

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Personal independence payment

Schedule 9: Amendments relating to Part 4

Transport Act 1982

409. Section 70 of the Transport Act 1982 allows the Secretary of State to make money available to people who apply for medical certificates in relation to exemptions from the obligation to wear seat belts. One such category of persons is those in receipt of disability living allowance. *Paragraph 1* adds persons in receipt of personal independence payment.

Child Support Act 1991

410. Section 8 of the Child Support Act 1991 makes an exception to the limitations on courts making maintenance orders in relation to a child who receives disability living allowance. *Paragraph 2* adds someone in receipt of personal independence payment to that exception.

Social Security Contributions and Benefits Act 1992

411. *Paragraph 4* amends section 30B in relation to the benefit rate for incapacity benefit. This currently provides that those who terminally ill or in receipt of the highest rate of the care component of disability living allowance are entitled to a particular rate of incapacity benefit. The amendment extends this provision to include personal independence payment at a rate to be designated by regulations.
412. *Paragraph 5* amends section 64 to provide that entitlement to attendance allowance is not permitted where a person is entitled to personal independence payment so that a person does not become entitled to both benefits.
413. Disability living allowance is a qualifying benefit for the purpose of eligibility for a Christmas bonus. *Paragraph 6* amends section 150 so as to make personal independence payment a qualifying benefit for that purpose.

Social Security Administration Act 1992

414. Section 1 of SSAA 1992 provides that entitlement to benefits is dependent upon a person making a claim in such manner and at such time as the Secretary of State may prescribe. *Paragraph 8* extends the scope of the benefits that are subject to this provision to include personal independence payment.
415. Section 5 of SSAA 1992 provides that specified benefits are subject to regulations in relation to claims, payments and the provision of information. *Paragraph 9* extends the

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scope of the benefits that are subject to this provision to include personal independence payment.

416. Section 71 of SSAA 1992 provides that where a specified benefit has been subject to an overpayment through a misrepresentation or a failure to disclose information that overpayment may be recoverable by the Secretary of State. *Paragraph 10* extends the scope of the benefits that are subject to this provision to include personal independence payment.
417. Section 73 of SSAA 1992 provides that benefit payment can be adjusted where another benefit is payable to a person or where a person is in hospital. Disability living allowance is such a benefit; *paragraph 11* adds personal independence payment but excludes it from the provisions applying to hospitals as powers have already been taken at section 86 to adjust benefit in these circumstances.
418. Section 121DA of SSAA 1992 sets out the provisions that fall within the definition of “the relevant social security legislation” in Part 6 of the Act, which relates to enforcement. The provisions relating to disability living allowance fall within that definition; *paragraph 12* extends the definition to include Part 4 of the Act.
419. Sections 122B and 122C of SSAA 1992 apply to the supply of Government information for various purposes including the prevention of fraud, the purpose of verification and the administration of benefits. Information supplied under those sections is, by virtue of the amendments made by *paragraphs 13 and 14*, to be capable of being further disclosed for the purposes of any civil or criminal proceedings relating to Part 4 of the Act.
420. *Sections 124 and 125* relate to registrations of birth, marriage and death where evidence of such an event is necessary for the purpose of benefit administration. The provisions relating to disability living allowance are within the ambit of sections 124 and 125. *Paragraphs 15 and 16* extend the ambit of those sections to Part 4 of the Act.
421. Under SSAA 1992, the Secretary of State has an obligation to review the amount paid in benefits, which allows for benefit uprating. Section 150 makes provision for which amounts are to be reviewed. For disability living allowance this is currently provided under section 150(1)(b); *paragraph 17* extends this to provide the same for personal independence payment.
422. Section 159 of SSAA 1992 provides that if there is an alteration in the figures which affect a person’s income for the purposes of income support, then any consequent change in the amount of income support which is payable takes effect automatically without the need for a decision by an adjudication officer. Disability living allowance is relevant by virtue of the definition of “benefit income”; *paragraph 18* adds personal independence payment to that definition.
423. Section 160 of SSAA 1992 extends the process begun by section 159 of taking routine adjustments in the amount of income support out of the ordinary mechanism for review. *Paragraph 22* extends the scope to personal independence payment.
424. Sections 159A and 160A of SSAA 1992 have the same effect as sections 159 and 160 but relate to jobseeker’s allowance. *Paragraphs 19 and 23* extend the scope of these provisions to personal independence payment.
425. Section 159B of SSAA 1992 has the same effect as section 159 but relates to state pension credit. *Paragraph 20* extends the definition of “benefit income” to include personal independence payment.
426. Sections 159C and of 160B of SSAA 1992 have the same effect as section 159 and 160 but relate to employment and support allowance. *Paragraphs 21 and 24* extend the scope of these provisions to include personal independence payment.

