Part 2—Rules for applying the Impairment Tables

7 Purpose and design of the Tables

(1) In applying the Tables, regard must be had to the principles set out in subsections (2) and (3).

Purpose and general design principles

(2) The Tables:

(a) unless otherwise authorised by law, are only to be applied to assess whether a person satisfies the qualification requirement in paragraph 94(1)(b) of the Act;

(b) are function based rather than diagnosis based;

(c) describe functional activities, abilities, symptoms and limitations; and

(d) are designed to assign ratings to determine the level of functional impairment and not to assess conditions.

Note: ***impairment*** is defined in section 5 to mean a loss of functional capacity affecting a person's ability to work that results from the person's condition.

Scaling system and descriptors

(3) In the Tables:

(a) subject to section 13, where a descriptor applies in relation to an impairment, an impairment rating can be assigned to that impairment;

Note: For ***impairment rating*** and ***descriptor*** see section 5.

(b) the first line of each descriptor, which is formatted in italics, describes the level of impact of the impairment to be identified by reference to the particular functional activities, abilities, symptoms and limitations contained in the numbered paragraphs below it, if any; and

(c) the introduction to each Table sets out further rules with which to apply the Tables and rate an impairment.

8 Applying the Tables

Assessing functional capacity

(1) The impairment of a person must be assessed on the basis of what the person can, or could do, not on the basis of what the person chooses to do or what others do for the person.

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Applying the Tables

(2) The Tables may only be applied to a person's impairment after the person's medical history, in relation to the condition causing the impairment, has been considered.

Note: For additional information that must be taken into account in applying the Tables see section 9.

Impairment ratings

(3) An impairment rating can only be assigned to an impairment if:

(a) the condition has been diagnosed by an appropriately qualified medical practitioner;

Note: For ***diagnosed*** see subsection 8(4).

(b) the condition has been reasonably treated;

Note: For ***reasonably treated*** see subsection 8(5).

(c) the condition has been stabilised; and

Note: For ***stabilised*** see subsection 8(6).

(d) the condition and the resulting impairment is more likely than not, in light of available evidence, to persist for more than 2 years.

Diagnosed

(4) In determining whether a condition has been diagnosed by an appropriately qualified medical practitioner for the purposes of paragraph 8(3)(a), the following is to be considered:

(a) whether there is corroborating evidence of the condition, as set out in the requirements of each Table.

Reasonably treated

(5) In determining whether a condition has been reasonably treated for the purposes of paragraph 8(3)(b), the following is to be considered:

(a) what treatment or rehabilitation has occurred in relation to the condition; and

(b) whether treatment is continuing or is planned in the next 2 years and is likely to result in significant functional improvement.

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Stabilised

(6) For the purposes of paragraph 8(3)(c) a condition is stabilised if either:

(a) the person has undertaken reasonable treatment for the condition and any further reasonable treatment is unlikely to result in significant functional improvement; or

(b) the person has not undertaken reasonable treatment for the condition and:

(i) significant functional improvement is not expected, even if the person undertakes reasonable treatment; or

(ii) there is a medical or other compelling reason for the person not to undertake reasonable treatment.

Note 1: For ***reasonable treatment*** see subsection 8(7).

Note 2: Degenerative conditions that result in progressive and irreversible loss of function, can be considered stabilised if reasonable treatment is not expected to result in significant functional improvement.

Reasonable treatment

(7) For the purposes of subsection 8(5) and (6), reasonable treatment is treatment that:

(a) is available at a location reasonably accessible to the person;

(b) is at a reasonable cost;

(c) can reliably be expected to result in a significant functional improvement;

(d) is regularly undertaken or performed;

(e) has a high success rate; and

(f) carries a low risk to the person.

Assessing functional impact of pain

(8) There is no Table dealing specifically with pain and when assessing pain the following must be considered:

(a) acute pain is a symptom which may result in short term loss of functional capacity in more than one area of the body; and

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(b) chronic pain may be a standalone diagnosis or a symptom of another condition and, where the condition has been diagnosed, reasonably treated and stabilised for the purposes of subsections 8(4), (5) and (6), any resulting impairment should be assessed using the Table relevant to the area of function affected.

9 Information that must be taken into account in applying the Tables

(1) Subject to subsection (2), in applying the Tables the following information must be taken into account:

(a) the information provided by the health professionals specified in the relevant Table;

(b) any additional medical or work capacity information that may be available; and

(c) any information that is required to be taken into account under the Tables, including as specified in the introduction to each Table.

