

Personal Independence Payment: initial draft of assessment regulations

May 2011

1. Purpose of this document

- 1.1. This paper contains an initial draft of regulations on the assessment criteria and required period condition for Personal Independence Payment. These relate to Part 4 of the Welfare Reform Bill and are intended to inform debate on the Bill in the House of Commons.
- 1.2. The regulations remain a working draft and amendments will be made at a later stage. Additional regulations will also be drafted – for example, covering information and evidence requirements and consultations with trained assessors.
- 1.3. All regulations, when finalised, will be subject to Parliamentary scrutiny in the normal way.

DRAFT

Draft Regulations laid before Parliament under section [91(6)] of the Welfare Reform Act 2011, for approval by resolution of each House of Parliament.

201X No XXXX

SOCIAL SECURITY

Social Security (Personal Independence Payment) (Assessment) Regulations 201X

Made ...

Coming into force...

The Secretary of State for Work and Pensions, in exercise of the powers conferred by [add in powers] of the Welfare Reform Act 2011^(a), makes the following Regulations:

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section [91(6)] of that Act.

Part 1 Introduction

1. Citation and commencement

These Regulations may be cited as the Social Security (Personal Independence Payment) (Assessment) Regulations 201X and shall come into force on [add in].

2. Interpretation

(1) In these Regulations –

“the Act” means the Welfare Reform Act 2011;

“aid or appliance”-

- (a) means a device to improve either a physical or mental function or both;
- (b) includes a prosthesis; and

^(a) 2011 c. XX.

(c) does not include an aid or appliance ordinarily used by a person without a physical or mental condition which limits that person's ability to carry out daily living or mobility activities;

"claimant" means a person who has made a claim for personal independence payment;

"component" means the daily living component or the mobility component of personal independence payment;

"daily living activities" means the activities prescribed in regulation [3(1)];

"mobility activities" means the activities prescribed in regulation [3(2)]; and

"personal independence payment assessment" means the assessment referred to in regulation 4(2).

Part 2

Personal Independence Payment Assessment

3. Daily living activities and mobility activities

(1) For the purposes of section [76(4)] of the Act, daily living activities are activities set out in paragraph 2 of the Schedule to these Regulations.

(2) For the purposes of section [77(4)] of the Act, mobility activities are activities set out in paragraph 3 of the Schedule to these Regulations.

4. Determination of limited and severely limited ability to carry out activities

(1) For the purposes of Part [4] of the Act, whether a claimant has limited or severely limited ability to carry out daily living or mobility activities shall be determined on the basis of a personal independence payment assessment in accordance with this regulation.

(2) The personal independence payment assessment is an assessment whether -

(a) a claimant's ability to carry out daily living activities, mobility activities, or both is limited or severely limited by the claimant's physical or mental condition; and

(b) the claimant meets the required period condition in accordance with regulations [6 to 8].

(3) For the purposes of this regulation, the claimant has -

(a) limited ability to carry out daily living activities where the claimant obtains a score of at least [a] points in relation to daily living activities;

(b) severely limited ability to carry out daily living activities where the claimant obtains a score of at least [b] points in relation to daily living activities;

(c) limited ability to carry out mobility activities where the claimant obtains a score of at least [c] points in relation to mobility activities; and

(d) severely limited ability to carry out mobility activities where the claimant obtains a score of at least [d] points in relation to mobility activities.

(4) For the purposes of paragraph [(3)](a) to (d)-

(a) the score the claimant obtains in relation to daily living activities is determined by adding together the points listed in column [3] of the table in paragraph 2 of the Schedule to these Regulations against any descriptor listed which applies to the claimant either singly or in a combination of descriptors;

(b) the score the claimant obtains in relation to mobility activities is determined by adding together the points listed in column [3] of the table in paragraph 3 of the Schedule to these Regulations against any descriptor listed which applies to the claimant either singly or in a combination of descriptors;

(c) where more than one descriptor specified for an activity apply to the claimant, only the descriptor with the highest score in respect of each activity is to be counted;

(d) in assessing the claimant's ability to carry out an activity, the claimant is to be assessed as if wearing or using any aid or appliance which is normally worn or used; and

(e) a claimant who has severely limited ability to carry out daily living activities or mobility activities is not to be treated as also having limited ability in relation to that component.

5. Re-determination of ability to carry out activities

(1) Where the claimant has been determined to have limited or severely limited ability to carry out daily living or mobility activities, the Secretary of State may, if paragraph (2) applies, determine afresh in accordance with regulation 4 whether the claimant has such a limited or severely limited ability.

(2) This paragraph applies where –

(a) the Secretary of State wishes to determine whether there has been a relevant change of circumstance in relation to the claimant's physical or mental condition;
or

(b) the Secretary of State wishes to determine whether the previous determination was made in ignorance of, or was based on a mistake as to, some material fact.

