



# Welfare Reform Act 2012

## 2012 CHAPTER 5

### PART 4

#### PERSONAL INDEPENDENCE PAYMENT

*Entitlement and payability: further provision*

#### **82 Terminal illness**

- (1) This section 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 section applies is entitled to the daily living component at the enhanced rate (and accordingly section 78(1) and (2) do not apply to such a person).
- (3) Section 79(1)(c) and (2)(c) (required period condition for mobility component) do not apply to a person to whom this section applies.
- (4) For the purposes of this section 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 section, 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 subsection (2) “the enhanced rate” has the meaning given by section 78(3).

*Status: Point in time view as at 08/04/2013.*

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#### Commencement Information

**I1** S. 82 in force at 8.4.2013 for specified purposes by S.I. 2013/358, art. 7(1)(2)(d), Sch. 3

### 83 Persons of pensionable age

- (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 subsection (1) “the relevant age” means—
  - (a) pensionable age (within the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995); or
  - (b) if higher, 65.
- (3) Subsection (1) is subject to such exceptions as may be provided by regulations.

#### Modifications etc. (not altering text)

- C1** S. 83(1) excluded (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Personal Independence Payment\) Regulations 2013 \(S.I. 2013/377\)](#), regs. 1(2), **27**
- C2** S. 83(1) excluded (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Personal Independence Payment\) Regulations 2013 \(S.I. 2013/377\)](#), regs. 1(2), **25**
- C3** S. 83(1) excluded (8.4.2013) by [The Personal Independence Payment \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/387\)](#), regs. 1, **27(1)**

#### Commencement Information

- I2** S. 83(1)(2)(3) in force at 8.4.2013 for specified purposes by S.I. 2013/358, art. 7(1)(2)(e), Sch. 3
- I3** S. 83(3) in force at 25.2.2013 for specified purposes by S.I. 2013/358, art. 2(1), Sch. 1 para. 14

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

- (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 section—
  - (a) Council Regulation [\(EC\) No 1408/71](#) of 14 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 29 April 2004 on the coordination of social security systems.

#### Commencement Information

**I4** S. 84 in force at 8.4.2013 for specified purposes by S.I. 2013/358, art. 7(1)(2)(f), Sch. 3

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## 85 Care home residents

- (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 subsection (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 or local funds by virtue of a specified enactment.
- (3) In this section “care home” means an establishment that provides accommodation together with nursing or personal care.
- (4) The following are “qualifying services“ for the purposes of subsection (2)—
  - (a) accommodation;
  - (b) board;
  - (c) personal care;
  - (d) such other services as may be prescribed.
- (5) The reference in subsection (2) to a “specified enactment” is to an enactment which is specified for the purposes of that subsection by regulations or is of a description so specified.
- (6) The power to specify an enactment for the purposes of subsection (2) includes power to specify it only in relation to its application for a particular purpose.
- (7) In this section “enactment” includes an enactment comprised in an Act of the Scottish Parliament or in an instrument made under such an Act.

### Commencement Information

**I5** S. 85 in force at 25.2.2013 by S.I. 2013/358, art. 2(2), Sch. 2 para. 29

## 86 Hospital in-patients

- (1) Regulations may provide as mentioned in either or both of the following 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 subsection (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 subsection (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 subsection (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.

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**Commencement Information**

**I6** S. 86 in force at 25.2.2013 by [S.I. 2013/358, art. 2\(2\)](#), [Sch. 2 para. 30](#)

**87 Prisoners and detainees**

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.

**Modifications etc. (not altering text)**

**C4** S. 87 excluded (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Personal Independence Payment\) Regulations 2013 \(S.I. 2013/377\)](#), regs. 1(2), [31\(1\)\(3\)\(6\)](#)

**Commencement Information**

**I7** S. 87 in force at 25.2.2013 for specified purposes by [S.I. 2013/358, art. 2\(1\)](#), [Sch. 1 para. 15](#)

**I8** S. 87 in force at 8.4.2013 for specified purposes by [S.I. 2013/358, art. 7\(1\)\(2\)\(g\)](#), [Sch. 3](#)

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