

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Personal independence payment

Section 80: Ability to carry out daily living activities or mobility activities

378. The section provides for the making of regulations to determine the main conditions of entitlement to the two components of personal independence payment. For the purposes of personal independence payment a new assessment and process will be developed. *Subsection (1)* provides for the questions whether an individual's ability to carry out daily living activities or mobility activities is limited or severely limited by their physical or mental condition to be determined in accordance with regulations. This then determines which of the components a person is entitled to, and whether that person is entitled to the standard or enhanced rate for each component. Under *subsection (2)* regulations must also make provision for determining whether a person meets the required period condition. Further details on the required period condition can be found in section 81.
379. *Subsection (3)* provides for regulations to be made about what is considered during the assessment process to determine entitlement to each component and rate, and how the assessment is to be carried out. This will involve considering and weighting a person's ability to perform prescribed activities. Prescribed thresholds will determine entitlement to each component and rate. The activities, how they will be measured, their weightings and the component thresholds will all be prescribed in regulations. Regulations may also provide for the assessment process not to be applied in prescribed circumstances.
380. As information and evidence will be required and sought at various stages in a claim, *subsection (4)* allows regulations to specify which sources of information are appropriate (for example, evidence or information from the individual themselves; the individual's General Practitioner, supporting healthcare professionals, social workers etc.), along with details as to how and when information or evidence is to be provided. Most individuals will be asked to attend a face-to-face consultation with a trained independent assessor, such as a healthcare professional.
381. Under *subsection (5)* regulations can provide for the consequences of failure without good reason to comply with a requirement imposed under subsection (4) e.g. a failure to provide information or evidence or to participate in a face-to-face consultation. In the event of such a failure, a negative determination can be applied to an individual's claim if there is no good reason for the failure. Regulations will provide for what is considered to be good reason.
382. *Subsection (6)* defines the term "negative determination" used in subsection (5)(a).