Part 3 Required Period Condition

6. Required period condition: daily living component

(1) The claimant meets the required period condition for the purposes of section 76(1) (daily living component at standard rate) where –

(a) if the claimant had been assessed at every time in the 6 months ending with the date prescribed by regulation [8] (“the relevant date”), it is likely that the Secretary of State would have determined at that time that the claimant had limited ability to carry out daily living activities; and

(b) if the claimant were to be assessed at every time in the 6 months beginning with the day after the relevant date, it is likely that the Secretary of State would determine at that time that the claimant has limited ability to carry out daily living activities.

(2) The claimant meets the required period condition for the purposes of section 76(2) (daily living component at enhanced rate) where –

(a) if the claimant had been assessed at every time in the 6 months ending with the date prescribed by regulation [8] (“the relevant date”), it is likely that the Secretary of State would have determined at that time that the claimant has severely limited ability to carry out daily living activities; and

(b) if the claimant were to be assessed at every time in the 6 months beginning with the day after the relevant date, it is likely that the Secretary of State would determine at that time that the claimant has severely limited ability to carry out daily living activities.

(3) In paragraphs (1) and (2) “assessed” means assessed in accordance with regulation [4].

7. Required period condition: mobility component

(1) The claimant meets the required period condition for the purposes of section 77(1) (mobility component at standard rate) where –

(a) if the claimant had been assessed at every time in the 6 months ending with the date prescribed by regulation [8] (“the relevant date”), it is likely that the Secretary of State would have determined at that time that the claimant had limited ability to carry out mobility activities; and

(b) if the claimant were to be assessed at every time in the 6 months beginning with the day after the relevant date, it is likely that the Secretary of State would determine at that time that the claimant has limited ability to carry out mobility activities.

(2) The claimant meets the required period condition for the purposes of section 77(2) (daily living component at enhanced rate) where –

(a) if the claimant had been assessed at every time in the 6 months ending with the date prescribed by regulation [8] (“the relevant date”), it is likely that the Secretary of State would have determined at that time that the claimant has severely limited ability to carry out mobility activities; and

(b) if the claimant were to be assessed at every time in the 6 months beginning with the day after the relevant date, it is likely that the Secretary of State would determine at that time that the claimant has severely limited ability to carry out mobility activities.

(3) In paragraphs (1) and (2) “assessed” means assessed in accordance with regulation [4].

8. The prescribed date

(1) Subject to paragraph (2), the prescribed date for the purposes of regulations 6(1) and (2) and 7(1) and (2) is –

- (a) the date on which a claim is made for a personal independence payment; or
- (b) if later, the first date on which the required period condition is met or is likely to be met.

(2) Where –

- (a) the claimant has previously been entitled to personal independence payment; and
- (b) paragraph (3) applies,

the prescribed date for the purposes of regulations 6(1) and (2) and 7(1) and (2) is the date on which the claimant was last entitled to personal independence payment.

(3) This paragraph applies if –

- (a) the date mentioned in paragraph (2) falls not more than 1 year before the date on which a new claim for personal independence payment is made;
- (b) the previous entitlement referred to in paragraph (2)(a) was to the same component as the one to which the claimant is entitled (or would be entitled if the claimant met the required period condition) under the new claim; and
- (c) the Secretary of State determines that the entitlement referred to in paragraph (2)(a) and the entitlement under the new claim result from substantially the same mental or physical condition.

(4) Where paragraph (3) applies, in regulations 6(1)(b) and (2)(b) and 7(1)(b) and (2)(b), for the words ‘the relevant date’ there shall be substituted ‘the date on which the new claim for personal independence payment is made’.

Signed by authority of the Secretary of State
for Work and Pensions

[insert name]
[insert title]
Department for Work and Pensions

[insert date]

DRAFT

SCHEDULE

PERSONAL INDEPENDENCE PAYMENTS ASSESSMENT

Interpretation

1 In this Schedule, -

“aid or appliance” has the meaning given in regulation 2(1);

“assistance” means physical intervention by another person;

“assisted aid” means a wheelchair propelled by another person or an aid or appliance propelled by a motor;

“bathe” means take a bath or a shower;

“buy” means-

- (a) determine how much money is required to purchase food and drink;
- (b) assess the availability of the money referred to in (a); and
- (c) purchase online, by telephone or in a shop;

“continual” means throughout the entire duration of the activity;

“cook” means heat food at or above waist height;

“communicate” means convey and understand information in the claimant’s native language;

“communication support” means-

- (a) support from a person trained to communicate with people with limited communication abilities: or
- (b) use of an aid or appliance;

“complex journey” means a journey-

- (a) which involves more than one mode of transport; or
- (b) to an unfamiliar destination;

