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## EXPLANATORY NOTE

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

These Regulations set out the principal provisions relating to personal independence payment which is established under Part 4 of the Welfare Reform Act 2012 ('the 2012 Act').

Part 2 provides for the assessment for personal independence payment which will determine whether and to what extent a person who applies for such a payment has limited or severely limited ability to carry out daily living activities and mobility activities.

Regulation 3 provides that daily living activities and mobility activities are those set out in Schedule 1 to these Regulations.

Regulation 4 provides that a person's ability to carry out those activities is to be determined by an assessment and regulations 5 to 7 set out how those activities are to be scored in the assessment.

Regulation 8 allows the Secretary of State to request information or evidence to enable the determination of the claim to be made and requires that such information or evidence is provided within one month or such other period as the Secretary of State considers reasonable. If such information is not provided without good reason, a negative determination shall be made in relation to the relevant component (regulation 8(3)). A negative determination is a finding that the claimant does not meet the requirements to be entitled to personal independence payment.

Regulation 9 provides that a claimant may be called to attend and participate in a consultation in person or to participate in a consultation by telephone or both and failure to attend or participate without good reason shall result in a negative determination being made in relation to the relevant component.

Regulation 10 sets out matters which are to be taken into account in determining a good reason in regulations 8 and 9.

The Secretary of State may determine afresh the ability of a claimant to carry out activities (regulation 11).

Regulations 12 to 15 set out provisions relating to the required period condition, which the claimant needs to satisfy to be entitled to personal independence payment.

Part 4 sets out the residence and presence conditions for entitlement to personal independence payment.

Regulation 16 provides that a person must be present in Great Britain; have been present in Great Britain for 104 weeks out of the previous 156 weeks; be habitually resident in Great Britain and not subject to immigration control on every day of a claim.

Regulations 17 to 23 provide exceptions to regulation 16.

Regulation 24 sets out the rates of personal independence payment.

Part 6 contains provisions in relation to age. Regulations 25 to 27 make exceptions to the provision in section 83(1) of the Act that people over the 'relevant age' cannot claim personal independence payment.

Part 7 makes provision about when payment of personal independence payment will cease because the claimant is resident in a particular place. Regulation 28 applies to claimants residing in care homes and regulation 29 to claimants residing in hospitals or similar institutions where certain conditions are satisfied. Regulation 30 provides exceptions to regulations 28 and 29. Regulation 31 makes an exception to section 87 of the Act which provides that prisoners and detainees cannot

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Social Security (Personal Independence Payment) Regulations 2013 No. 377

receive personal independence payment. Regulation 32 provides further information about periods of time spent in a care home, a hospital or similar institution or in legal custody.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.