STATUTORY RULES OF NORTHERN IRELAND

2016 No. 228

SOCIAL SECURITY

The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations (Northern Ireland) 2016

Made - - - -	*3rd May 2016*
Laid before Parliament	*10th May 2016*
Coming into operation	*20th June 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by Article 97 of the Welfare Reform (Northern Ireland) Order 2015(**1**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) of the Welfare Reform (Northern Ireland) Order 2015.

Citation and commencement

1. These Regulations may be cited as the Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations (Northern Ireland) 2016 and come into operation on 20th June 2016.

PART 1

SUPPLEMENTARY PROVISIONS

Adjustment of personal independence payment where medical expenses are paid from public funds under war pensions instruments

2.—(1) Paragraph (2) applies where a person ("P") is provided with relevant accommodation.

(2) Subject to regulation 3, where there are payable in respect of P both a payment under Article 25B or Article 21 and personal independence payment which is attributable to the daily living component in accordance with Article 83 of the 2015 Order, the personal independence payment, in so far as it is so attributable, is to be adjusted by deducting from it the amount of the payment under Article 25B or Article 21, as the case may be, and only the balance is payable.

(**1**) S.I. 2015 No. 2006 (N.I. 1)

(3) In paragraph (2)—

"Article 25B" means Article 25B of the Personal Injuries (Civilians) Scheme 1983(**2**) (medical expenses) and includes that Article as applied by Article 48B of that Scheme;

"Article 21" means Article 21 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(**3**) (medical expenses);

and in both this regulation and regulation 3 "relevant accommodation" means accommodation provided as necessary ancillary to nursing care where the medical expenses involved are wholly borne by the Secretary of State pursuant to Article 25B or Article 21 and "the 2015 Order" means the Welfare Reform (Northern Ireland) Order 2015.

Exemption from regulation 2

3.—(1) Regulation 2 does not apply to P in respect of the first 28 days of any period during which the amount of any personal independence payment attributable to the daily living component in accordance with Article 83 of the 2015 Order would be liable to be adjusted by virtue of regulation 2.

(2) For the purposes of paragraph (1), two or more distinct periods separated by an interval not exceeding 28 days, or by two such intervals, are to be treated as a continuous period equal in duration to the aggregate of such distinct periods and ending on the last day of the later or last such period.

(3) For the purposes of this regulation, a "relevant day" in relation to P means a day which fell not earlier than 28 days before the first day on which P was provided with relevant accommodation and either—

(a) was a day when P was undergoing medical treatment in a hospital or similar institution in any of the circumstances mentioned in regulation 29 of the Personal Independence Payment Regulations (Northern Ireland) 2016(**4**); or

(b) was a day when P was, or would but for regulation 30 of those Regulations have been, prevented from receiving personal independence payment attributable to the daily living component by virtue of regulation 29(1) of those Regulations,

and where there is in relation to P a relevant day, paragraph (1) has effect as if for "28 days" there was substituted such lesser number of days as is produced by subtracting from 28 the number of relevant days in that case.

Amendment of the Disabled Persons (Badges for Motor Vehicles) Regulations

4.—(1) The Disabled Persons (Badges for Motor Vehicles) Regulations (Northern Ireland) 1993(**5**) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 4(2)(f)(**6**) (descriptions of disabled persons) add—

"(g) receives the mobility component of personal independence payment at either the standard rate or the enhanced rate under Article 84(3) of the Welfare Reform (Northern Ireland) Order 2015 by virtue of obtaining a score of at least 8 points in relation to the "moving around" activity in an assessment carried out under the Personal Independence Payment Regulations (Northern Ireland) 2016.".