“groom” means-

- (a) comb or brush one’s hair;
- (b) wash one’s hair; and
- (c) clean one’s teeth,

above a level of self-neglect;

“intermittent” means for at least half the duration of the activity;

“level of self-neglect” means a level that is considered socially unacceptable;

“manage incontinence” means manage evacuation of the bowel or bladder including using a collecting device or self-catheterisation but not clean after evacuation;

“manage medication” means take medication at the time advised by a healthcare professional;

“manual aid”, in the context of the second activity in paragraph 3 of the Schedule, means an aid or appliance other than a wheelchair or an aid or appliance propelled by a motor;

“medication” means prescribed medication;

“mode of transport” includes walking;

“monitor a health condition” means –
(a) detect significant changes in a health condition; and
(b) take action advised by a healthcare professional,
without which the health condition is likely to deteriorate significantly;

“plan”, in the context of food, means determine what food and drink the claimant reasonably requires and, where the claimant’s physical or mental condition requires a specific diet, determine what food and drink is required for that diet;

“prepare”, in the context of food, means the activities required to make food ready for cooking or eating;

“prescribed therapies” means therapies prescribed by a healthcare professional to be carried out at home;

“prompt” means remind or encourage and references to prompting are to prompting by another person;

“simple journey” means a journey-

- (a) which involves only one mode of transport; or
- (b) to a familiar destination;

“simple meal” means a cooked, one course meal for one using fresh or frozen ingredients;

“snack” means an uncooked meal using fresh or pre-prepared ingredients;

“take nutrition” means-

- (a) cut food into pieces;
- (b) convey food or drink to one’s mouth; and
- (c) chew and swallow food or drink; or
- (d) take nutrition by using a therapeutic source;

“therapeutic source” means parental or enteral tube feeding using a rate limiting device such as a feed pump;

“toilet needs” means-

- (a) get on and off the toilet; and
- (b) clean oneself after using the toilet; and

“unaided” means without-

- (a) the use of an aid or appliance; or
- (b) assistance or prompting;

“wash” means clean one’s face, hands and underarms above a level of self-neglect.

Daily Living Activities

2

<i>Column 1 Activity</i>	<i>Column 2 Descriptors</i>	<i>Column 3 Points</i>
1. Planning and buying food and drink.	a. Can plan and buy food and drink unaided.	
	b. Can buy food and drink only with continual prompting.	
	c. Can plan food and drink only with continual prompting.	
	d. Can plan food and drink only with continual assistance.	
2. Preparing and cooking.	a. Can prepare and cook a simple meal unaided.	
	b. Can prepare and cook a simple meal only with the use of an aid or appliance.	
	c. Can prepare and cook a simple meal only with continual prompting.	
	d. Can cook a simple meal using a conventional cooker only with continual assistance.	
	e. Can prepare a simple meal for cooking only with continual assistance.	
	f. Can cook a simple meal using a microwave only with continual assistance.	
	g. Can prepare a simple snack only with continual assistance.	
3. Taking nutrition.	a. Can take nutrition unaided.	
	b. Can take nutrition only with the use of an aid or appliance.	
	c. Can take nutrition only with the use of a therapeutic source.	
	d. Can take nutrition only with intermittent assistance or prompting.	
	e. Can take nutrition only with the use of a	

	therapeutic source and with intermittent assistance.	
	f. Can take nutrition only with continual assistance.	
4. Managing medication and monitoring health conditions.	a. Does not receive medication or need to monitor a health condition; or can manage medication and monitor a health condition unaided or with the use of an aid or appliance.	
	b. Less than once a day requires continual assistance or prompting to manage medication or monitor a health condition.	
	c. Once a day, requires continual assistance or prompting to manage medication or monitor a health condition.	
	d. Twice a day, requires continual assistance or prompting to manage medication or monitor a health condition.	
	e. At least three times a day, requires continual assistance or prompting to manage medication or monitor a health condition.	
5. Managing prescribed therapies other than medication.	a. Either is not prescribed therapies or can manage prescribed therapies unaided or with the use of an aid or appliance.	
	b. Where prescribed therapies are required for up to 3.5 hours a week can manage only with intermittent assistance.	
	c. Where prescribed therapies are required for between 3.5 and 7 hours a week, can manage only with intermittent assistance.	
	d. Where prescribed therapies are required for between 7 and 14 hours a week, can manage only with intermittent assistance.	
	e. Where prescribed therapies are required for at least 14 hours a week, can manage only with intermittent assistance.	
6. Washing, bathing and grooming.	a. Can wash, bathe and groom unaided.	
	b. Can bathe unaided but can groom only with the use of an aid or appliance.	
	c. Can bathe unaided but can groom only with continual assistance from another person.	
	d. Can wash unaided but can bathe only with the use of an aid or appliance.	
	e. Can wash unaided but can bathe only with continual prompting.	
	f. Can wash unaided but can bathe only with continual assistance.	

