

2021 No. 97

SOCIAL SECURITY

The Social Security (Industrial Injuries Benefit and Personal Independence Payment) (Telephone and Video Assessment) (Miscellaneous Amendments) (Scotland) Regulations 2021

Made - - - - *22nd February 2021*

Laid before the Scottish Parliament *24th February 2021*

Coming into force - - *25th March 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 9(1) and 189(1) of the Social Security Administration Act 1992(a), sections 80(1) and 94(1) of the Welfare Reform Act 2012(b) and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security (Industrial Injuries Benefit and Personal Independence Payment) (Telephone and Video Assessment) (Miscellaneous Amendments) (Scotland) Regulations 2021 and come into force on 25 March 2021.

(2) These Regulations extend to Scotland only.

(a) 1992 c.5. Section 189(1) was amended by paragraph 57(2) of schedule 3 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and paragraph 1 of schedule 6 of the Tax Credits Act 2002 (c.21). The function of making regulations under section 9 of the Social Security Administration Act 1992 is exercisable by the Secretary of State by virtue of section 189(1) of that Act. The functions of the Secretary of State under sections 9 and 189 of the Social Security Administration Act 1992, as regards Scotland, transferred to the Scottish Ministers on 1 April 2020. Legislative competence for industrial injuries benefits was devolved to the Scottish Parliament by section 22(2) of the Scotland Act 2016 (c. 11), which inserted exceptions into paragraph F1 of schedule 5 of the Scotland Act 1998 (c. 46). Section 22(2) of the Scotland Act 2016 was brought into force on 17 May 2017 by S.I. 2017/455, subject to transitional arrangements set out in S.I. 2017/444 which modified the operation of section 53 of the Scotland Act 1998. Section 32 of the Scotland Act 2016 provides the meaning of “pre-commencement enactment” in this context. The transitional arrangements in respect of disability benefits, including industrial injuries benefits, ended on 31 March 2020 (see regulation 4 of S.I. 2017/444). Accordingly, in so far as the functions under sections 9 and 189 are exercisable within devolved competence, they are now exercisable by the Scottish Ministers.

(b) 2012 c.5. The function of making regulations under section 80(3) of the Welfare Reform Act 2012 is exercisable by the Secretary of State by virtue of section 94(1) of that Act. The functions of the Secretary of State under sections 80 and 94 of the Welfare Reform Act 2012, as regards Scotland, transferred to the Scottish Ministers on 1 April 2020. Legislative competence for disability benefits was devolved to the Scottish Parliament by section 22(2) of the Scotland Act 2016, which inserted exceptions into paragraph F1 of schedule 5 of the Scotland Act 1998. Section 22(2) of the Scotland Act 2016 was brought into force on 17 May 2017 by S.I. 2017/455, subject to transitional arrangements set out in S.I. 2017/444 which modified the operation of section 53 of the Scotland Act 1998. Section 32 of the Scotland Act 2016 provides the meaning of “pre-commencement enactment” in this context. The transitional arrangements in respect of disability benefits, including personal independence payments, ended on 31 March 2020 (see regulation 4 of S.I. 2017/444). Accordingly, in so far as the functions under sections 80 and 94 are exercisable within devolved competence, they are now exercisable by the Scottish Ministers. Under section 172(1) of the Social Security Administration Act 1992, the Secretary of State is required to refer to the Social Security Advisory Committee (SSAC) proposals for regulations under “relevant enactments”, as defined in section 170(5) of that Act. This includes regulations under Part 4 of the Welfare Reform Act 2012. As a result of section 33(1) of the Scotland Act 2016, the function of the Secretary of State to consult the SSAC has not transferred to the Scottish Ministers. There is therefore no requirement for the Scottish Ministers to consult the SSAC before making these Regulations.

Amendment of the Social Security (Claims and Payments) Regulations 1979

2. In regulation 26(1)(a) (obligations of claimants for, and beneficiaries in receipt of disablement benefit) of the Social Security (Claims and Payments) Regulations 1979(a) after “medical examination” insert “in person, by telephone or by video”.

Amendment of the Social Security (Personal Independence Payment) Regulations 2013

3. In regulation 9(1)(b) (claimant may be called for a consultation to determine whether the claimant has limited or severely limited ability to carry out activities) of the Social Security (Personal Independence Payment) Regulations 2013(b) after “telephone” insert “or by video”.

SHIRLEY-ANNE SOMERVILLE

A member of the Scottish Government

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22nd February 2021

(a) S.I. 1979/628. Regulation 26(1) was relevantly amended by S.I. 1983/186, S.I. 1999/1958 and S.I. 2007/1626.
(b) S.I. 2013/377.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1979 and the Social Security (Personal Independence Payment) Regulations 2013.

The amendment made by regulation 2 enables medical examinations to be conducted by telephone or video as part of the process for determining entitlement to Industrial Injuries Disablement Benefit.

The amendment made by regulation 3 enables medical consultations to be conducted by video as part of the process for determining entitlement to Personal Independence Payment.

No business and regulatory impact assessment has been prepared for these Regulations as no impact on business, charities or voluntary bodies is foreseen.

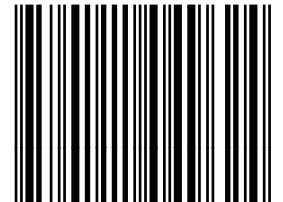
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