

EXPLANATORY MEMORANDUM TO

THE PERSONAL INDEPENDENCE PAYMENT (SUPPLEMENTARY PROVISIONS AND CONSEQUENTIAL AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No. 228

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Social Development (Northern Ireland) (“The Department”) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 Personal Independence Payment (PIP) will replace Disability Living Allowance (DLA) for people who are aged 16 to 64 on or after 20 June 2016. Entitlement to a particular rate or component of DLA acts as one of the qualifying criteria for various other schemes and benefits. These are commonly referred to as passporting arrangements. The purpose of these Regulations is to ensure that PIP claimants will be able to benefit from the same passporting arrangements, wherever possible.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 [Section 87 of the Northern Ireland Act 1998](#) places a statutory duty on the Minister for Social Development and the Secretary of State for Work and Pensions to consult with one another with a view to securing a single social security system for the United Kingdom. [Section 88 of the 1998 Act](#) makes provision for financial adjustments to support the maintenance of these parity arrangements.
- 4.2 Underpinning the parity principle is the argument that as people in Northern Ireland pay the same rates of income tax and National Insurance contributions as people in Great Britain; they are entitled to the same rights and benefits paid at the same rates.
- 4.3 The [Welfare Reform Act 2012](#) introduced a number of reforms including Universal Credit, Personal Independence Payment, the Jobseeker’s Allowance Claimant Commitment and a cap on the amount of benefits working age people can receive. It also reassessed incapacity benefits claimants for Employment and Support Allowance, improved the Work Capability Assessment and made sure housing support is fair.
- 4.4 On 17 November 2015 “[A Fresh Start: The Stormont House Agreement and Implementation Plan](#)” was agreed by the main political parties in Northern Ireland.

Included in this agreement was the approach agreed by the Executive and HM Government to implementing welfare reform in Northern Ireland. [The Northern Ireland \(Welfare Reform\) Act 2015](#) provides a power for Her Majesty to legislate on social security, child support and certain matters related to employment and training in Northern Ireland by Order in Council. Any such Order in Council may then confer power on the Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulations or order. The [Welfare Reform \(Northern Ireland\) Order 2015](#) (The Order) was made on 9 December 2015 and regulations stemming from the Order to implement the various welfare reforms set out in the [Welfare Reform Act 2012](#) in Northern Ireland are now being brought forward.

- 4.5 This instrument is directly related to two further instruments: the Personal Independence Payment Regulations (Northern Ireland) 2016, provide for the introduction of PIP; and the Personal Independence Payment (Transitional Provisions) Regulations (Northern Ireland) 2016, which make provision for the transitional arrangements in respect of assessing existing recipients of DLA for entitlement to PIP. Both these instruments are subject to the negative resolution procedure and will be made and laid concurrently with this instrument.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is solely to Northern Ireland.
- 5.2 The territorial application of this instrument is Northern Ireland.
- 5.3 These Regulations restore parity between social security systems in Northern Ireland and Great Britain as this instrument makes the equivalent changes for the social security system in Northern Ireland that were made in Great Britain by [the Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013](#) (S.I. 2013/388).

6. European Convention on Human Rights

- 6.1 The Minister for Disabled People has made the following statement regarding Human Rights: “In my view the provisions of the Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations (Northern Ireland) 2016 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 PIP is designed to provide a cash contribution to individuals to help them meet the additional costs they face as a result of a long-term health condition or disability. It replaces DLA, which is no longer in step with the needs of disabled people, has proved to be complex and confusing, and lacks objective assessment criteria and systematic checking processes. At the centre of the proposals for PIP is the development of a transparent and objective assessment which considers people as individuals and assesses their entitlement to the benefit fairly and consistently. The first PIP claimants will be able to apply from 20 June 2016.
- 7.2 A number of supplementary and consequential amendments are brought forward to existing legislation to provide for passporting arrangements and also set out how PIP is taken into account for the purposes of various schemes, benefits and grants.

Supplementary provisions

- 7.3 Provision is made for adjusting the daily living component of PIP where medical expenses are paid by the Secretary of State under certain war pensions instruments and accommodation necessarily ancillary to that treatment is provided. There is an exemption to this adjustment for the first 28 days when it would otherwise apply. This adjustment replicates the position in relation to DLA.
- 7.4 Provision is also made to include PIP in the Blue Badge scheme, which helps disabled recipients park closer to their destination. Automatic eligibility for a Blue Badge is linked to those who score 8 points or more in the ‘moving around’ activity of the mobility component of the PIP assessment. 8 points corresponds to being unable to stand and walk unaided more than 50 metres. This maintains the closest fit with the current eligibility for a Blue Badge under DLA.

