STATUTORY RULES OF NORTHERN IRELAND

2016 No. 217

SOCIAL SECURITY

The Personal Independence Payment Regulations (Northern Ireland) 2016

Made - - - -	*3rd May 2016*
Laid before Parliament	*10th May 2016*
Coming into operation	*20th June 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by Articles 82(3), 83(3) and (4), 84(3) and (4), 85(1) to (4) and (5)(a) and (c), 86(1), (3)(b) and (4), 88(3), 90(1), (5) and (6), 91(1) and (3), 92, 97(1) and 99(1)(a) of the Welfare Reform (Northern Ireland) Order 2015(**1**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) of the Welfare Reform (Northern Ireland) Order 2015.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Personal Independence Payment Regulations (Northern Ireland) 2016 and come into operation on 20th June 2016.

Interpretation

2.—(1) In these Regulations—

"the 1998 Order" means the Social Security (Northern Ireland) Order 1998(**2**);

"aid or appliance"—

(a) means any device which improves, provides or replaces C's impaired physical or mental function; and

(b) includes a prosthesis;

(**1**) S.I. 2015/2006 (N.I. 1)
(**2**) S.I. 1998/1506 (N.I. 10)

"assessment" means the assessment referred to in regulation 4;

"C" means a person who has made a claim for or, as the case may be, is entitled to personal independence payment;

"component" means the daily living component or, as the case may be, the mobility component of personal independence payment;

"descriptor" means a descriptor in column 2 of the tables in Parts 2 and 3 of Schedule 1;

"disability living allowance" means disability living allowance under section 71 of the Contributions and Benefits Act(**3**);

"medical treatment" means medical, surgical or rehabilitative treatment (including any course or diet or other regimen), and references to a person receiving or submitting to medical treatment are to be construed accordingly;

"prescribed date" means the date prescribed by regulation 14 or 15;

"previous award" means an award of either or both components to which C has ceased to be entitled;

"revised" means revised under Article 10 of the 1998 Order and "revision" is to be construed accordingly; and

"superseded" means superseded under Article 11 of the 1998 Order(**4**) and "supersession" is to be construed accordingly.

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered Article is to the Article of the Welfare Reform (Northern Ireland) Order 2015 bearing that number.

(3) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(**5**), where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

PART 2

Personal independence payment assessment

Daily living activities and mobility activities

3.—(1) For the purposes of Article 83(4) and these Regulations, daily living activities are the activities set out in column 1 of the table in Part 2 of Schedule 1.

(2) For the purposes of Article 84(4) and these Regulations, mobility activities are the activities set out in column 1 of the table in Part 3 of Schedule 1.

Assessment of ability to carry out activities

4.—(1) For the purposes of Article 82(2) and Article 83 or, as the case may be, 84 whether C has limited or severely limited ability to carry out daily living or mobility activities, as a result of C's physical or mental condition, is to be determined on the basis of an assessment taking account of relevant medical evidence.

(2) C's ability to carry out an activity is to be assessed—

(**3**) 1992 c. 7; Section 71 was amended by Article 64(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(**4**) Article 11 was amended by paragraph 17 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(**5**) 1954 c. 33 (N.I.)

(a) on the basis of C's ability whilst wearing or using any aid or appliance which C normally wears or uses; or

(b) as if C were wearing or using any aid or appliance which C could reasonably be expected to wear or use.

(3) Where C's ability to carry out an activity is assessed, C is to be assessed as satisfying a descriptor only if C can do so—

(a) safely;

(b) to an acceptable standard;

(c) repeatedly; and

(d) within a reasonable time period.

(4) Where C has been assessed as having severely limited ability to carry out activities, C is not to be treated as also having limited ability in relation to the same activities.

(5) In this regulation—

"reasonable time period" means no more than twice as long as the maximum period that a person without a physical or mental condition which limits that person's ability to carry out the activity in question would normally take to complete that activity;

"repeatedly" means as often as the activity being assessed is reasonably required to be completed; and

"safely" means in a manner unlikely to cause harm to C or to another person, either during or after completion of the activity.

Scoring for daily living activities

5.—(1) The score C 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 ("the daily living activities table").

