
STATUTORY INSTRUMENTS

2015 No. 2006

The Welfare Reform (Northern Ireland) Order 2015

PART 5

Personal independence payment

Personal independence payment

Personal independence payment

82.—(1) An allowance known as personal independence payment is payable in accordance with this Part.

(2) A person's entitlement to personal independence payment may be an entitlement to—

- (a) the daily living component (see Article 83);
- (b) the mobility component (see Article 84); or
- (c) both those components.

(3) A person is not entitled to personal independence payment unless the person meets prescribed conditions relating to residence and presence in Northern Ireland.

Commencement Information

II Art. 82(3) in operation at 2.5.2016 for specified purposes by S.R. 2016/215, art. 2(5)(a)

Daily living component

83.—(1) A person is entitled to the daily living component at the standard rate if—

- (a) the person's ability to carry out daily living activities is limited by the person's physical or mental condition; and
- (b) the person meets the required period condition.

(2) A person is entitled to the daily living component at the enhanced rate if—

- (a) the person's ability to carry out daily living activities is severely limited by the person's physical or mental condition; and
- (b) the person meets the required period condition.

(3) In this Article, in relation to the daily living component—

- (a) “the standard rate” means such weekly rate as may be prescribed;
- (b) “the enhanced rate” means such weekly rate as may be prescribed.

(4) In this Part “daily living activities” means such activities as may be prescribed for the purposes of this Article.

Status: Point in time view as at 02/05/2016. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: The Welfare Reform (Northern Ireland) Order 2015, PART 5 is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) See Articles 85 and 86 for provision about determining—
- (a) whether the requirements of paragraph (1)(a) or (2)(a) are met;
 - (b) whether a person meets “the required period condition” for the purposes of paragraph (1)(b) or (2)(b).
- (6) This Article is subject to the provisions of this Part, or regulations under it, relating to entitlement to the daily living component (see in particular Articles 87 (terminal illness) and 88 (persons of pensionable age)).

Commencement Information

I2 Art. 83(3)(4) in operation at 2.5.2016 by S.R. 2016/215, art. 2(5)(b)

Mobility component

- 84.**—(1) A person is entitled to the mobility component at the standard rate if—
- (a) the person is of or over the age prescribed for the purposes of this paragraph;
 - (b) the person's ability to carry out mobility activities is limited by the person's physical or mental condition; and
 - (c) the person meets the required period condition.
- (2) A person is entitled to the mobility component at the enhanced rate if—
- (a) the person is of or over the age prescribed for the purposes of this paragraph;
 - (b) the person's ability to carry out mobility activities is severely limited by the person's physical or mental condition; and
 - (c) the person meets the required period condition.
- (3) In this Article, in relation to the mobility component—
- (a) “the standard rate” means such weekly rate as may be prescribed;
 - (b) “the enhanced rate” means such weekly rate as may be prescribed.
- (4) In this Part “mobility activities” means such activities as may be prescribed for the purposes of this Article.
- (5) See Articles 85 and 86 for provision about determining—
- (a) whether the requirements of paragraph (1)(b) or (2)(b) are met;
 - (b) whether a person meets “the required period condition” for the purposes of paragraph (1)(c) or (2)(c).
- (6) This Article is subject to the provisions of this Part, or regulations under it, relating to entitlement to the mobility component (see in particular Articles 87 and 88).
- (7) Regulations may provide that a person is not entitled to the mobility component for a period (even though the requirements in paragraph (1) or (2) are met) in prescribed circumstances where the person's condition is such that during all or most of the period the person is unlikely to benefit from enhanced mobility.

Commencement Information

I3 Art. 84(3)(4)(7) in operation at 2.5.2016 by S.R. 2016/215, art. 2(5)(b)

Ability to carry out daily living activities or mobility activities

85.—(1) For the purposes of this Part, the following questions are to be determined in accordance with regulations—

- (a) whether a person's ability to carry out daily living activities is limited by the person's physical or mental condition;
- (b) whether a person's ability to carry out daily living activities is severely limited by the person's physical or mental condition;
- (c) whether a person's ability to carry out mobility activities is limited by the person's physical or mental condition;
- (d) whether a person's ability to carry out mobility activities is severely limited by the person's physical or mental condition.

(2) Regulations must make provision for determining, for the purposes of each of Articles 83(1) and (2) and 84(1) and (2), whether a person meets “the required period condition” (see further Article 86).

(3) Regulations under this Article—

- (a) must provide for the questions mentioned in paragraphs (1) and (2) to be determined, except in prescribed circumstances, on the basis of an assessment (or repeated assessments) of the person;
- (b) must provide for the way in which an assessment is to be carried out;
- (c) must provide for relevant medical evidence to be taken into account in assessing a person and may make provision about other matters which are, or are not, to be taken into account.

