

**2013 No. 142**

**SOCIAL SECURITY**

**The Welfare Reform (Consequential Amendments) (Scotland)  
(No. 3) Regulations 2013**

<i>Made</i> - - - -	<i>9th May 2013</i>
<i>Laid before the Scottish Parliament</i>	<i>13th May 2013</i>
<i>Coming into force</i> - -	<i>11th June 2013</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 12(3), 17(2B) and 42 of the Legal Aid (Scotland) Act 1986(a) and sections 1 to 3 of the Welfare Reform (Further Provision) (Scotland) Act 2012(b) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Welfare Reform (Consequential Amendments) (Scotland) (No. 3) Regulations 2013 and come into force on 11th June 2013.

**Council Tax (Discounts) (Scotland) Regulations 1992**

2. In regulation 2(3)(c) of the Council Tax (Discounts) (Scotland) Regulations 1992(c) (care workers), after head (iiia) insert—

“(iiib) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(d);”.

**National Assistance (Assessment of Resources) Regulations 1992**

3.—(1) The National Assistance (Assessment of Resources) Regulations 1992(e) are amended as follows.

(2) In regulation 2(1) (interpretation), after the definition of “the Act” insert—

““armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;”.

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(a) 1986 c.47; section 12(3) was amended by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1, paragraph 12(4)(a) and the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), section 67(5); section 17(2B) was inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), Schedule 8, paragraph 36(6); the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53.

(b) 2012 asp 10.

(c) S.I. 1992/1409; relevant amending instruments are S.I. 1994/629 and 1997/587 and S.S.I. 2013/65.

(d) S.I. 2011/517; relevant amending instrument is S.I. 2013/436.

(e) S.I. 1992/2977; relevant amending instrument is S.S.I. 2013/65.

(3) In Schedule 3 (sums to be disregarded in the calculation of income other than earnings), after paragraph 4 insert—

“**4A.** Any armed forces independence payment.”.

#### **Advice and Assistance (Scotland) Regulations 1996**

**4.**—(1) The Advice and Assistance (Scotland) Regulations 1996(**a**) are amended as follows.

(2) In regulation 2(1) (interpretation), at the end insert—

“;

“Welfare Fund payment” means any payment made by a local authority in exercise of the power in section 20 of the Local Government in Scotland Act 2003(**b**) and using funds provided by the Scottish Ministers from the Scottish Welfare Fund, where the payment is—

- (a) a crisis payment made for the purpose of meeting an immediate short term need; or
- (b) made for the purpose of meeting a need for community care.”.

(3) In regulation 16(2) (payment of fees and outlays from property recovered or preserved)—

- (a) in sub-paragraph (a)(vii), for the words from “payment” to the end substitute “Welfare Fund payment”;
- (b) in sub-paragraph (c), omit “the mobility component of a” and “the mobility component of” (where those words appear immediately before “personal independence payment”); and
- (c) after sub-paragraph (c), insert—

“(ca) to armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;”.

(4) In paragraph 5 of Schedule 2 (assessment of disposable capital and disposable income)—

- (a) after sub-paragraph (ba), insert—

“(bb) there shall be left out of account any Welfare Fund payment;”;

and
- (b) after sub-paragraph (d)(a), insert—

“(aa) personal independence payment under Part 4 of the Welfare Reform Act 2012(**c**);  
(ab) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;”.

#### **Education (Student Loans) Regulations 1998**

**5.** In the definition of “disability related benefits” in paragraph 1 of Schedule 2 to the Education (Student Loans) Regulations 1998(**d**) (terms of loans), after “1992,” insert “personal independence payment under Part 4 of the Welfare Reform Act 2012, armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011,”.

#### **Repayment of Student Loans (Scotland) Regulations 2000**

**6.** In the definition of “disability related benefit” in regulation 2 of the Repayment of Student Loans (Scotland) Regulations 2000(**e**) (interpretation), after “2012” insert “, armed forces

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(a) S.I. 1996/2447; relevant amending instruments are S.I. 1997/726, 1998/724 and 2008/1879 and S.S.I. 2003/163 and 421 and 2013/65 and 137.

(b) 2003 asp 1.

(c) 2012 c.5.

(d) S.I. 1998/211; relevant amending instrument is S.S.I. 2001/210.

(e) S.S.I. 2000/110; relevant amending instruments are S.I. 2008/1879 and S.S.I. 2013/65.

independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011”.

