

**2021 No. 230**

**SOCIAL SECURITY**

**The Social Security (Claims and Payments, Employment and Support Allowance, Personal Independence Payment and Universal Credit) (Telephone and Video Assessment) (Amendment) Regulations 2021**

<i>Made</i> - - - -	<i>2nd March 2021</i>
<i>Laid Before Parliament</i>	<i>4th March 2021</i>
<i>Coming into force</i> - -	<i>25th March 2021</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 9(1)(a) and (2)(a) and 189(1), (4) and (6) of the Social Security Administration Act 1992(a), sections 8(3)(c), 9(3)(c), 25(2), (3), (4) and (5)(b) of the Welfare Reform Act 2007(b) and sections 37(5)(b), 42(2) and (3)(b) and 80(4)(c) of the Welfare Reform Act 2012(c).

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

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments, Employment and Support Allowance, Personal Independence Payment and Universal Credit) (Telephone and Video Assessment) (Amendment) Regulations 2021 and come into force on 25th March 2021.

(2) Regulations 2 and 5 extend to England and Wales only(e).

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(a) 1992 c. 5.  
(b) 2007 c. 5.  
(c) 2012 c. 5.  
(d) 1992 c. 5.  
(e) The provisions being amended by regulations 2 and 5 extend to England, Wales and Scotland. This instrument departs from the usual presumption that amendments will have the same extent and application as the provisions amended because the Secretary of State does not have executive competence to exercise functions in relation to Industrial Injuries Disablement Benefit (IIDB) and Personal Independence Payment (PIP) as regards Scotland. The functions of the Secretary of State under section 190 of the Social Security Administration Act 1992 and sections 83 and 94 of the Welfare Reform Act 2012, as regards Scotland, transferred to the Scottish Ministers on 1 April 2020. This is in accordance with 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 to 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 26 of the Social Security (Claims and Payments) Regulations 1979 and regulation 9 of the Social Security (Personal Independence Payment) Regulations 2013 continue to operate identically across England and Wales and Scotland, the Scottish Ministers are making parallel regulations, (the

(3) Regulations 3, 4 and 6 extend to England and Wales, and Scotland.

### **Amendment to the Social Security (Claims and Payments) Regulations 1979**

**2.**—(1) The Social Security (Claims and Payments) Regulations 1979(a) are amended as follows.

(2) In regulation 26 (obligations of claimants for, and beneficiaries in respect of... disablement benefit), in paragraph (1)(a), after “medical examination” insert the words “in person, by telephone or by video”.

### **Amendments to the Employment and Support Allowance Regulations 2008**

**3.**—(1) The Employment and Support Allowance Regulations 2008(b) are amended as follows.

(2) In regulation 23 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work), in paragraph (1), after “medical examination” insert the words “in person, by telephone or by video”.

(3) In regulation 38 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work-related activity), in paragraph (1), after “medical examination” insert the words “in person, by telephone or by video”.

### **Amendment to the Universal Credit Regulations 2013**

**4.**—(1) The Universal Credit Regulations 2013(c) are amended as follows.

(2) In regulation 44 (medical examinations), in paragraph (1), after “medical examination” insert the words “in person, by telephone or by video”.

### **Amendment to the Social Security (Personal Independence Payment) Regulations 2013**

**5.**—(1) The Social Security (Personal Independence Payment) Regulations 2013(d) are amended as follows.

(2) In regulation 9 (claimant may be called for a consultation to determine whether the claimant has limited or severely limited ability to carry out activities), in paragraph (1)(b), after “telephone” insert the words “or by video”.

### **Amendments to the Employment and Support Allowance Regulations 2013**

**6.**—(1) The Employment and Support Allowance Regulations 2013(e) are amended as follows.

(2) In regulation 19 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work), in paragraph (1), after “medical examination” insert the words “in person, by telephone or by video”.

(3) In regulation 35 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work-related activity), in paragraph (1), after “medical examination” insert the words “in person, by telephone or by video”.

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

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Social Security (Industrial Injuries Benefit and Personal Independence Payment) (Telephone and Video Assessment) (Miscellaneous Amendments) (Scotland) Regulations 2021, in identical terms to these Regulations to come into force on 25th March 2021.

(a) S.I. 1979/628. Regulation 26(1) was amended by: S.I. 1983/186, S.I. 1999/1958, S.I. 2007/1626.  
(b) S.I. 2008/794.  
(c) S.I. 2013/376.  
(d) S.I. 2013/377.  
(e) S.I. 2013/379.

2nd March 2021

*Justin Tomlinson*  
Minister of State  
Department for Work and Pensions

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Claims and Payments) Regulations 1979 (S.I. 1979/628), the Employment and Support Allowance Regulations 2008 (S.I. 2008/794), the Employment and Support Regulations 2013 (S.I. 2013/379), the Social Security (Personal Independence) Regulations 2013 (S.I. 2013/377) and the Universal Credit Regulations 2013 (S.I. 2013/376).

The amendments enable medical examinations and consultations to be conducted as between a claimant and an assessor approved by the Secretary of State in person, by telephone or by video as part of the process for determining entitlement to Industrial Injuries Disablement Benefit, Employment and Support Allowance, Personal Independence Payment and Universal Credit.

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

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