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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2022 No.**

**The Disability Assistance for Working  
Age People (Scotland) Regulations 2022**

**PART 3**

**Eligibility: Daily Living Component and Mobility Component**

**Daily Living Component**

**5.—**(1) An individual may be awarded the daily living component at either the standard rate or the enhanced rate.

- (2) An individual is entitled to the daily living component at the standard rate if—
  - (a) the individual’s ability to carry out daily living activities is limited by the individual’s physical or mental condition or conditions, and
  - (b) the individual meets the required period condition in accordance with regulation 11.
- (3) An individual is entitled to the daily living component at the enhanced rate if—
  - (a) the individual’s ability to carry out daily living activities is severely limited by the individual’s physical or mental condition or conditions, and
  - (b) the individual meets the required period condition in accordance with regulation 11.
- (4) For the purpose of these Regulations—
  - (a) “daily living activities” are the activities set out in column 1 of the table in Part 2 of schedule 1, and “a daily living activity” is to be construed accordingly,
  - (b) “the standard rate” in relation to the daily living component means the weekly rate of the daily living component set in regulation 34(1)(a),
  - (c) “the enhanced rate” in relation to the daily living component means the weekly rate of the daily living component set in regulation 34(1)(b),
- (5) Whether a person has limited or severely limited ability to carry out daily living activities is to be determined in accordance with regulation 8 (scoring for daily living activities).

**Mobility Component**

**6.—**(1) An individual may be awarded the mobility component at either the standard rate or the enhanced rate.

- (2) An individual is entitled to the mobility component at the standard rate if—
  - (a) the individual’s ability to carry out mobility activities is limited by the individual’s physical or mental condition or conditions, and
  - (b) the individual meets the required period condition in accordance with regulation 12.
- (3) An individual is entitled to the mobility component at the enhanced rate if—

- (a) the individual’s ability to carry out mobility activities is severely limited by the individual’s physical or mental condition or conditions, and
  - (b) the individual meets the required period condition in accordance with regulation 12.
- (4) For the purpose of these Regulations—
- (a) “mobility activities” are the activities set out in column 1 of the table in Part 3 of schedule 1, and “a mobility activity” is to be construed accordingly,
  - (b) “the standard rate” in relation to the mobility component means the weekly rate of the mobility component set in regulation 34(2)(a),
  - (c) “the enhanced rate” in relation to the mobility component means the weekly rate of the mobility component set in regulation 34(2)(b),
- (5) Whether a person has limited or severely limited ability to carry out mobility activities is to be determined in accordance with regulation 9 (scoring for mobility activities).

### **Determination of ability to carry out activities**

7.—(1) An individual’s ability to carry out a daily living activity or mobility activity is to be determined—

- (a) on the basis of the individual’s ability whilst wearing or using any aid or appliance which the individual normally wears or uses, or
  - (b) as if the individual were wearing or using any aid or appliance which the individual could reasonably be expected to wear or use.
- (2) An individual’s ability to carry out an activity is to be determined—
- (a) by reference to the descriptors for the activity set out in column 2 of the table in Part 2 of schedule 1, and
  - (b) on the basis of which descriptor applies for the individual to be able to carry out the activity—
    - (i) safely,
    - (ii) to an acceptable standard,
    - (iii) repeatedly, and
    - (iv) within a reasonable time period.
- (3) In this regulation—
- (a) “safely” means in a manner unlikely to cause harm to the individual or to another person, either during or after completion of the activity, with consideration given to—
    - (i) the likelihood of harm, and
    - (ii) the severity of the consequences of that harm,
  - (b) “to an acceptable standard” means to a reasonable standard for the activity, taking account of the impact on the individual of carrying out the activity to that standard,
  - (c) “repeatedly” means as often as the activity is reasonably required to be completed, and
  - (d) “reasonable time period” means no more than twice as long as the maximum period that an individual without a physical or mental condition or conditions which limits that individual’s ability to carry out the activity in question would normally take to complete that activity.

### **Scoring for daily living activities**

8.—(1) The score an individual obtains in relation to daily living activities is determined by adding together the number of points (if any) awarded for each activity listed in column 1 of the table in Part 2 of schedule 1.

(2) For the purpose of paragraph (1), the number of points awarded to an individual for each activity listed in column 1 of the table is the number shown in column 3 of the table against whichever of the descriptors set out in column 2 of the table for the activity applies to the individual by virtue of regulation 10.

(3) For the purposes of regulation 5, an individual has—

- (a) limited ability to carry out daily living activities where the individual obtains a score of at least 8 points and no more than 11 points in relation to daily living activities,
- (b) severely limited ability to carry out daily living activities where the individual obtains a score of at least 12 points in relation to daily living activities.

### **Scoring for mobility activities**

9.—(1) The score an individual obtains in relation to mobility activities is determined by adding together the number of points (if any) awarded for each activity listed in column 1 of the table in Part 3 of schedule 1.

(2) For the purpose of paragraph (1), the number of points awarded to an individual for each activity listed in column 1 of the table is the number shown in column 3 of the table against whichever of the descriptors set out in column 2 of the table for the activity applies to the individual by virtue of regulation 10.

(3) For the purposes of regulation 6, an individual has—

- (a) limited ability to carry out mobility activities where the individual obtains a score of at least 8 points and no more than 11 points in relation to mobility activities,
- (b) severely limited ability to carry out mobility activities where the individual obtains a score of at least 12 points in relation to mobility activities.

### **Scoring: further provision**

10.—(1) The descriptor which applies to an individual in relation to each activity in the tables referred to in regulations 8(2) and 9(2) is—

- (a) where one descriptor is satisfied on over 50% of the days of the required period, that descriptor,
- (b) where two or more descriptors are each satisfied on over 50% of the days of the required period, the descriptor which scores the higher or highest number of points, and
- (c) where no descriptor is satisfied on over 50% of the days of the required period but two or more descriptors (other than a descriptor which scores 0 points) are satisfied for periods which, when added together, amount to over 50% of the days of the required period—
  - (i) the descriptor which is satisfied for the greater or greatest proportion of days of the required period, or
  - (ii) where both or all descriptors are satisfied for the same proportion, the descriptor which scores the higher or highest number of points.

(2) For the purposes of paragraph (1), a descriptor is satisfied on a day in the required period if the descriptor has been satisfied for any part of the day which is not minimal or fleeting.

(3) In these Regulations, “required period” means—

- (a) where an individual's entitlement to Adult Disability Payment falls to be determined, the period of 13 weeks ending with the relevant date together with—
  - (i) in relation to an application after an interval (see regulations 14 and 23), the period of 39 weeks beginning with the date on which that application is made,
  - (ii) in relation to any other application, the period of 39 weeks beginning with the day after the relevant date.
- (b) where Adult Disability Payment has been awarded to an individual—
  - (i) during the period of 13 weeks following a determination of entitlement in the circumstances where regulation 14 or 23 applies, the period of 13 weeks ending with the relevant date together with, for each day of the award, the period of 39 weeks beginning with the day after each day of the award,
  - (ii) in any other case, for each day of the award, the period of 13 weeks ending with that day of the award together with the period of 39 weeks beginning with the day after that date.