
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain transitional provisions for the phasing out of disability living allowance (“DLA”) and its replacement by personal independence payment (“PIP”). In particular they provide for the Department for Social Development (“the Department”) to invite people entitled to DLA (“a DLA entitled person”) to transfer to PIP and for them to lose their entitlement to DLA if they do not do so. The Regulations also enable people entitled to DLA to transfer to PIP voluntarily.

Regulation 3 has the effect that the Department may send a notification inviting any DLA entitled person aged 16 or more to claim PIP unless they were age 65 or more on 20th June 2016. The Department must send a notification to a DLA entitled person who reaches age 16 as soon as reasonably practicable after the person reaches that age. The notification will not be issued to anyone terminally ill on reaching the age of 16.

Regulation 4 enables any DLA entitled person under age 65 on 20th June 2016 who has not had an invitation from the Department to apply for PIP voluntarily.

Regulation 5 ensures that DLA entitled persons are not entitled to claim PIP when they are under age 16, while regulation 6 prevents people from claiming PIP while they are in the process of claiming DLA.

Regulation 7 sets out what a notification given under regulation 3 must contain.

Regulation 8 provides that a DLA entitled person notified under regulation 3 should claim PIP within 28 days but provides that the Department must extend that period if the claim is defective and may do so in other cases. Regulation 9 provides that if no claim is made within the 28 days or the extended period the Department has allowed, the person’s entitlement to DLA is suspended as from the first “pay day” for DLA purposes that falls after the end of the 28 day period or of that period as extended.

Regulation 10 provides that the Department must send a notice to a person whose entitlement to DLA has been suspended telling the person that the person’s entitlement to DLA will terminate unless the person claims PIP within 28 days of the day when the suspension took effect. If the person claims PIP within that period, the person’s entitlement to DLA is reinstated as if it had not been suspended. Regulation 11 provides that if no claim is made the person’s entitlement to DLA terminates with effect from the day on which the suspension of that entitlement took effect under regulation 9.

Regulation 12 applies the provisions of regulations 9, 10 and 11 to persons who voluntarily make a claim for PIP but whose claim is defective and who do not make a proper claim within the period allowed under regulation 9.

Regulation 13 has the effect that where a DLA entitled person claiming PIP is required to provide information or attend a meeting about the person’s claim and the Department determines that the person has failed to do so, the person’s entitlement to DLA ends 14 days after the first DLA pay day falling after the date of the determination. Taken with regulation 17, it also has the effect that if the Department’s determination is reversed as a result of legal proceedings, and PIP is awarded, entitlement to PIP starts on the first day after entitlement to DLA terminated under the regulation.

Regulation 14 has the effect that if a DLA entitled person who has not claimed PIP informs the Department that the person does not intend to claim it, the person’s entitlement to DLA ends, provided that the person had been told, before the intention was expressed, that the person’s

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entitlement to DLA would end if it was expressed, 14 days after the first DLA pay day falling after the date on which the Department decides that the person has expressed the intention.

Regulation 15 has the effect that where a DLA entitled person withdraws a claim for PIP the person's entitlement to DLA ends 14 days after the first DLA pay day falling after the withdrawal.

Regulation 16 deals with cases where a DLA entitled person dies after receiving a notification under regulation 3 but before claiming PIP, or after claiming PIP, but before becoming entitled to PIP.

Regulation 17 provides that when an assessment determination is made on a claim by a DLA entitled person, the person must be informed of the outcome. Whether the person is awarded PIP or not, the person's entitlement to DLA normally ends on the last day of the 28 day period starting with the person's first DLA pay day that falls after the assessment determination. If the person is awarded PIP the person's entitlement to PIP starts on the day immediately after that on which entitlement to DLA ends. An exception is made to the 28 day period for a person who is terminally ill, if that person is awarded personal independence payment at a total weekly rate which is greater than that person's total weekly rate of DLA, ensuring that the person's entitlement to DLA will terminate on the last day of the payment period during which the PIP decision is made, or the first Tuesday following the making of that decision (whichever is the earlier). The person will be entitled to PIP from the following day.

Regulation 18 has the effect that when a person entitled to DLA, or a component of DLA, for a fixed term period reaches age 16 and the fixed term period expires before the person reaches age 16 years and 6 months the fixed term is automatically extended until the day before the person reaches age 17 unless the person's entitlement terminates because of the operation of other provisions in the Regulations, for example where an assessment determination is made on the person's claim.

Regulation 19 gives the Department a general power to extend the fixed term period that applies to a person's entitlement to DLA, or a component of DLA, by such period as it thinks fit where the fixed term may expire before an assessment determination can be made. The fixed term period and entitlement to DLA expire at the end of the period by which the fixed term has been extended unless entitlement terminates earlier because of the operation of other provisions in the Regulations.

Regulation 20 provides that where a DLA entitled person who has received an invitation to claim PIP under regulation 3, or is in the course of claiming PIP, notifies the Department of a change in circumstances that may affect the person's entitlement to DLA the notification is to be treated as if it was a notification in relation to PIP and not DLA.

Regulation 21 prevents any legal proceedings being brought under the Social Security (Northern Ireland) Order 1998 to challenge a suspension of DLA that takes place because of the operation of the Regulations.

Regulation 22 has the effect that, except in narrowly defined circumstances, a person is barred from claiming DLA if the person is entitled to claim PIP or is entitled to PIP.

Regulation 23 provides that DLA entitled persons claiming PIP do not have to meet that part of the required period condition that normally requires claimants to meet the assessment criteria for the three month period before the date by reference to which the assessment is carried out.

Regulation 24 provides that for DLA entitled persons claiming PIP the date by reference to which the assessment on the claim is to be carried out is the date on which the person claimed PIP.

Regulation 25 makes provision for the case where a DLA entitled person who is in a care home or in hospital, but to whom DLA is nevertheless payable, becomes entitled to PIP.

Regulation 26 makes provision for the case where a DLA entitled person who is absent from Northern Ireland, but is nevertheless entitled to DLA, becomes entitled to PIP.

Regulation 27 allows persons to become entitled to PIP when they are over 65 if they are under that age on 20th June 2016.

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Regulations 28 and 29 apply where there is a person appointed to exercise rights on behalf of a DLA entitled person and receive and deal with DLA payments. The regulations ensure that the appointed person is entitled to claim PIP on behalf of the DLA entitled person and, if PIP is awarded, that the appointed person is treated as an appointed person for PIP purposes.

Regulation 30 applies the Regulations, with appropriate modifications, to persons who have their claim for DLA refused, claim PIP and then, as a result of legal proceedings that overturn the refusal, become entitled to DLA before their entitlement to PIP is assessed.

Regulation 31 ensures that a person who has a disabled person's badge but, as a result of losing entitlement to DLA, loses entitlement to the badge, is nevertheless entitled to keep and use the badge until the normal expiration of the period for which it was issued.

An assessment of the impact of this instrument has been carried out. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1 9NA. It is also available alongside this instrument and the Explanatory Memorandum on www.legislation.gov.uk.

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Changes and effects yet to be applied to :

- reg. 27A Inserted by [S.R. 2019/118 reg. 2](#)
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