(4) The regulations may, in particular, make provision—

- (a) about the information or evidence required for the purpose of determining the questions mentioned in paragraphs (1) and (2);
- (b) about the way in which that information or evidence is to be provided;
- (c) requiring a person to participate in such a consultation, with a person approved by the Department, as may be determined under the regulations (and to attend for the consultation at a place, date and time determined under the regulations).

(5) The regulations may include provision—

- (a) for a negative determination to be treated as made if a person fails without a good reason to comply with a requirement imposed under paragraph (4);
- (b) about what does or does not constitute a good reason for such a failure;
- (c) about matters which are, or are not, to be taken into account in determining whether a person has a good reason for such a failure.

(6) In paragraph (5)(a) a “negative determination” means a determination that a person does not meet the requirements of—

- (a) Article 83(1)(a) and (b) or (2)(a) and (b) (daily living component);
- (b) Article 84(1)(a) to (c) or (2)(a) to (c) (mobility component).

Commencement Information

I4 Art. 85 in operation at 2.5.2016 by S.R. 2016/215, art. 2(5)(b)

Status: Point in time view as at 02/05/2016. This version of this part contains provisions that are not valid for this point in time.

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Required period condition: further provision

86.—(1) Regulations under Article 85(2) must provide for the question of whether a person meets “the required period condition” for the purposes of Article 83(1) or (2) or 84(1) or (2) to be determined by reference to—

- (a) whether, as respects every time in the previous 3 months, it is likely that if the relevant ability had been assessed at that time that ability would have been determined to be limited or (as the case may be) severely limited by the person's physical or mental condition; and
- (b) whether, as respects every time in the next 9 months, it is likely that if the relevant ability were to be assessed at that time that ability would be determined to be limited or (as the case may be) severely limited by the person's physical or mental condition.

(2) In paragraph (1) “the relevant ability” means—

- (a) in relation to Article 83(1) or (2), the person's ability to carry out daily living activities;
- (b) in relation to Article 84(1) or (2), the person's ability to carry out mobility activities.

(3) In paragraph (1)—

- (a) “assessed” means assessed in accordance with regulations under Article 85;
- (b) “the previous 3 months” means the 3 months ending with the prescribed date;
- (c) “the next 9 months” means the 9 months beginning with the day after that date.

(4) Regulations under Article 85(2) may provide that in prescribed cases the question of whether a person meets “the required period condition” for the purposes of Article 83(1) or (2) or 84(1) or (2)—

- (a) is not to be determined in accordance with the provision made by virtue of paragraphs (1) to (3);
- (b) is to be determined in accordance with provision made in relation to those cases by the regulations.

Commencement Information

I5 Art. 86 in operation at 2.5.2016 by S.R. 2016/215, art. 2(5)(b)

Entitlement and payability: further provision

Terminal illness

87.—(1) This Article applies to a person who—

- (a) is terminally ill; and
- (b) has made a claim for personal independence payment expressly on the ground of terminal illness.

(2) A person to whom this Article applies is entitled to the daily living component at the enhanced rate (and accordingly Article 83(1) and (2) does not apply to such a person).

(3) Article 84(1)(c) and (2)(c) (required period condition for mobility component) does not apply to a person to whom this Article applies.

(4) For the purposes of this Article a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person's death in consequence of that disease can reasonably be expected within 6 months.

(5) For the purposes of this Article, where—

- (a) a person purports to make a claim for personal independence payment on behalf of another, and
- (b) the claim is made expressly on the ground that the person on whose behalf it purports to be made is terminally ill,

that person is to be regarded as making the claim despite its being made without that person's knowledge or authority.

- (6) In paragraph (2) “the enhanced rate” has the meaning given by Article 83(3).

Persons of pensionable age

88.—(1) A person is not entitled to the daily living component or the mobility component for any period after the person reaches the relevant age.

- (2) In paragraph (1) “the relevant age” means—

- (a) pensionable age (within the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995); or
- (b) if higher, 65.

- (3) Paragraph (1) is subject to such exceptions as may be provided by regulations.

Commencement Information

I6 [Art. 88](#) in operation at 2.5.2016 for specified purposes by [S.R. 2016/215](#), [art. 2\(5\)\(c\)](#)

No entitlement to daily living component where UK is not competent state

89.—(1) A person to whom a relevant EU Regulation applies is not entitled to the daily living component for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question.

- (2) Each of the following is a “relevant EU Regulation” for the purposes of this Article—

- (a) Council Regulation [\(EC\) No 1408/71](#) of 14th June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community;
- (b) Regulation [\(EC\) No 883/2004](#) of the European Parliament and of the Council of 29th April 2004 on the coordination of social security systems.

Commencement Information

I7 [Art. 89](#) in operation at 2.5.2016 by [S.R. 2016/215](#), [art. 2\(5\)\(d\)](#)

Care home residents

90.—(1) Regulations may provide that no amount in respect of personal independence payment which is attributable to entitlement to the daily living component is payable in respect of a person for a period when the person meets the condition in paragraph (2).

