Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Personal Independence Payment (Transitional Provisions) Regulations (Northern Ireland) 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2016 No. 227

SOCIAL SECURITY

The Personal Independence Payment (Transitional Provisions) 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 Articles 98 and 99 of, and Schedule 10 to, 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 (Transitional Provisions) Regulations (Northern Ireland) 2016 and come into operation on 20th June 2016.

Interpretation

2.—(1) In these Regulations—

"the 1998 Order" means the Social Security (Northern Ireland) Order 1998(**2**);

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

"the 1987 Regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**3**);

"appropriate office" has the meaning given by regulation 2(1) of the Claims and Payments Regulations(**4**) (interpretation);

"assessment determination" means the determination, under regulation 4 of the Personal Independence Payment Regulations (assessment of ability to carry out activities), of a claim for personal independence payment made by a transfer claimant;

(**1**) S.I. 2015/2006 (N.I. 1)
(**2**) S.I. 1998/1506 (N.I. 10)
(**3**) S.R. 1987 No. 465
(**4**) S.R. 2016 No. 220

"change of circumstances" means a change of circumstances which a person might reasonably have been expected to know might affect the continuance of that person's entitlement to disability living allowance (by ending entitlement to one component or both components or resulting in entitlement to one or both components being at a different rate);

"the Claims and Payments Regulations" means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016;

"component", in relation to disability living allowance, means one of the components of disability living allowance referred to in section 71 of the Contributions and Benefits Act(**5**);

"disability living allowance" means the benefit provided for in sections 71 to 76 of the Contributions and Benefits Act(**6**);

"the Disability Living Allowance Regulations" means the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**7**);

"DLA entitled person" means a person aged 16 or over who is entitled to either component or both components of disability living allowance;

"electronic communication" has the meaning given by section 4(1) of the Electronic Communications Act (Northern Ireland) 2001(**8**) (interpretation);

[[F1]"exempt person" means a DLA entitled person in respect of whom, by virtue of regulation 8(4) or 12A(4) of the Disability Living Allowance Regulations (person under the age of 18 on the day of entry into hospital), a disability living allowance is payable even though that person is maintained free of charge while undergoing medical or other treatment as an in-patient in a hospital or other similar institution;**]**

"notified person" means a DLA entitled person who has been sent a notification by the Department under regulation 3(1);

"pay day", in relation to disability living allowance, means—

(a) in the case of a payment of disability living allowance in respect of a period to which regulation 25(2) of the 1987 Regulations(**9**) (payment of disability living allowance at a daily rate) applies, the day on which the payment is made in accordance with paragraph (1) of that regulation;

(b) in the case of any other payment of disability living allowance, the day on which the allowance is payable in accordance with paragraph 1 of Schedule 6 to those Regulations(**10**) (days for payment of long term benefits);

"the Personal Independence Payment Regulations" means the Personal Independence Payment Regulations (Northern Ireland) 2016(**11**);

"transfer claimant" means a person who is either—

(a) a notified person who has claimed personal independence payment in response to a notification sent by the Department under regulation 3(1); or

(**5**) Section 71 was amended by Article 64(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
(**6**) Section 72 was amended by Article 64(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, sections 48 and 54(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and regulation 2(4) of S.R. 2011 No. 356, section 73 was amended by Article 64(3) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, section 49 of and paragraph 1(2) of Schedule 7 to the Welfare Reform Act (Northern Ireland) 2007 and section 13 of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.)) and section 75 was amended by paragraph 39 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))
(**7**) S.R. 1992 No. 32
(**8**) 2001 c. 9 (N.I.); section 4(1) was amended by paragraph 170 of Schedule 17 to the Communications Act 2003 (c. 21)
(**9**) Regulation 25 was amended by regulation 13 of S.R. 1992 No. 7 and regulation 2 of S.R. 1996 No. 225
(**10**) Paragraph (1) was substituted by regulation 27(a) of S.R. 1992 No. 7
(**11**) S.R. 2016 No. 217

(b) a voluntary transfer claimant;

"voluntary transfer claimant" means a DLA entitled person who has claimed personal independence payment under regulation 4.

(2) For the purpose of these Regulations, except regulations 8, 12 and 16—

(a) a claim for personal independence payment is made—

(i) in the case of a claim made in writing other than by means of an electronic communication, on the day on which a form, authorised by the Department for the purpose, containing all the information requested in the form is delivered to or received at the appropriate office,

(ii) in the case of a claim made in writing by means of an electronic communication made in accordance with the provisions set out in Part 1 of Schedule 1 to the Claims and Payments Regulations (electronic communications), on the day on which an electronic communication containing all the information requested by the Department in the form referred to in head (i), or completing that information, is received at the appropriate office, and

(iii) in the case of a claim made by telephone, on the day on which a telephone call takes place during which all the information requested by the Department in the form referred to in head (i) is supplied or which results in all that information having been supplied; and

(b) references to the making of a claim do not include the making of a defective claim.

(3) The Claims and Payments Regulations, the Personal Independence Payment Regulations and the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016(**12**) apply to the claims for personal independence payment referred to in these Regulations except where—

(a) these Regulations provide otherwise; or

(b) the application of those Regulations would be inconsistent with the application of these Regulations.

