



Welfare Reform Act 2012

2012 CHAPTER 5

PART 1

UNIVERSAL CREDIT

CHAPTER 3

SUPPLEMENTARY AND GENERAL

General

37 Capability for work or work-related activity

- (1) For the purposes of this Part a claimant has limited capability for work if—
 - (a) the claimant's capability for work is limited by their physical or mental condition, and
 - (b) the limitation is such that it is not reasonable to require the claimant to work.
- (2) For the purposes of this Part a claimant has limited capability for work-related activity if—
 - (a) the claimant's capability for work-related activity is limited by their physical or mental condition, and
 - (b) the limitation is such that it is not reasonable to require the claimant to undertake work-related activity.
- (3) The question whether a claimant has limited capability for work or work-related activity for the purposes of this Part is to be determined in accordance with regulations.
- (4) Regulations under this section must, subject as follows, provide for determination of that question on the basis of an assessment (or repeated assessments) of the claimant.
- (5) Regulations under this section may for the purposes of an assessment—

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- (a) require a claimant to provide information or evidence (and may require it to be provided in a prescribed manner or form);
 - (b) require a claimant to attend and submit to a medical examination at a place, date and time determined under the regulations.
- (6) Regulations under this section may make provision for a claimant to be treated as having or not having limited capability for work or work-related activity.
- (7) Regulations under subsection (6) may provide for a claimant who fails to comply with a requirement imposed under subsection (5) without a good reason to be treated as not having limited capability for work or work-related activity.
- (8) Regulations under subsection (6) may provide for a claimant to be treated as having limited capability for work until—
- (a) it has been determined whether or not that is the case, or
 - (b) the claimant is under any other provision of regulations under subsection (6) treated as not having it.
- (9) Regulations under this section may provide for determination of the question of whether a claimant has limited capability for work or work-related activity even where the claimant is for the time being treated under regulations under subsection (6) as having limited capability for work or work-related activity.

Modifications etc. (not altering text)

- C1** Pt. 1 modified by 1995 c. 18, Sch. 1 para. 2(3) (as inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **10(b)**)

Commencement Information

- I1** S. 37(1)(2)(8)(9) in force at 29.4.2013 by [S.I. 2013/983](#), **art. 3(1)(a)**
- I2** S. 37(3)-(7) in force at 25.2.2013 by [S.I. 2013/358](#), **art. 2(2), Sch. 2 para. 17**

38 Information

Information supplied under Chapter 2 of this Part or section 37 is to be taken for all purposes to be information relating to social security.

Commencement Information

- I3** S. 38 in force at 29.4.2013 by [S.I. 2013/983](#), **art. 3(1)(a)**

39 Couples

^{F1}[^{F2}(1) In this Part “couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together [^{F3}as if they were a married couple or civil partners].]

^{F4F5}(2)

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- (3) For the purposes of this section regulations may prescribe—
- (a) circumstances in which the fact that two persons are ^{F6}[^{F7}married] or are civil partners is to be disregarded;
 - (b) circumstances in which ^{F8}[^{F9}two people are to be treated as living together [^{F10}as if they were a married couple or civil partners]];
 - (c) circumstances in which people are to be treated as being or not being members of the same household.

Textual Amendments

- F1** S. 39(1) substituted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 20\(2\)](#)
- F2** S. 39(1) substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), [Sch. 1 para. 36\(2\)](#)
- F3** Words in s. 39(1)(b) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 35\(a\)](#)
- F4** S. 39(2) omitted (E.W.) (13.3.2014) by virtue of [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), [Sch. 1 para. 36\(3\)](#)
- F5** S. 39(2) omitted (S.) (16.12.2014) by virtue of [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 20\(3\)](#)
- F6** Word in s. 39(3)(a) substituted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 20\(4\)\(a\)](#)
- F7** Word in s. 39(3)(a) substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), [Sch. 1 para. 36\(4\)\(a\)](#)
- F8** Words in s. 39(3)(b) substituted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 20\(4\)\(b\)](#)
- F9** Words in s. 39(3)(b) substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), [Sch. 1 para. 36\(4\)\(b\)](#)
- F10** Words in s. 39(3)(b) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 35\(b\)](#)

Commencement Information

- I4** S. 39(1)(2)(3)(b)(c) in force at 29.4.2013 by [S.I. 2013/983](#), [art. 3\(1\)\(a\)](#)
- I5** S. 39(3)(a) in force at 25.2.2013 by [S.I. 2013/358](#), art. 2(2), [Sch. 2 para. 18](#)

40 Interpretation of Part 1

In this Part—

- “assessment period” has the meaning given by section 7(2);
- “child” means a person under the age of 16;
- “claim” means claim for universal credit;
- “claimant” means a single claimant or each of joint claimants;
- “couple” has the meaning given by section 39;

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- “disabled” has such meaning as may be prescribed;
- “joint claimants” means members of a couple who jointly make a claim or in relation to whom an award of universal credit is made;
- “limited capability for work” and “limited capability for work-related activity” are to be construed in accordance with section 37(1) and (2);
- “prescribed” means specified or provided for in regulations;
- “primary legislation” means an Act, Act of the Scottish Parliament or Act or Measure of the National Assembly for Wales;
- “qualifying young person” has the meaning given in section 10(5);
- “regular and substantial caring responsibilities” has such meaning as may be prescribed;
- “responsible carer”, in relation to a child, has the meaning given in section 19(6);
- “secondary legislation” means an instrument made under primary legislation”;
- “severely disabled” has such meaning as may be prescribed;
- “single claimant” means a single person who makes a claim for universal credit or in relation to whom an award of universal credit is made as a single person;
- “single person” is to be construed in accordance with section 1(2)(a);
- “work” has such meaning as may be prescribed;
- “work availability requirement” has the meaning given by section 18(1);
- “work preparation requirement” has the meaning given by section 16(1);
- “work search requirement” has the meaning given by section 17(1);
- “work-focused interview requirement” has the meaning given by section 15(1);
- “work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;
- “work-related requirement” has the meaning given by section 13(2).

Commencement Information

I6 S. 40 in force at 25.2.2013 by S.I. 2013/358, art. 2(2), Sch. 2 para. 19

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