### **Civil Legal Aid (Scotland) Regulations 2002**

- 7.—(1) The Civil Legal Aid (Scotland) Regulations 2002(a) are amended as follows.
- (2) In regulation 2(1) (interpretation), after the definition of “solicitor-advocate” insert—
- ““Welfare Fund payment” means any payment made by a local authority in exercise of the power in section 20 of the Local Government in Scotland Act 2003 and using funds provided by the Scottish Ministers from the Scottish Welfare Fund, where the payment is—
- (a) a crisis payment made for the purpose of meeting an immediate short term need; or
  - (b) made for the purpose of meeting a need for community care;”.
- (3) In regulation 33(a) (payments out of property recovered or preserved: exceptions)—
- (a) in sub-paragraph (vii), for the words from “payment” to the end substitute “Welfare Fund payment”; and
  - (b) after sub-paragraph (xiii), insert—
    - “(xiv) by way of personal independence payment under section 79 of the Welfare Reform Act 2012 or by way of armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;”.
- (4) In paragraph 7 of Schedule 2 (rules for computing disposable income)—
- (a) for sub-paragraph (e), substitute—
    - “(e) any Welfare Fund payment;”;
  - (b) in sub-paragraph (f), omit “the mobility component of”; and
  - (c) after that sub-paragraph, insert—
    - “(g) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.”.
- (5) In paragraph 8 of Schedule 3 (rules for computing disposable capital), for sub-paragraph (a) substitute—
- “(a) any Welfare Fund payment;”.

### **Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003**

8. In article 4(2) of the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003(b) (the severely mentally impaired), after sub-paragraph (ga) insert—

“(gb) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;”.

### **National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003**

9.—(1) The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(c) are amended as follows.

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(a) S.S.I. 2002/494; relevant amending instruments are S.S.I. 2013/65 and 137.  
(b) S.S.I. 2003/176; relevant amending instruments are S.I. 2008/1879 and S.S.I. 2013/65.  
(c) S.S.I. 2003/460; relevant amending instruments are S.S.I. 2005/179, 2008/390 and 2013/137.

- (2) In regulation 2 (interpretation)—
- (a) after the definition of “personal pension scheme”, insert—
- ““qualifying young person” has the meaning given in section 10(5) of the Welfare Reform Act 2012;”; and
- (b) in the definition of “single person”, at the end insert “, except that in regulation 4(2)(bc) it is to be construed in accordance with section 1(2)(a) of the Welfare Reform Act 2012”.
- (3) In regulation 4(2) (description of persons entitled to full remission and payment), after sub-paragraph (ba) insert—
- “(bb) a child or qualifying young person for whom a person referred to in sub-paragraph (ba) is responsible (within the meaning of Part 1 of the Welfare Reform Act 2012 and regulations made under that Part);
- (bc) a member of a couple, the other member of which is the recipient of an award of universal credit as a single person;”.
- (4) In column 2 of Table B in Schedule 1 (calculation of requirements), in the modifications of Schedule 2 to the Income Support (General) Regulations 1987(a), in the substitute paragraph 13A(1) of Schedule 2—
- (a) omit “or” immediately after sub-paragraph (1)(b)(i); and
- (b) at the end, insert—
- “(iii) in receipt of the enhanced rate of daily living component of a personal independence payment prescribed in accordance with section 78(3)(b) of the Welfare Reform Act 2012; or
- (iv) in receipt of an armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.”.

### **Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007**

**10.** In regulation 8(6)(b) of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(b) (proxy vote on grounds of disability), after “1992” insert “, the enhanced rate of the mobility component of personal independence payment (payable under section 79(2) of the Welfare Reform Act 2012) or armed forces independence payment (under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011)”.

### **Council Tax Reduction (Scotland) Regulations 2012**

**11.**—(1) The Council Tax Reduction (Scotland) Regulations 2012(c) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
- (a) after the definition of “appropriate maximum council tax reduction”, insert—
- ““armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;”; and
- (b) in the definition of “the benefit Acts”, after “the 1992 Act,” insert “the Armed Forces (Pensions and Compensation) Act 2004(d) insofar as it relates to armed forces independence payment, Part 4 (personal independence payment) of the Welfare Reform Act 2012;”.

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(a) S.I. 1987/1967.  
 (b) S.S.I. 2007/170.  
 (c) S.S.I. 2012/303; relevant amending instrument is S.S.I. 2013/48.  
 (d) 2004 c.32.