(3) In regulation 5(b)(**7**) (period for which a badge issues)—

(a) for "or (d)" substitute ", (d) or (g)"; and

(**2**) S.I. 1983/686; Articles 25B and 48B were inserted by Articles 6 and 11 of S.I. 1984/1289 respectively and Article 25B was substituted by Article 3 of S.I. 1999/262
(**3**) S.I. 2006/606; Article 21 was amended by Article 4 of S.I. 2006/1455
(**4**) S.R. 2016 No. 217
(**5**) S.R. 1993 No. 202; relevant amending Regulations are S.R. 2008 No. 501 and S.R. 2015 No. 407
(**6**) Regulation 4 was substituted by regulation 2(4) of S.R. 2008 No. 501 and amended by regulation 2(2) of S.R. 2015 No. 407
(**7**) Regulation 5 was substituted by regulation 2(5) of S.R. 2008 No. 501 and amended by regulation 2(3) of S.R. 2015 No. 407

(b) in head (ii) for "or the mobility supplement" substitute ", the mobility supplement or the mobility component of personal independence payment".

PART 2

CONSEQUENTIAL AMENDMENTS

Amendment of the Social Security Contributions and Benefits Act

5.—(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992(**8**) is amended in accordance with paragraphs (2) to (4).

(2) For section 70(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**9**) (carer's allowance) substitute—

"(2) In this section, "severely disabled person" means a person in respect of whom there is payable—

(a) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(**10**);

(b) an attendance allowance;

(c) a disability living allowance by virtue of entitlement to the care component at the highest or middle rate;

(d) personal independence payment by virtue of entitlement to the daily living component at the standard or enhanced rate; or

(e) such other payment out of public funds on account of his need for attendance as may be prescribed.".

(3) In section 121(1) (interpretation of Parts I to VI and supplementary provisions), after the definition of "pensionable age"(**11**) insert—

""personal independence payment" means a payment under Part 5 of the Welfare Reform (Northern Ireland) Order 2015;".

(4) In section 146(1)(bb)(**12**) (Christmas bonus for pensioners: interpretation), after "payment" insert "under Part 5 of the Welfare Reform (Northern Ireland) Order 2015".

Amendment of the Social Security Administration Act

6. After section 139D of the Social Security Administration (Northern Ireland) Act 1992(**13**) (effect of alterations affecting universal credit) insert—

"**Effect of alteration of rates of personal independence payment**

139E.—(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) shall have effect where—

(a) an award of personal independence payment is in force in favour of any person ("the recipient"); and

(**8**) 1992 c. 7
(**9**) Section 70(2) was amended by Article 2(2) of S.I. 2013/3233
(**10**) S.I. 2011/517
(**11**) The definition of "pensionable age" was substituted by paragraph 9(a) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
(**12**) Paragraph (bb) was inserted by paragraph 5 of Schedule 9 to the Welfare Reform (Northern Ireland) Order 2015
(**13**) 1992 c. 8; section 139D was inserted by paragraph 19 of Schedule 2 to the Welfare Reform (Northern Ireland) Order 2015

(b) an alteration in the rate of any component of personal independence payment affects the amount of personal independence payment to which he is entitled.

(2) Where, as a result of the alteration, the amount of personal independence payment to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of personal independence payment in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Department; and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount by way of personal independence payment as before, the award shall continue in force accordingly.

(4) Subsection (5) applies where a statement mentioned in section 159E(4) of the Great Britain Administration Act(**14**) is made.

(5) If, in a case where this subsection applies, an award of personal independence payment is made in favour of a person before "the proposed commencing date" (within the meaning of section 159E(4) of the Great Britain Administration Act) and after the date on which the statement is made, the award—

(a) may provide for personal independence payment to be paid as from the proposed commencing date by reference to the rates of the component of personal independence payment which will be in force on that date; or

(b) may be expressed in terms of the rates of those components in force at the date of the award.

(6) In this section—

"alteration" means alteration by or under any enactment;

"the commencing date", in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

"component", in relation to personal independence payment, means the daily living component or mobility component (see Articles 83 and 84 of the Welfare Reform (Northern Ireland) Order 2015).".