(2) A person may be asked to demonstrate abilities described in the Tables.

10 Information that must not be taken into account in applying the Tables

(1) Symptoms reported by a person in relation to their condition can only be taken into account where there is corroborating medical evidence.

Note: Examples of the corroborating medical evidence that may be taken into account are set out in the introduction of each Table in Part 3 of this instrument.

(2) Unless required under the Tables, the impact of non-medical factors when assessing a person's impairment must not be taken into account.

Example: unless specifically referred to in a Table, the following must not be taken into account in assessing an impairment: the availability of suitable work in the person's local community; English language competence; age; gender; level of education; numeracy and literacy skills; level of work skills and experience; social or domestic situation; level of personal motivation.

11 Use of aids, equipment and assistive technology

A person's impairment is to be assessed when the person is using or wearing any aids, equipment or assistive technology that the person has and usually uses, or can reasonably access.

12 Selecting the applicable Table and assessing impairments

Selection steps

(1) Table selection is to be made by applying the following steps:

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(a) identify the loss of function; then

(b) refer to the Table related to the function affected; then

(c) identify the correct impairment rating.

(2) The Table specific to the impairment being rated must always be applied to that impairment unless the instructions in a Table specify otherwise.

(3) When identifying the loss of function, consideration should be given to the ongoing side effects of prescribed medication and treatment when the impairment from, or related to, the side effects is not expected to significantly improve.

Single condition causing multiple impairments

(4) Where a single condition causes multiple impairments, each impairment should be assessed under the relevant Table.

Example: a stroke may affect different functions, thus resulting in multiple impairments which could be assessed under a number of different Tables including: upper and lower limb function (Tables 2 and 3); brain function (Table 7); communication function (Table 8); and visual function (Table 12).

(5) When using more than one Table to assess multiple impairments resulting from a single condition, impairment ratings for the same impairment must not be assigned under more than one Table.

Multiple conditions causing a common impairment

(6) Where two or more conditions cause a common or combined impairment, a single rating should be assigned in relation to that common or combined impairment under a single Table.

(7) Where a common or combined impairment resulting from two or more conditions is assessed in accordance with subsection 12(6), it is inappropriate to assign a separate impairment rating for each condition as this would result in the same impairment being assessed more than once.

Example: the presence of both heart disease and chronic lung disease may each result in breathing difficulties. The overall impact on function requiring physical exertion and stamina would be a combined or common effect. In this case, a single impairment rating should be assigned using Table 1.

13 Assigning an impairment rating

(1) In assigning an impairment rating:

(a) an impairment rating can only be assigned in accordance with the rating points in each Table;

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(b) a rating cannot be assigned between consecutive impairment ratings;

Example: a rating of 15 cannot be assigned between 10 and 20.

(c) a rating must not be assigned unless all the descriptors for that level of impairment are satisfied; and

(d) a rating cannot be assigned in excess of the maximum rating specified in each Table.

(2) In deciding whether an impairment has no or minimal, mild, moderate, severe or extreme functional impact upon a person, the relative descriptors for each impairment rating in a Table should be compared to determine which impairment rating is to be applied.

Descriptors involving performing activities

(3) When determining whether a descriptor applies that involves a person performing an activity, the descriptor applies if that person can complete or sustain the activity when they would be expected to do so and not only once or rarely.

Example: If, under Table 2, a person is being assessed as to whether they can unscrew a lid of a soft drink bottle, the relevant impairment rating can only be assigned where the person is generally able to do that activity whenever they attempt it.

Episodic and fluctuating impairments and conditions

(4) When assessing episodic and fluctuating impairments and conditions, a rating must be assigned which reflects the overall functional impact of those impairments, taking into account the severity, duration and frequency of the episodes or fluctuations as appropriate.

(5) When assessing episodic and fluctuating impairments and conditions, signs and symptoms may vary over time and the person's presentation on the day of assessment should not solely be relied upon.

No or minimal impairment resulting from a condition

(6) The presence of a diagnosed condition does not necessarily mean that there will be an impairment to which an impairment rating may be assigned. To avoid doubt, where a person's diagnosed condition results in no or minimal impairment, the impairment should be assessed as having no or minimal functional impact and a zero rating must be assigned.

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