	g. Can wash, bathe and groom only with continual assistance.	
7. Managing Toilet needs or incontinence.	a. Can manage toilet needs or incontinence unaided.	
	b. Can manage toilet needs or incontinence only with the use of an aid or appliance.	
	c. Can manage toilet needs only with continual assistance.	
	d. Can manage incontinence of either bladder or bowel only with continual assistance.	
	e. Can manage incontinence of both bladder and bowel only with continual assistance.	
8. Dressing and undressing.	a. Can dress and undress unaided.	
	b. Can dress and undress only with the use of an aid or appliance.	
	c. Can dress and undress unaided but can only select clothing appropriate for the environment or dress in the correct order with intermittent prompting.	
	d. Can dress and undress lower body only with intermittent assistance.	
	e. Can dress and undress unaided but cannot determine appropriate circumstances for remaining clothed.	
	f. Can dress and undress upper body only with intermittent assistance.	
	g. Can dress and undress only with continual assistance.	
9. Communicating with others.	a. Can communicate with others unaided.	
	b. Can communicate only with communication support.	
	c. Cannot, even with communication support, understand or convey a choice to an unfamiliar person.	
	d. Cannot engage socially with other people due to such engagement causing either- (i) overwhelming psychological distress to the claimant; or (ii) the claimant to exhibit uncontrollable episodes of behaviour that would result in substantial risk of significant distress to either the claimant or another person.	
	e. Cannot, even with communication support, understand or convey choice to a familiar person.	
	f. Cannot, even with communication support, understand a simple verbal or non-	

	verbal instruction or warning from another person.	
	g. Cannot, even with communication support, convey a basic need by either verbal or non-verbal means.	

Mobility Activities

3

<i>Column 1 Activity</i>	<i>Column 2 Descriptors</i>	<i>Column 3 Points</i>
1. Planning and following a journey.	a. Can plan and follow a complex journey unaided.	
	b. Cannot follow any journey alone due to such a journey causing overwhelming psychological distress to the claimant.	
	c. Can follow a complex journey only – (i) if the journey has been planned by another person; or (ii) with the continual prompting or intermittent assistance.	
	d. Cannot follow any journey due to such a journey causing overwhelming psychological distress to the claimant.	
	e. Can follow a simple journey only - (i) if the journey has been planned by another person; or (ii) with the continual prompting or intermittent assistance.	
2. Moving around.	a. Can move at least 200 metres unaided or with the use of a manual aid.	
	b. Can move at least 50 metres but not more than 200 metres either unaided or with the use of a manual aid.	
	c. Can move up to 50 metres unaided.	
	d. Can move up to 50 metres only with the use of a manual aid.	
	e. Can move up to 50 metres only with the use of a manual wheelchair propelled by the claimant.	
	f. Can move up to 50 metres only with the use of an assisted aid.	
	g. Cannot either – (i) move around at all or (ii) transfer from one seated position to an adjacent one unaided.	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out how the assessment for personal independence payment will determine to what extent a person who applies for such a payment has limited or severely limited ability to carry out daily living activities and mobility activities.

Regulation [4] provides that a claimant's ability is to be determined by reference to the Schedule which sets out a number of activities, some of which are daily living activities and some of which are mobility activities. A score is given based on the claimant's ability to undertake the activity and the cumulative scores determine whether the claimant has limited or severely limited ability to carry out either daily living activities or mobility activities or both.

Regulation 5 provides for a re-assessment of a claimant in certain circumstances.

Regulation [6] sets out the required period which has to be satisfied in order for a claimant to be eligible for the daily living component of the personal independence payment. This provides that a claimant has to be assessed as having been limited or severely limited ability to carry out the daily living or mobility activities for 6 months prior to the prescribed date and be likely to have such limited or severely limited ability for 6 months after that date.

Regulation [7] has the same effect as regulation 6 in relation to the mobility component.

Regulation [8] sets out what the prescribed date is for the purpose of regulations 6 and 7. Paragraph (1) provides that the prescribed date is the date the claim for personal independence payment was made or, if later, the date on which the required period condition is or is likely to be satisfied. Paragraphs (2) to (4) apply to a new claim where the claimant has previously been entitled to personal independence payment and have the effect that, as long as (a) the new claim is made within one year of the date the previous entitlement ceased and (b) the claimant's condition which led to the entitlement of both the previous and the new claim is substantially the same, the last day of the previous claim is treated as the prescribed date for the purposes of the new claim. This means that the claimant will not have to wait for a further 6 months to be entitled to the benefit.