Amendment of the Social Security (Invalid Care Allowance) Regulations

7. In regulation 9(2) of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(**15**) (conditions relating to residence and presence in Northern Ireland), for sub-paragraph (b) substitute—

"(b) if his absence is temporary and for the specific purpose of caring for the severely disabled person who is also absent from Northern Ireland and where any of the following is payable in respect of that disabled person for that day—

(i) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011,

(ii) attendance allowance,

(iii) the care component of disability living allowance at the highest or middle rate,

(iv) the daily living component of personal independence payment at the standard or enhanced rate prescribed in accordance with Article 83(3) of the Welfare Reform (Northern Ireland) Order 2015, or

(v) a payment specified in regulation 3(1) of these Regulations.".

(**14**) 1992 c. 5; section 159E was inserted by paragraph 6 of the Schedule to S.I. 2013/388
(**15**) S.R. 1976 No. 99; regulation 9(2)(b) was amended by regulation 2 of S.R. 1992 No. 6 and Article 11(2) of S.I. 2013/3021

Amendment of the Social Security Benefit (Persons Abroad) Regulations

8. In regulation 2(1A) of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(**16**) (modification of the Act in relation to incapacity benefit, severe disablement allowance, unemployability supplement and maternity allowance) for "or disability living allowance" substitute ", disability living allowance or personal independence payment under Part 5 of the Welfare Reform (Northern Ireland) Order 2015".

Amendment of the Social Security (Overlapping Benefits) Regulations

9.—(1) The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**17**) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation)—

(a) before the definition of "the Act" insert—

""the 2015 Order" means the Welfare Reform (Northern Ireland) Order 2015;";

(b) after the definition of "contributory benefit"(**18**) insert—

""the daily living component of personal independence payment" means a payment in accordance with Article 83 of the 2015 Order;";

(c) for the definition of "the enhanced rate"(**19**) substitute—

""the enhanced rate" in relation to the daily living component of personal independence payment means the rate prescribed in regulation 24(1)(b) of the Personal Independence Payment Regulations (Northern Ireland) 2016;"; and

(d) after the definition of "personal benefit"(**20**) insert—

""personal independence payment" means personal independence payment under Part 5 of the 2015 Order;".

(3) In regulation 6 (adjustments of personal benefit under Chapters I and II of Part II of the Act by reference to industrial injuries benefits and benefits not under the Act, and adjustments of industrial injuries benefits) for paragraph (3)(**21**) substitute—

"(3) Paragraph (1) and Schedule 1 have effect in relation to—

(a) the following allowances and payments—

(i) armed forces independence payment up to the value of the daily living component of personal independence payment at the enhanced rate,

(ii) an attendance allowance,

(iii) the care component of disability living allowance, and

(iv) the daily living component of personal independence payment; and

(b) any benefit by reference to which an allowance or payment under sub-paragraph (a) is to be adjusted,

as requiring adjustment where both that allowance or payment and the benefit are payable in respect of the same person (whether or not one or both of them are payable to that person).".

(**16**) S.R. 1978 No. 114; paragraph (1A) was inserted by regulation 2(3) of S.R. 1994 No. 45 and amended by regulation 11(c) of S.R. 1995 No. 150 and Article 12 of S.I. 2013/3021

(**17**) S.R. 1979 No. 242; relevant amending Rules are S.R. 1980 No. 451, S.R. 1992 No. 6, S.R. 1996 No. 289, S.R. 2005 No. 299, S.R. 2008 No. 286 and S.I. 2013/3021

(**18**) The definition of "contributory benefit" was inserted by regulation 11(2)(b) of S.R. 1996 No. 289 and amended by regulation 9(2)(b) of S.R. 2008 No. 286

(**19**) The definition of "the enhanced rate" was inserted by Article 13(2)(b) of S.I. 2013/3021

(**20**) The definition of "personal benefit" was amended by regulation 2(a) of S.R. 1980 No. 451, regulation 11(2)(c) of S.R. 1996 No. 289, regulation 4(a) of S.R. 2005 No. 299 and regulation 9(2)(c) of S.R. 2008 No. 286

(**21**) Regulation 6(3) was amended by regulation 5(3) of S.R. 1992 No. 6 and Article 13(3) of S.I. 2013/3021