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427. Section 165 of SSAA 1992 makes provision for adjustments between the National Insurance Fund and the Consolidated Fund. *Paragraph 25* amends section 165(1)(a) (iii) so that it applies to personal independence payment.
428. Section 170 of SSAA 1992 makes provision for referring matters to the Social Security Advisory Committee, including consideration and advice on questions relating to the operation of any of the relevant enactments. *Paragraph 26* makes an insertion to include personal independence payment under the definition of “the relevant enactments” and “the relevant Northern Ireland enactments”.
429. Section 179 of SSAA 1992 provides a power to make orders to modify or adapt legislation in its application to cases affected by agreements with the government of a country outside the United Kingdom in matters set out under this section. The modifications that may be made include in relation to the subject matter of disability living allowance; *paragraph 27* makes an amendment to include the subject matter of personal independence payment.
430. Section 180 of SSAA 1992 enables the Secretary of State to pay travelling expenses in connection with requirements for claimants to attend interviews in connection with benefits. *Paragraph 28* provides that personal independence payment will be relevant for this purpose.
431. Section 182B of SSAA 1992 provides that the Secretary of State or the Northern Ireland Department may require the Post Office to provide details relating to the redirection of post to either the Secretary of State or the Department for use in the prevention, detection, investigation or prosecution of offences relating to social security, or for use in checking the accuracy of information relating to benefits, contributions or any other matter relating to social security and amending or supplementing such information. Subsection (5) prohibits that information from being supplied to anyone else unless it could either be supplied under subsection (1) or (2) of that section, or where it is supplied for the purpose of civil or criminal proceedings relating to a range of legislation including SSCBA 1992 which includes provisions relating to disability living allowance. *Paragraph 29* adds Part 4 of this Act to the list of legislation.
432. Section 184 of SSAA 1992 enables regulations to be made requiring persons to be examined periodically and to furnish information required for the purposes of such examination, in connection with suspension from or suitability for employment in an occupation where a person has been found to suffer from or to be at risk of pneumoconiosis. It also enables regulations to be made disqualifying a person from benefit if they fail without good cause to comply with such requirements. *Paragraph 30* amends section 184(c) to include personal independence payment as a benefit that can be subject to disqualification under this section.
433. A person is prevented from assigning or charging benefit to a trustee or other person acting on behalf of the beneficiary’s creditors under section 187 of SSAA 1992. *Paragraph 31* makes provision for personal independence payment to be included.
434. *Paragraph 32* extends the definition of “benefit” in SSAA 1992 to include personal independence payment.
435. Part 1 of Schedule 7 to SSAA 1992 lists regulations which do not require prior submission to Social Security Advisory Committee. The weekly rates of disability living allowance are set out in regulations which do not need to be referred to the Committee; *paragraph 33* adds a similar provision for the regulations which will set out the weekly rates of the components of personal independence payment.

Social Security (Recovery of Benefits) Act 1997

436. The Social Security (Recovery of Benefits) Act 1997 provides for the recovery of benefits paid to those who are injured or made ill from those who cause personal injury or disease. *Paragraph 35* applies these provisions to personal independence payment.

437. [Schedule 2](#) to the Act makes provision for how benefits should be taken into account for different heads of compensation. [Paragraph 36](#) amends that Schedule to include references to personal independence payment.

Social Security Act 1998

438. Section 2 of SSA 1998 provides that decisions, determinations and assessments in relation to specified benefits may be issued by someone acting on behalf of the Secretary of State or by a computer that they are responsible for. [Paragraph 38](#) extends the scope of the benefits that are subject to this provision to include personal independence payment.
439. Section 8 of SSA 1998 provides that decisions on any claim to a specified benefit or under a specified enactment are to be made by the Secretary of State. [Paragraph 39](#) extends the scope of the benefits that are subject to these provisions to include personal independence payment. As a result of this amendment, provisions in relation to changing a decision (by way of revision or supersession) and rights of appeal are also extended to include personal independence payment.
440. Section 11 of SSA 1998 allows for provision to be made in regulations with respect to decisions made by the Secretary of State in relation to specified legislation. [Paragraph 40](#) extends the scope of the legislation to include Part 4 of the Act.
441. Sections 27 and 28 of SSA 1998 allow for restrictions on entitlement to benefit made under specified enactments in circumstances relating to cases of error following an appeal to the Upper Tribunal or to the courts and correcting accidental errors or setting aside decisions where it appears justifiable to do so. [Paragraphs 41 and 42](#) extend the scope of the legislation to include personal independence payment and the legislation under which it is created.
442. [Schedule 3](#) to SSA 1998 makes clear that decisions on payability of the care component of disability living allowance when someone is in a care home are subject to rights of appeal. [Paragraph 43](#) ensures that similar decisions for the purposes of personal independence payment under section 85 are also subject to rights of appeal.

Immigration and Asylum Act 1999

443. Section 115 of the Immigration and Asylum Act 1999 excludes certain people subject to immigration control from receiving certain benefits. One of these is disability living allowance, and the amendment in [paragraph 44](#) extends the exclusion to personal independence payment.

Social Security Fraud Act 2001

444. SSFA 2001 makes provision in relation to obtaining and disclosing information, restricting payment of social security benefits in the case of persons convicted of offences relating to such benefits and for related purposes. These provisions currently apply to disability living allowance; [paragraphs 46 and 47](#) provide that the same provisions will apply to personal independence payment so that it is included in the definitions of “disqualifying benefit”, “sanctionable benefit” and “social security benefit” for the purposes of particular provisions of that Act.

Income Tax (Earnings and Pensions) Act 2003

445. [Section 677](#) and Part 1 of Schedule 1 of the Income Tax (Earnings and Pensions) Act 2003 provide that disability living allowance is wholly exempt from income tax. [Paragraphs 49 and 50](#) similarly sets out that the personal independence payment is exempt from income tax.