(2) The condition is that the person is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for the person are borne out of public funds by virtue of a specified statutory provision.

Status: Point in time view as at 02/05/2016. This version of this part contains provisions that are not valid for this point in time.

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(3) In this Article “care home” means an establishment that provides accommodation together with nursing or personal care.

(4) The following are “qualifying services” for the purposes of paragraph (2)—

- (a) accommodation;
- (b) board;
- (c) personal care;
- (d) such other services as may be prescribed.

(5) The reference in paragraph (2) to a “specified statutory provision” is to a statutory provision which is specified for the purposes of that paragraph by regulations or is of a description so specified.

(6) The power to specify a statutory provision for the purposes of paragraph (2) includes power to specify it only in relation to its application for a particular purpose.

Commencement Information

18 [Art. 90](#) in operation at 2.5.2016 by [S.R. 2016/215](#), [art. 2\(5\)\(d\)](#)

Hospital in-patients

91.—(1) Regulations may provide as mentioned in either or both of the following sub-paragraphs—

- (a) that no amount in respect of personal independence payment which is attributable to entitlement to the daily living component is payable in respect of a person for a period when the person meets the condition in paragraph (2);
- (b) that no amount in respect of personal independence payment which is attributable to entitlement to the mobility component is payable in respect of a person for a period when the person meets the condition in paragraph (2).

(2) The condition is that the person is undergoing medical or other treatment as an in-patient at a hospital or similar institution in circumstances in which any of the costs of the treatment, accommodation and any related services provided for the person are borne out of public funds.

(3) For the purposes of paragraph (2) the question of whether any of the costs of medical or other treatment, accommodation and related services provided for a person are borne out of public funds is to be determined in accordance with the regulations.

Commencement Information

19 [Art. 91](#) in operation at 2.5.2016 by [S.R. 2016/215](#), [art. 2\(5\)\(d\)](#)

Prisoners

92. Except to the extent that regulations provide otherwise, no amount in respect of personal independence payment is payable in respect of a person for a period during which the person is undergoing imprisonment or detention in legal custody.

Commencement Information

110 [Art. 92](#) in operation at 2.5.2016 for specified purposes by [S.R. 2016/215](#), [art. 2\(5\)\(e\)](#)

VALID FROM 20/06/2016

Supplementary

Claims, awards and information

93.—(1) A person is not entitled to personal independence payment for any period before the date on which a claim for it is made or treated as made by that person or on that person's behalf.

(2) An award of personal independence payment is to be for a fixed term except where the person making the award considers that a fixed term award would be inappropriate.

(3) In deciding whether a fixed term award would be inappropriate, that person must have regard to guidance issued by the Department.

(4) Information supplied under this Part is to be taken for all purposes to be information relating to social security.

Report to the Assembly

94. The Department must lay before the Assembly an independent report on the operation of assessments under Article 85—

(a) within 2 years beginning with the date on which the first regulations under that Article come into operation; and

(b) within 4 years beginning with that date.

General

PROSPECTIVE

Abolition of disability living allowance

95. Sections 71 to 76 of the Contributions and Benefits Act (disability living allowance) are repealed.

Amendments

96. Schedule 9 contains amendments relating to this Part.

Commencement Information

I11 Art. 96 in operation at 2.5.2016 by S.R. 2016/215, art. 2(5)(f)

Power to make supplementary and consequential provision

97.—(1) Regulations may make such consequential, supplementary or incidental provision in relation to any provision of this Part as the Department considers appropriate.

(2) Regulations under this Article may amend, repeal, revoke or otherwise modify any statutory provision.

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Commencement Information

I12 Art. 97 in operation at 2.5.2016 by S.R. 2016/215, art. 2(5)(f)

Transitional

98.—(1) Regulations may make such provision as the Department considers necessary or expedient in connection with the coming into operation of any provision of this Part.

(2) Schedule 10 (transitional provision for introduction of personal independence payment) has effect.

Commencement Information

I13 Art. 98 in operation at 2.5.2016 by S.R. 2016/215, art. 2(5)(f)

Regulations

99.—(1) A power to make regulations under this Part includes—

- (a) power to make incidental, supplementary, consequential or transitional provision or savings;
- (b) power to provide for a person to exercise a discretion in dealing with any matter.

(2) Regulations made under this Part are subject to negative resolution.

Commencement Information

I14 Art. 99 in operation at 2.5.2016 by S.R. 2016/215, art. 2(5)(f)

Interpretation of Part 4

100. In this Part—

“daily living activities” has the meaning given by Article 83(4);

“daily living component” means the daily living component of personal independence payment;

“mobility activities” has the meaning given by Article 84(4);

“mobility component” means the mobility component of personal independence payment.

Commencement Information

I15 Art. 100 in operation at 2.5.2016 for specified purposes by S.R. 2016/215, art. 2(5)(g)

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