

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (PERSONAL INDEPENDENCE PAYMENT)(AMENDMENT)**  
**REGULATIONS 2013**

**2013 No. 455**

**1.** This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

This instrument amends the Social Security (Personal Independence Payment) Regulations 2013 [the “PIP Regulations”] (SI 2013 No. 377) to put in secondary legislation that, when assessing entitlement to Personal Independence Payment (PIP), consideration of an individual’s ability to complete an activity must include whether they can do so “safely, to an acceptable standard, repeatedly and in a reasonable time period”.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

None.

**4. Legislative Context**

The PIP Regulations set out the detailed rules and entitlement conditions for PIP and were made on 25 February 2013 following approval by resolution from each House of Parliament. These Regulations amend the PIP Regulations to add additional clarification in relation to how activities should be assessed.

**5. Territorial Extent and Application**

This instrument applies to England, Scotland and Wales.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

7.1 At the centre of the Government’s proposals for PIP is the development of a transparent and objective assessment which considers people as individuals and assesses their entitlement to the benefit fairly, objectively and consistently.

7.2 The assessment for entitlement to PIP looks at individuals’ ability to carry out a range of key everyday activities that are fundamental to daily life. Ten of these activities relate to entitlement to the daily living component and two to the mobility component. Key to ensuring that the assessment is fair and consistent is consideration of the manner in which an individual is able to complete the activities in the assessment. The Government had decided that it would be appropriate to use guidance, rather than secondary legislation to make clear that consideration must be given to whether individuals can complete the assessment activities “safely, to an acceptable standard, repeatedly and in a reasonable time

period". However, following that decision, concern was expressed that as these terms had no legislative basis they may be open to misinterpretation or a failure to consider. The amendment made by this instrument therefore puts these terms directly into the secondary legislation to allay such concerns.

## 8. Consultation outcome

8.1 Extensive consultation has been carried out during the development of the PIP assessment. Two consultations have been undertaken, with the final, formal consultation running from 16 January to 30 April 2012<sup>1</sup>. We received nearly 1,100 responses in total, nearly 200 of which were from organisations and over 900 from individuals. During the consultation period we also held a series of meetings with disabled people and the organisations that represent them.

8.2 This consultation asked respondents to give their views on whether the Regulations should include terminology that sets out a standard that should be met in order for individuals to be considered able to carry out the activities. The majority of respondents requested that this provision should be included in the Regulations; however, the Department chose to include this in the guidance instead. This was because guidance provides more flexibility to apply this principle effectively for the wide range of activities in the assessment. However, MPs, Peers, disabled people and the organisations that represent them considered that including this provision in guidance only, did not provide sufficient safeguards for claimants. As a result of this the Department for Work and Pensions committed to including this principle in the legislation.

8.3 The Department for Work and Pensions published a draft of this instrument on 31 January 2013<sup>2</sup>. Due to the short timescales before the introduction of PIP (8 April 2013) a formal consultation on these Regulations has not been possible, however, officials have informally sought views on the draft Regulation and the definitions included in this instrument from representatives of disability organisations. The Government's plans to make these changes have met with unanimously positive views.

*Lord McKenzie of Luton* On the mobility criteria, many have welcomed the Minister's commitment to include the term, "safely, to an acceptable standard, repeatedly, and in a reasonable period of time", in the regulations, and obviously we support it.

*Baroness Grey-Thompson* Like many, I am delighted that the words "reliably", "repeatedly", "safely" and "timely" will be in amended regulations. Moreover, their gradual implementation will give all of us in your Lordships' Chamber an opportunity to play a part in the review. Some disabled people have been offered just a small beacon of hope by this.

## 9. Guidance

Draft guidance for the assessment providers has been made available online<sup>3</sup> and the Department has committed to considering comments received. This guidance explains the way in which the legislation should be applied with regard to the manner in which activities are carried out.

---

<sup>1</sup> Available from: <http://www.dwp.gov.uk/consultations/2012/pip.shtml>

<sup>2</sup> Available from: <http://www.dwp.gov.uk/docs/pip-draft-amendment-regs-2013.pdf>

<sup>3</sup> Available from: <http://www.dwp.gov.uk/docs/pip-assessment-guide.pdf>

## **10. Impact**

10.1 The impact on business and civil society organisations is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The Department for Work and Pensions will carry out a comprehensive programme of monitoring and evaluation using a range of methods and sources and making links, where possible, with the evaluation of Universal Credit. The Department has published an outline of its evaluation proposals<sup>4</sup> including detailing that the evaluation themes will cover:-

- Claimant experiences of PIP;
- Implementation and delivery;
- Claimant outcomes (e.g. the relationship between employment and PIP); and
- The effectiveness of the decision-making, reconsiderations and appeals processes.

12.2 The Welfare Reform Act provides for the commissioning of two independent reports to Parliament, the first of which will be completed by 2014 before the majority of DLA claimants are reassessed for PIP. The scope of the reports has not yet been defined but it is anticipated that they will look at all aspects of the PIP assessment, including how this principle is being applied in practice.

## **13. Contact**

Lorna Fraser, at the Department for Work and Pensions can answer any queries regarding the instrument, Tel: 020 7449 5597 or email: [lorna.fraser@dwp.gsi.gov.uk](mailto:lorna.fraser@dwp.gsi.gov.uk).

---

<sup>4</sup> Available from: [www.dwp.gov.uk/policy/disability/personal-independence-payment/](http://www.dwp.gov.uk/policy/disability/personal-independence-payment/)