

This Statutory Instrument has been made in consequence of a defect in S.I. 2013/377 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2020 No. 1235

SOCIAL SECURITY

**The Social Security (Personal Independence Payment)
(Amendment) Regulations 2020**

<i>Made</i>	- - - -	<i>6th November 2020</i>
<i>Laid before Parliament</i>		<i>9th November 2020</i>
<i>Coming into force</i>	- -	<i>30th November 2020</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 83(3) and 94(1) and (2) of the Welfare Reform Act 2012(a).

In accordance with section 173(1)(b) of the Social Security Act 1992(b), the Social Security Advisory Committee has agreed that proposals in respect of these Regulations shall not be referred to them.

Citation and commencement, and extent

1.—(1) These Regulations may be cited as the Social Security (Personal Independence Payment) (Amendment) Regulations 2020 and come into force on 30th November 2020.

(2) These Regulations extend to England and Wales only(c).

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

2.—(1) Regulation 27 (revision and supersession of an award after the person has reached the relevant age) of the Social Security (Personal Independence Payment) Regulations 2013(d) is amended in accordance with paragraphs (2) and (3).

(a) 2012 c.5. See footnote (c) below as to the transfer of functions under these powers as regards Scotland.

(b) 1992 c.5.

(c) The provisions being amended extend to England and Wales, and Scotland. This instrument departs from the usual presumption that amendments have the same extent and application as the provisions amended because the Secretary of State does not have legislative competence to exercise functions in relation to Personal Independence Payment (PIP) as regards Scotland. The functions of the Secretary of State under sections 83 and 94 of the Welfare Reform Act 2012, as regards Scotland, transferred to the Scottish Ministers on 1 April 2020. This is both in terms of regulations 3 and 4 of the Scotland Act 2016 (Transitional) Regulations 2017/444, which provide for functions conferred on the Secretary of State by a pre-commencement enactment that would be within the legislative competence of the Scottish Parliament by virtue of exception 1 in reservation F1 in schedule 5 of the Scotland Act 1998 (c.46) (social security schemes) to transfer to the Scottish Ministers on that date; and section 32 of the Scotland Act 2016 (c.11) which provides the meaning of “pre-commencement enactment” in this context. To ensure that regulation 27 of the PIP Regulations continues to operate identically across England and Wales and Scotland, the Scottish Ministers are making parallel regulations (The Social Security (Personal Independence Payment) Amendment (Scotland) Regulations 2020) in identical terms to these Regulations to come into force simultaneously.

(d) S.I. 2013/377.

(2) For paragraph (2) substitute—

“(2) Where the original award includes an award of the mobility component and is superseded—

- (a) pursuant to regulation 23 of the Decisions and Appeals Regulations for a relevant change of circumstance which occurred after C reached the relevant age; or
- (b) pursuant to regulation 26(1)(a) of the Decisions and Appeals Regulations, where—
 - (i) the application for supersession was made by C after C reached the relevant age, or
 - (ii) the supersession proceedings were initiated by the Secretary of State after C reached the relevant age,

the restrictions in paragraph (3) apply in relation to the supersession.”.

(3) After paragraph (2) insert—

“(2A) In paragraph (2), “the Decisions and Appeals Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(a).”.

Signed by authority of the Secretary of State for Work and Pensions

Justin Tomlinson
Minister of State

6th November 2020

Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 83(1) of the Welfare Reform Act 2012 (“the Act”) a person is not entitled to the daily living or mobility component of Personal Independence Payment for any period after they reach the relevant age (defined in section 83(2) of the Act as pensionable age or, if higher, 65) (“the age restriction”). Regulation 27(1) of the Social Security (Personal Independence Payment) Regulations 2013 (2013 No. 377) (“the PIP Regulations”) provides that the age restriction does not apply where the person has reached the relevant age, is entitled to an award of either or both components pursuant to an exception in regulation 25 or 26 of the PIP Regulations, and that award falls to be revised or superseded. Regulation 27(2) of the PIP Regulations modifies regulation 27(1) such that entitlement to the mobility component is restricted, as set out in regulation 27(3), where the original award is superseded for a change of circumstance which occurred after the person reached the relevant age.

Regulation 3 of these Regulations amends regulation 27(2) of the PIP Regulations so that the regulation 27(3) restriction applies not only where the original award is superseded for a change of circumstances that occurred after the claimant reached the relevant age, but also where it is superseded as a result of receipt of medical evidence from a healthcare professional or other person approved by the Secretary of State where the application for supersession (or Secretary of State action initiating a supersession) began after the claimant reached the relevant age.

A full impact assessment has not been produced for these Regulations as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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(a) S.I. 2013/381, to which there are amendments not relevant to these Regulations.

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