

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CLAIMS AND PAYMENTS) (AMENDMENT)
REGULATIONS 2016

2016 No. 544

1. Introduction

- 1.1 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

- 2.1 This instrument provides for claims to Employment Support Allowance (ESA) and Industrial Injuries Benefit (IIB) to be claimed electronically; for claims to IIB to be claimed by telephone; and for communications connected with ESA and IIB awards to be made electronically.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Currently claims for ESA can be made by paper and telephone under regulation 4 and 4G of the Social Security Claims and Payments Regulations 1987; claims for IIB can be made by paper only under regulation 4 of the same Regulations. The changes give effect to a change in policy in how these benefits can be claimed and how communications connected with awards can be made. They are another step in the department's ongoing claims digitalisation programme.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is to Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.
- 5.3 Similar statutory rules are to be introduced in respect of Northern Ireland by the Department for Social Development in Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 Currently claims for ESA can only be made by paper and by telephone; claims for IIB can only be made by paper. The Secretary of State for Work and Pensions proposes to amend legislation so that claims can be made to ESA and IIB electronically, ie online through the Gov.UK website; and claims to IIB can be made by telephone. Amendments are also being made to allow claimants and the Secretary of State to communicate with claimants electronically and by telephone in connection with IIB and ESA awards.
- 7.2 The proposed changes are being introduced as a matter of policy development. In an ever digitalising benefit world it is somewhat anomalous that these benefits cannot be claimed online or, in the case of IIB, by telephone. More and more claimants expect to be able to communicate with the department using these methods and the department wants to facilitate this. These changes facilitate these forms of communication.
- 7.3 Crucially, the changes do no more than offer further options to claimants. They do not mean that claims cannot be made by paper or telephone (for ESA). Further, any claim made other than electronically or by phone would not be treated any differently ie it would not go to the back of the queue. There will continue to be equality of treatment in deciding claims and applications.
- 7.4 Whilst the amendments will come into force on 24 May, the actual changes will not come into full operational effect immediately.
- 7.5 An ESA digital project has been set up to build and test an ESA online claim. This would not be possible without an amendment to the Regulations. It is expected that the project will test a small number of live claims in the summer. This will be followed by further testing and a decision will then be made as to next steps and whether to “go live” more widely.
- 7.6 IIB will be undertaking private testing with selected claimants and the current thinking is that they will be entering that phase as this change goes live.

Consolidation

- 7.7 Informal consolidated text of instruments will be included in due course in the Department’s “The Law Relating to Social Security” (the Blue Volumes) which is available on the internet at no cost to the public <http://lawvolumes.dwp.gov.uk/the-law-relating-to-social-security/>

8. Consultation outcome

- 8.1 DWP presented the proposals for these Regulations to the Social Security Advisory Committee (SSAC), via correspondence, in April 2015. They did not wish to take the regulations to formal reference.
- 8.2 There has been no other consultation undertaken. This was not seen as necessary because the department’s previous experience of digitalisation of benefits has shown the advantages of providing more means of claiming. Consultation would have provided no new insights. And no one is being disadvantaged by the changes.

9. Guidance

- 9.1 There is to be a phased introduction on a very restricted basis for both benefits. Guidance for operational staff will only be produced after evaluation of the initial phase. The changes will also be mirrored within the Decision Makers Guide that provides guidance for DWP decision makers and is published at www.gov.uk.
<https://www.gov.uk/government/collections/decision-makers-guide-staff-guide>.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector. There are some initial start up costs but these have been accounted for in the business cases prepared for these changes.
- 10.3 An Impact Assessment has not been prepared for this instrument. We believe that these changes are wholly positive for claimants – see paragraph 7.3.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 We will monitor the impact of this change through established customer feedback processes. However we believe the changes are wholly beneficial.

13. Contact

- 13.1 Lyndon Walters at the Department for Work and Pensions, Telephone: 020 7449 7347 or email: Lyndon.walters@dwp.gsi.gov.uk can answer any queries regarding the instrument.