

STATUTORY INSTRUMENTS

1995 No. 311

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

PART III

[^{F1}PERSONAL CAPABILITY ASSESSMENT]

F1 Pt. III heading substituted (3.4.2000) by virtue of [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999](#) (S.I. 1999/3109), regs. 1(1), **3(1)**

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.

[^{F2}The personal capability assessment

24. For the purposes of section 171C(2)(a) of the Contributions and Benefits Act the personal capability assessment is an assessment of the extent to which a person who has some specific disease or bodily or mental disablement is capable of performing the activities prescribed in the Schedule, or is incapable by reason of such disease or bodily or mental disablement of performing those activities.]

F2 Reg. 24 substituted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999](#) (S.I. 1999/3109), regs. 1(1), **3(2)**

Incapacity under the personal capability assessment

25.—[^{F3}(1) For the purposes of section 171C(2)(b) of the Contributions and Benefits Act a person is incapable of work in accordance with the personal capability assessment 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 [^{F4}or, as the case may be, any aid or appliance which he normally wears or uses.]

[^{F5}(3) In determining the extent of a person's incapacity to perform any activity listed in Part I or Part II, it shall be a condition that the person's incapacity arises—

- (a) in respect of a disability listed in Part I, from a specific bodily disease or disablement; or

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(b) in respect of a disability listed in Part II, from some specific mental illness or disablement.]

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| F3 | Reg. 25(1) substituted (3.4.2000) by The Social Security (Incapacity for Work) Miscellaneous Amendments Regulations 1999 (S.I. 1999/3109) , regs. 1(1), 3(3) |
| F4 | Words in reg. 25(2) added (6.1.1997) by The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations 1996 (S.I. 1996/3207) , regs. 1(1), 2(7)(a) |
| F5 | Reg. 25(3) inserted (6.1.1997) by The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations 1996 (S.I. 1996/3207) , regs. 1(1), 2(7)(b) |

Calculation of scores

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

- (a) [^{F6}an aggregate 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) [^{F7}an aggregate score] of less than 6 points in respect of [^{F8}the descriptors] 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.

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| F6 | Words in reg. 26(1)(a) substituted (6.1.1997) by The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations 1996 (S.I. 1996/3207) , regs. 1(1), 2(8)(a) |
| F7 | Words in reg. 26(1)(b) substituted (6.1.1997) by The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations 1996 (S.I. 1996/3207) , regs. 1(1), 2(8)(b)(i) |
| F8 | Words in reg. 26(1)(b) substituted (6.1.1997) by The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations 1996 (S.I. 1996/3207) , regs. 1(1), 2(8)(b)(ii) |

Exceptional circumstances

[^{F9}27.—(1) A person who [^{F10}is not incapable of work in accordance with the personal capability assessment] shall be treated as incapable of work if any of the circumstances set out in paragraph (2) apply to him

(2) The circumstances are that—

- (a) he is suffering from a severe life threatening disease in relation to which—
 - (i) there is medical evidence that the disease is uncontrollable, or uncontrolled, by a recognised therapeutic procedure, and
 - (ii) in the case of a disease which is uncontrolled, there is a reasonable cause for it not to be controlled by a recognised therapeutic procedure;
- (b) he suffers from a previously undiagnosed potentially life threatening condition which has been discovered during the course of a medical examination carried out for the purposes of the [^{F11}personal capability assessment] by a [^{F12}health care professional] approved by the Secretary of State;

- (c) there exists medical evidence that he requires a major surgical operation or other major therapeutic procedure and it is likely that that operation or procedure will be carried out within three months of the date of a medical examination carried out for the purposes of the ^{F11}personal capability assessment].]

- F9** Reg. 27 substituted (6.1.1997) by [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#) , regs. 1(1) , **2(9)**
- F10** Words in reg. 27 substituted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **3(4)**
- F11** Words in reg. 27(2)(b)(c) substituted (3.4.2000) by [The Social Security \(Incapacity\) Miscellaneous Amendments Regulations 2000 \(S.I. 2000/590\)](#) , regs. 1(b) , **4(b)**
- F12** Words in reg. 27(2)(b) substituted (3.7.2007) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2007 \(S.I. 2007/1626\)](#) , regs. 1 , **3(4)**

^{F13}Conditions for treating a person as incapable of work until the personal capability assessment is carried out

28.—(1) Where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment that person shall, if the conditions set out in paragraph (2) are met, be treated as incapable of work in accordance with the personal capability assessment until such time as he has been assessed or 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 ^{F14}which is dependent on him being incapable of work], 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 ^{F15}provided the information requested by the Secretary of State] under that regulation.

- F13** Reg. 28(1) substituted (3.4.2000) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1999 \(S.I. 1999/3109\)](#) , regs. 1(1) , **3(5)** (with reg. 4(2))
- F14** Words in reg. 28(2)(b) inserted (6.1.1997) by [The Social Security \(Incapacity for Work and Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/3207\)](#) , regs. 1(1) , **2(10)**
- F15** Words in reg. 28(2)(b)(iii) substituted (3.4.1995) by [The Social Security \(Incapacity for Work\) Miscellaneous Amendments Regulations 1995 \(S.I. 1995/987\)](#) , regs. 1(2) , **2(10)**

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Act modified by [S.I. 1999/1088 regs.3.4-67](#)