

# WELFARE REFORM ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4: Personal independence payment**

##### *Schedule 10: Personal independence payment: transitional*

450. *Schedule 10* makes more detailed provision as to how the general regulation-making power in section 90 may be exercised.
451. *Paragraph 1* allows regulations to make provision relating to the replacement of disability living allowance with personal independence payment. The “appointed day” means the date that section 75 comes into force.
452. *Paragraph 2* contains provisions relating to claims made before the personal independence payment provisions come into effect. *Sub-paragraph (1)(a)* enables a claim for personal independence payment to be made before the appointed day. *Sub-paragraph (1)(b)* allows a claim for personal independence payment made before the appointed day to be treated as a claim for disability living allowance. This might be used if the person making the claim fell into a group which had yet to begin the transition process. *Sub-paragraph (1)(c)* allows for a claim for disability living allowance made before the appointed day to be treated as a claim for personal independence payment, which could be used if an individual submits a claim for disability living allowance shortly before the introduction of personal independence payment.
453. *Sub-paragraph (2)* allows for an award of personal independence payment to be made in respect of a period before the appointed day. This might be used if a person made a claim to disability living allowance shortly before the appointed day, and their claim was treated as a claim to personal independence payment and an award was made in respect of that period.
454. *Paragraph 3* contains provisions relating to claims made after the appointed day. It allows for a phased transition from disability living allowance to personal independence payment.
455. Claimants may not be able to move voluntarily from disability living allowance to personal independence payment. *Sub-paragraph (1)(a)* provides that regulations may exclude temporarily or permanently anyone receiving disability living allowance from making a claim for personal independence payment. The power to exclude a person permanently could be used, for example, where a claimant is approaching state pension age and so will soon not meet the conditions of entitlement for personal independence payment.
456. *Sub-paragraph (1)(b)* allows for a temporary delay before a person can make a claim for personal independence payment. *Sub-paragraph (1)(c)* allows for a person to be excluded from entitlement temporarily or for a particular period.
457. *Sub-paragraphs (1)(d)* and *(1)(e)* allow for a claim for personal independence payment to be treated as a claim for disability living allowance and for a claim for disability

*These notes refer to the Welfare Reform Act 2012  
(c.5) which received Royal Assent on 8 March 2012*

living allowance to be treated as a claim for personal independence payment during the transitional period. This may apply particularly in cases where the claimant is excluded from claiming personal independence payment under sub-paragraph (1)(a).

458. *Sub-paragraph (2)* allows for an award of personal independence payment to be made in respect of a period before the appointed day. This follows the provision in paragraph 2(2) with the same effect for claims during the transitional period. It enables provision to be made on the conditions of entitlement to, and the amount of, an award, in such a situation.
459. *Paragraph 4* enables regulations to make provision relating to ongoing awards of disability allowance and the making of awards for personal independence payment.
460. *Sub-paragraph (1)* allows for the termination of an award of disability living allowance and the making of an award of personal independence payment in its place. An award of personal independence payment may be made with or without the claimant having to apply.
461. Under *sub-paragraphs (2)(a)* and *(b)* regulations may require claimants to follow a certain procedure, provide information or undergo an assessment before a new award of personal independence payment begins, and may set out the consequences if a person fails to do so.
462. *Sub-paragraph (2)(c)* allows for regulations temporarily or permanently to alter the conditions of entitlement for people moving onto personal independence payment. This means that some people who are entitled to disability living allowance but would not otherwise meet the conditions of entitlement for personal independence payment could be treated as entitled to personal independence payment.
463. The sub-paragraph also allows for regulations temporarily or permanently to alter the conditions of entitlement for the assessment set out in subsections (1) and (2) of section 78.
464. *Sub-paragraph (2)(d)* enables regulations to make provision for the amount of an award of personal independence payment made by virtue of paragraph 4.
465. *Paragraph 5* enables regulations to disregard any gap in entitlement to disability living allowance in cases where the exercise of the power to make transitional regulations would otherwise be prevented. Paragraph 5 also enables provision to be made modifying the operation of the “required period condition” in transitional cases.