(2) For the purpose of paragraph (1), the number of points awarded to C for each activity listed in column 1 of the daily living activities 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 C under regulation 7.

(3) Where C has undergone an assessment, C has—

(a) limited ability to carry out daily living activities where C obtains a score of at least 8 points in relation to daily living activities; and

(b) severely limited ability to carry out daily living activities where C obtains a score of at least 12 points in relation to daily living activities.

Scoring for mobility activities

6.—(1) The score C 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 ("the mobility activities table").

(2) For the purpose of paragraph (1), the number of points awarded to C for each activity listed in column 1 of the mobility activities 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 C under regulation 7.

(3) Where C has undergone an assessment, C has—

(a) limited ability to carry out mobility activities where C obtains a score of at least 8 points in relation to mobility activities; and

(b) severely limited ability to carry out mobility activities where C obtains a score of at least 12 points in relation to mobility activities.

Scoring: further provision

7.—(1) The descriptor which applies to C in relation to each activity in the tables referred to in regulations 5 and 6 is—

(a) where one descriptor is satisfied on over 50 per cent. of the days of the required period, that descriptor;

(b) where two or more descriptors are each satisfied on over 50 per cent. 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 per cent. 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 per cent. 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 it is likely that, if C had been assessed on that day, C would have satisfied that descriptor.

(3) In paragraphs (1) and (2), "required period" means—

(a) in the case where entitlement to personal independence payment falls to be determined, the period of 3 months ending with the prescribed date together with—

(i) in relation to a claim after an interval for the purpose of regulation 15, the period of 9 months beginning with the date on which that claim is made,

(ii) in relation to any other claim, the period of 9 months beginning with the day after the prescribed date;

(b) in the case where personal independence payment has been awarded to C—

(i) during the period of 3 months following a determination of entitlement under a claim for the purpose of regulation 15, the period of 3 months ending with the prescribed date together with, for each day of the award, the period of 9 months beginning with the day after that date,

(ii) in any other case, for each day of the award, the period of 3 months ending with the prescribed date together with the period of 9 months beginning with the day after that date.

Information or evidence required for determining limited or severely limited ability to carry out activities

8.—(1) The Department may require C to provide any information or evidence required to determine whether C has limited ability or severely limited ability to carry out daily living activities or mobility activities.

(2) Where information or evidence is requested under paragraph (1), C must provide the information or evidence to the Department within one month from the date of the request being

made or within such longer period as the Department may consider reasonable in the circumstances of the particular case.

(3) Where C fails without good reason to comply with the request referred to in paragraph (1), a negative determination in relation to the component to which the failure related must be made.

Claimant may be called for a consultation to determine whether the claimant has limited or severely limited ability to carry out activities

9.—(1) Where it falls to be determined whether C has limited ability or severely limited ability to carry out daily living activities or mobility activities, C may be required to do either or both of the following—

(a) attend for and participate in a consultation in person;

(b) participate in a consultation by telephone.

(2) Subject to paragraph (3), where C fails without good reason to attend for or participate in a consultation referred to in paragraph (1), a negative determination must be made.

(3) Paragraph (2) does not apply unless—

(a) written notice of the date, time and, where applicable, place for the consultation is sent to C at least 7 days in advance; or

(b) C agrees, whether in writing or otherwise, to accept a shorter period of notice of those matters.

(4) In paragraph (3), reference to written notice includes notice sent by electronic communication where C has agreed to accept correspondence in that way and "electronic communication" has the meaning given in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001(**6**).

(5) In this regulation, a reference to consultation is to a consultation with a person approved by the Department.

Matters to be taken into account in determining good reason in relation to regulations 8 and 9

10. The matters to be taken into account in determining whether C has good reason under regulation 8(3) or 9(2) include—

(a) C's state of health at the relevant time; and

(b) the nature of any disability that C has.

Re-determination of ability to carry out activities

11. Where it has been determined that C has limited ability or severely limited ability to carry out either or both daily living activities or mobility activities, the Department may, for any reason and at any time, determine afresh in accordance with regulation 4 whether C continues to have such limited ability or severely limited ability.

(**6**) 2001 c. 9 (N.I.); section 4(1) was amended by paragraph 170 of Schedule 17 to the Communications Act 2003 (c. 21)