individual is—

- (a) blind where the loss of vision amounts to an absolute loss of vision,
- (b) deaf where loss of hearing when using any artificial aid which they habitually use or which is suitable in their case amounts to not less than 80% on a scale where 100% represents absolute deafness, and
- (c) unable, without the assistance of another person, to walk to any intended or required destination while out of doors.

(7) An individual is to be taken to have a severe mental impairment, for the purpose of paragraph (2)(e), if the individual has a severe impairment of intelligence and social functioning resulting from—

- (a) a state of arrested development as a result of a failure of the individual's brain to grow or develop in the way normally expected, or
- (b) a deficiency in the functionality of the brain as a result of its incomplete physical development.

(8) An individual is to be taken to have severe behavioural difficulties, for the purpose of paragraph (2)(e), if the individual exhibits disruptive behaviour which—

- (a) is extreme,
- (b) regularly requires another person to intervene in order to prevent or reduce the likelihood of physical injury to the individual or another person, and
- (c) is so unpredictable that another person requires to be awake and watching over the individual while the individual is awake.

(9) In paragraph (8)(b), reference to another person intervening relates to the provision of care and support of, or treatment provided to, the individual.

(10) An individual is not entitled to the mobility component unless—

- (a) throughout the period of 13 weeks immediately preceding the date on which the award of that component would begin, the individual has satisfied or is likely to satisfy one of the conditions mentioned in paragraph (2), and
- (b) the individual is likely to continue to satisfy one of those conditions throughout the period of 26 weeks beginning with that date.

(1) A National Managed Clinical Network forming part of NHS Scotland <https://www.vincyp.scot.nhs.uk/vincyp-definition/>.