(4) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(**13**) (time), where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

F1 Words in reg. 2(1) inserted (6.7.2016) by The Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/235), regs. 1, **4(2)**

Invitations to persons entitled to disability living allowance to claim personal independence payment

3.—(1) The Department may by written notification invite a DLA entitled person to make a claim for personal independence payment.

(2) The Department must not send a notification under paragraph (1) to any person who, on 20th June 2016, was 65 or over.

(3) **[**[F2]Subject to paragraphs (4) and (4A),**]** the Department must send a notification under paragraph (1) to a DLA entitled person who reaches 16 as soon as reasonably practicable after the person reaches that age.

(**12**) S.R. 2016 No. 221
(**13**) 1954 c. 33 (N.I.)

(4) Paragraph (3) does not apply to a DLA entitled person whose entitlement, on the day that the person reaches 16, is on the basis that the person is terminally ill within the meaning given by section 66(2) of the Contributions and Benefits Act (attendance allowance for the terminally ill).

[F3(4A) If the DLA entitled person referred to in paragraph (3) is an exempt person, the Department must not send the notification required by paragraph (3) until the DLA entitled person ceases to be an exempt person.**]**

(5) **[**F4Subject to paragraph (5A),**]** where a DLA entitled person who has neither—

(a) been sent a notification under paragraph (1); nor

(b) made a claim for personal independence payment under regulation 4,

notifies the Department of a change of circumstances other than a change to which paragraph (6) applies, the Department must, as soon as reasonably practicable, send the person a notification under paragraph (1).

[F5(5A) If the DLA entitled person referred to in paragraph (5) is an exempt person, the Department must not send the notification required by paragraph (5) until the DLA entitled person ceases to be an exempt person.**]**

(6) This paragraph applies to a change of circumstances where the change notified is that the DLA entitled person is to become or has become absent, whether temporarily or permanently, from Northern Ireland.

F2 Words in reg. 3(3) inserted (6.7.2016) by The Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/235), regs. 1, **4(3)(a)**

F3 Reg. 3(4A) inserted (6.7.2016) by The Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/235), regs. 1, **4(3)(b)**

F4 Words in reg. 3(5) inserted (6.7.2016) by The Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/235), regs. 1, **4(3)(c)**

F5 Reg. 3(5A) inserted (6.7.2016) by The Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/235), regs. 1, **4(3)(d)**

Claims by persons entitled to disability living allowance for personal independence payment other than by invitation

4. A DLA entitled person who has not been sent a notification under regulation 3(1) may make a claim for personal independence payment if the person was aged under 65 on 20th June 2016.

Persons under 16 not entitled to claim personal independence payment

5.—(1) No claim for personal independence payment may be made by a person who has not reached 16.

(2) Paragraph (1) applies whether or not a person is entitled to disability living allowance.

Persons in the course of claiming disability living allowance not entitled to claim personal independence payment

6.—(1) This regulation applies to a person who is not entitled to disability living allowance if—

(a) the person claimed disability living allowance before 20th June 2016; and

(b) that claim remains under consideration on that date.

(2) A person to whom this regulation applies may not claim personal independence payment while the person's claim for disability living allowance remains under consideration.

(3) For the purpose of this regulation a person's claim for disability living allowance remains under consideration only if it has not—

(a) been decided by the Department under Article 9 of the 1998 Order(**14**) (decisions by the Department);

(b) been withdrawn in accordance with regulation 5(2) of the 1987 Regulations (withdrawal of claim); or

(c) otherwise ceased to be under consideration before being decided by the Department as mentioned in sub-paragraph (a).

Form of notification inviting a person to claim personal independence payment

7. A notification to a DLA entitled person under regulation 3(1) inviting the person to claim personal independence payment must—

(a) explain that the person's entitlement to disability living allowance will end if the person does not claim personal independence payment;

(b) state the date of the last day of the period within which the person should claim personal independence payment, that period being one of 28 days starting with the day that is the stated date of notification;

(c) tell the person how to claim personal independence payment,

and may contain such additional guidance and information as the Department considers appropriate.

Making a claim for personal independence payment following notification

8.—(1) In this regulation and regulation 9 "the claim period" means the period of 28 days referred to in regulation 7(b).

(2) For the purposes of this regulation a claim, whether or not it is defective as mentioned in regulation 10(3) or (4) of the Claims and Payments Regulations (making a claim for personal independence payment), must be made in accordance with and by a means set out in paragraph (1)(a), (b) or (c) of that regulation.

(3) Such a claim is made—

(a) in the case of a claim made in writing, other than by means of an electronic communication, on a form authorised by the Department, on the day on which it is delivered to or received at the appropriate office;

(b) in the case of a claim in writing made by means of an electronic communication in accordance with the provisions set out in Part 2 of Schedule 1 to the Claims and Payments Regulations (electronic communications), on the day on which it is received at the appropriate office; and

(c) in the case of a claim made by telephone, on the day on which the telephone call takes place.

(**14**) Article 9 was amended by paragraph 16 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), paragraph 6 of Schedule 1 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), paragraph 10(3) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007, paragraph 29 of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) and is amended by paragraph 36 of Schedule 2 and paragraph 37 of Schedule 9 to the Welfare Reform (Northern Ireland) Order 2015