Consequential amendments

- 7.5 The remaining regulations cover consequential amendments to legislation where entitlement to DLA acts as a qualifying criterion for other benefits or schemes, to make similar provision for PIP. The current passporting arrangements under DLA have an important role for disabled people, their carers and administratively, so that individuals do not have to face unnecessary multiple assessments. The Westminster Government made a commitment to maintain these arrangements under PIP, wherever possible. That position has been mirrored in Northern Ireland.
- 7.6 Generally the following approach has been taken:
- where receipt of any rate or component of DLA acts as the passport to a particular benefit or scheme, any rate or component of PIP is the corresponding passport;
 - where receipt of highest rate care component DLA is the passport, enhanced rate daily living component is the passport under PIP;
 - where middle or highest rate care component DLA is the passport, standard or enhanced rate daily living component is the PIP passport; and
 - where the passport is higher rate mobility component DLA, the PIP passport is enhanced rate mobility component.

Consolidation

- 7.7 This instrument will be informally consolidated in the NI equivalent of the GB Law Relating to Social Security (or “Blue Volumes”), as the legislation applies only to Northern Ireland. It will be available to the public at no cost via the internet at: <https://www.dsdni.gov.uk/services/law-relating-social-security>

8. Consultation outcome

- 8.1 The first consultation on DLA and PIP, ‘[Disability Living Allowance reform](#)’, published on 6 December 2010, made clear that the intention was to take into account DLA’s role as a passport as the new benefit was designed. The responses received were unanimously in favour of maintaining passporting arrangements where possible. The consultation on the [detailed design](#) of PIP, published on 26 March 2012, outlined the rates and components of PIP which would act as the gateways to most benefits and schemes. All consultation exercises undertaken by the Department for Work and Pensions (DWP) in relation to PIP have been run concurrently in Northern Ireland by

the Department with stakeholder responses fed back to DWP to consider alongside those received in Great Britain.

- 8.2 The Northern Ireland Social Security Agency (NISSA) within the Department has held a number of events with the Customer Representative Group Forum (consisting of over 60 groups) regarding PIP. This forum first met in November 2011 as part of the Department's commitment to engage with relevant stakeholder groups around welfare reform issues.

9. Guidance

- 9.1 Detailed guidance on both regulatory and operational changes will be provided to staff and decision makers within the NISSA. Procedures will be updated, staff trained and materials on passporting will be produced.
- 9.2 As guidance is developed, changes will be made to the Decision Makers Guide (DMG) which is also available free on the DSD internet at:
<https://www.dsdni.gov.uk/articles/decision-makers-guide>.

10. Impact

- 10.1 The introduction of PIP does not introduce a statutory burden on business, charities or voluntary bodies. NISSA will continue to work with charities and voluntary bodies supporting disabled people to help them prepare for the introduction of PIP.
- 10.2 The impact on the public sector is negligible. This measure is part of the welfare reform package that will restore parity with the rest of the UK and contribute toward sustainable finances for the Northern Ireland Executive. Administrative arrangements to provide passports to other schemes and benefits are being maintained wherever possible and in line with policy decisions made by the relevant Departments administering those benefits and schemes.
- 10.3 An Impact Assessment has been prepared for this instrument and is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website. There are currently around 125,170 working age DLA claimants in Northern Ireland. It is not possible for us to determine the future eligibility of these individuals for Personal Independence Payments. The changes provide a transparent and consistent assessment to ensure support is based on need rather than condition, and reassessment over time will ensure that as people's conditions or health needs change they are more accurately reflected in the support provided. These regulations ensure that the consequential eligibility for passported benefits from PIP remain largely as they were under DLA. Therefore retaining the broader support for people to overcome the barriers they face and lead fuller independent lives.

11. Regulating small business

- 11.1 Although some of the legislation does apply to small businesses, there is no net impact as PIP will simply be replacing DLA for people aged 16 to 64 on or after 20 June 2016.

12. Monitoring & review

- 12.1 The operation of the Regulations will continue to be reviewed through the normal avenues of guidance enquiries received from the Department's offices and correspondence from members of the public.
- 12.2 Northern Ireland social security legislation normally maintains parity with changes made by the Department for Work and Pensions.
- 12.3 [Article 94 of the Welfare Reform \(Northern Ireland\) Order 2015](#) also provides for two biennial, independent reviews within the first four years of the implementation of PIP on the operation of assessments: the first to report within two years beginning with the date on which the first assessment regulations come into force, and the second within four years of that date.
- 12.4 In addition, [Article 139](#) of the Order places a duty on the Department to conduct and publish a report on the operation of the Order. This must be produced within 3 years of the making of the Order. The Department is required to lay the report before the Northern Ireland Assembly.

13. Contact

- 13.1 Anne McCleary at the Department for Social Development Telephone: 02890 819984 or email: anne.mccleary@dndni.gsi.gov.uk can answer any queries regarding the instrument.