- (3) In regulation 28 (treatment of child care charges)—
- (a) after paragraph (11)(f)(iv), insert—
    - “(iva) armed forces independence payment;”; and
  - (b) in paragraph (14)(a), after “patient” insert “, or in respect of whom armed forces independence payment is payable”.
- (4) In regulation 67 (non-dependant deductions)—
- (a) after paragraph (6)(b)(ii), insert—
    - “(iia) armed forces independence payment;”; and
  - (b) in paragraph (9)(a), after “disability living allowance” insert “, armed forces independence payment”.
- (5) In regulation 81(8) (date on which a change in circumstances is to take effect), after “the 1992 Act” insert “, Part 4 of the Welfare Reform Act 2012 or article 24A of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011”.
- (6) In Schedule 1 (applicable amount)—
- (a) in paragraph 8(2) (disability premiums), after “the 1992 Act” insert “, armed forces independence payment”;
  - (b) in paragraph 10(1)(a)(i) (additional condition for the disability premium), after “disability living allowance,” insert “armed forces independence payment,”;
  - (c) in paragraph 11 (severe disability premium), in each of sub-paragraphs (2)(a)(i), (2)(b)(i), (2)(b)(ii) and (4)(a), after “the 1992 Act” insert “, armed forces independence payment”;
  - (d) in paragraph 12 (enhanced disability premium), after sub-paragraph (1)(b) insert—
    - “(ba) armed forces independence payment is payable in respect of the applicant or a member of the applicant’s family who has not attained the qualifying age for state pension credit;”; and
  - (e) in paragraph 13 (disabled child premium), after paragraph (b) insert—
    - “(ba) is a young person who is in receipt of armed forces independence payment;”.
- (7) In Schedule 2, in paragraph 2(a) (disregards in determining a second adult’s gross income), after “disability living allowance” insert “, armed forces independence payment”.
- (8) In Schedule 4, in paragraph 10 (sums to be disregarded in the calculation of income other than earnings), after “disability living allowance” insert “, armed forces independence payment”.

### **Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012**

**12.**—(1) The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(a) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
- (a) after the definition of “appropriate maximum council tax reduction”, insert—
    - ““armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;”; and
  - (b) in the definition of “the benefit Acts”, after “the 1992 Act,” insert “the Armed Forces (Pensions and Compensation) Act 2004 insofar as it relates to armed forces independence payment, Part 4 (personal independence payment) of the Welfare Reform Act 2012,”.
- (3) In regulation 27 (meaning of income), after paragraph (1)(j)(ii) insert—
- “(iia) armed forces independence payment;”.

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(a) S.S.I. 2012/319; relevant amending instrument is S.S.I. 2013/49.

- (4) In regulation 29 (treatment of child care charges)—
- (a) after paragraph (11)(f)(iv), insert—  
“(iva) armed forces independence payment;”; and
  - (b) in paragraph (14)(a), after “patient” insert “, or in respect of whom armed forces independence payment is payable”.
- (5) In regulation 48 (non-dependant deductions)—
- (a) after paragraph (6)(b)(ii), insert—  
“(iia) armed forces independence payment;”; and
  - (b) in paragraph (9)(a), after “disability living allowance” insert “, armed forces independence payment”.
- (6) In regulation 59(8) (date on which a change in circumstances is to take effect), after “the 1992 Act” insert “, Part 4 of the Welfare Reform Act 2012 or article 24A of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011”.
- (7) In Schedule 1 (applicable amount)—
- (a) in paragraph 6(2) (disability premiums), after “the 1992 Act” insert “, armed forces independence payment”;
  - (b) in paragraph 7 (severe disability premium), in each of sub-paragraphs (2)(a)(i), (2)(b)(i), (2)(b)(ii) and (6)(a), after “the 1992 Act” insert “, armed forces independence payment”;
  - (c) in paragraph 8 (enhanced disability premium), after sub-paragraph (1)(a) insert—  
“(aa) armed forces independence payment is payable in respect of a young person within the applicant’s family;”; and
  - (d) in paragraph 9 (disabled child premium), after paragraph (b) insert—  
“(ba) is a young person who is in receipt of armed forces independence payment;”.
- (8) In Schedule 2, in paragraph 5 (sum to be disregarded in the calculation of earnings), after sub-paragraph (1)(a)(iv) insert—  
“(iva) armed forces independence payment;”.
- (9) In Schedule 4, in paragraph 21 (capital to be disregarded), after sub-paragraph (2)(d) insert—  
“(da) armed forces independence payment;”.
- (10) In Schedule 5, in paragraph 2(a) (sums to be disregarded in determining a second adult’s gross income), after “disability living allowance” insert “, armed forces independence payment”.

*NICOLA STURGEON*  
A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
9th May 2013

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make consequential amendments to various pieces of subordinate legislation in connection with welfare reform changes effected by legislation in the United Kingdom Parliament. The majority of the amendments are in consequence of the introduction of new benefits known as personal independence payment (payable under Part 4 of the Welfare Reform Act 2012) and armed forces independence payment (payable under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, as amended by the Armed Forces and Reserve Forces (Compensation Scheme) (Amendment) Order 2013).

In addition—

- there are amendments to legal advice and assistance and civil legal aid instruments to reflect the ending of discretionary payments out of the social fund (which operated under the Social Security Contributions and Benefits Act 1992) and the creation of the Scottish Welfare Fund (regulations 4(2), (3)(a) and (4)(a) and 7(2), (3)(a), (4)(a) and (5));
- the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 are amended to ensure dependants of universal credit recipients are remitted from health charges (regulation 9(2) and (3)).

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