EXPLANATORY MEMORANDUM TO

THE PERSONAL INDEPENDENCE PAYMENT (TRANSITIONAL PROVISIONS) (AMENDMENT) (No. 2) REGULATIONS 2013

2013 No. 2689

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

2. Purpose of the instrument

2.1 From 28 October some recipients of Disability Living Allowance ("DLA") will be able or required to claim Personal Independence Payment ("PIP"), DLA's replacement benefit for people of working age (16-64). This phase is collectively known as "natural reassessment". This instrument amends the Personal Independence Payment (Transitional Provisions) Regulations 2013 ("the PIP Transitional Regulations") (S.I. 2013/387) by ensuring that natural reassessment begins only when the Secretary of State is satisfied that suitable arrangements are in place to carry out an assessment to determine whether the person has limited or severely limited ability to carry out daily living or mobility activities (as required by regulation 4(1) of the Social Security (Personal Independence Payment) Regulations 2013 (S.I. 2013/377).

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

3.1 This Instrument has been laid within 21 days of its coming into force.

3.2 The issue giving rise to the need for amending Regulations only came to light at the beginning of October 2013 as a result of our ongoing analysis of the introduction of PIP for new claims and the processes supporting it. The issue that has been identified is that the end-to-end claiming process is taking longer than expected.

3.3 Since October, we have for the first time a statistically valid sample of data and management information on the new claims process from start to finish. The reason it has taken until October to get this meaningful data is due to the fact that PIP was introduced in a limited geographical area of Great Britain from 8 April and only extended nationwide from 10 June.

3.4 As a consequence, the Department wants to deliver a more controlled and measured start to natural reassessment, due to commence from 28 October. The Department has worked as quickly as possible to identify and develop a range of options to deliver this, together with the necessary clerical and technical processes to support the aim. These Regulations bring forward the preferred option which allows the Department to introduce natural reassessment in a more gradual, controlled and manageable way.

3.5 Under the current timetable legislated for in the PIP Transitional Regulations as amended by S.I. 2013/2231, natural reassessment is due to begin from 28 October 2013. There is therefore an urgent need to have in place the amendments required for a more gradual, controlled and manageable process of natural reassessment, hence why this instrument has been made within 21 days of its coming into force. Within these time limitations of identification and deployment of a solution, the Department has explored a range of options and has taken all efforts to move at pace bearing in mind the importance of

maximising the gap between the date the Regulations are laid and the date on which they come into force.

4. Legislative Context

4.1 The PIP Transitional Regulations contain provisions for the phasing out of DLA for existing recipients who were aged 16 to 64 on 8 April 2013, and those reaching age 16 after that date, and its replacement by a new benefit provided for in the Welfare Reform Act 2012 ("the Act") known as PIP. In particular they provide for the Secretary of State to invite people entitled to DLA to claim PIP and also enable others to self-select if they have not been so invited. Irrespective of whether they then go on to claim PIP, their entitlement to DLA will terminate.

4.2 The PIP Transitional Regulations came into force on 8 April 2013.

5. Territorial Extent and Application

5.1 This instrument applies to England, Scotland and Wales.

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

7.1 PIP started to replace DLA for new claims from 8 April 2013.

7.2 Under the terms of the current PIP Transitional Regulations, from 28 October 2013 the following groups of DLA recipients will be invited to claim PIP:

(a) when they reach 16 years of age after 27 October;
(b) if a change of circumstances is reported;
(c) fixed-term award claimants where the award is shortly due to expire; and
(d) individuals who choose to claim PIP voluntarily (this group is known as "self selectors").

7.3 This phase is collectively known as "natural reassessment" and is expected to generate around 25,000 cases a month in addition to the approximately 32,000 new claims currently received. Natural reassessment was due to begin on 7 October 2013 but was delayed until 28 October[1] to allow the Government to respond to a consultation it carried out on the PIP *Moving around* activity[2], which is one of two activities that assess entitlement to the mobility component of PIP, before beginning natural reassessment.

7.4 All claims to PIP, whether new claims or claims made as a result of being invited to claim under natural reassessment plans, require an assessment and advice from a health professional employed by one of two assessment providers who provide externally contracted services for the Department in Great Britain:

[1] The PIP Transitional Regulations were amended by The Personal Independence Payment (Transitional Provisions) (Amendment) Regulations 2013, SI2013/2231: http://www.legislation.gov.uk/uksi/2013/2231/contents/made
[2] Available from: https://www.gov.uk/government/consultations/consultation-on-the-pip-assessment-moving-around-activity

- Atos Healthcare providing services in South England and London (Lot 1) and North England and Scotland (Lot 3); and
- Capita Health and Wellbeing in central England and Wales (Lot 2) (collectively referred to as "the Providers")[3].

7.5 It has always been the intention of the Department to introduce PIP in a controlled way, ensuring the Department learns lessons at each stage to help inform the wider roll-out. That is why the Department initially introduced new claims to PIP in a controlled way, by limiting the numbers of new claims to a geographical area from April and subsequently rolling out the benefit nationally from June.

7.6 The Department's latest analysis of the new end-to-end claim journey suggests that the process is taking longer than expected at a number of points, including the assessments by the Providers. The Department therefore intends to introduce natural reassessment in a more gradual way; to enable the Secretary of State to feel satisfied that satisfactory arrangements are in place to assess a person's entitlement to PIP and thereby adopting a phased approach by limiting the numbers of existing DLA claimants invited to claim PIP or choosing to do so. This controlled approach will allow the Department to analyse the reassessment journey before widening the process.

7.7 These Regulations amend the PIP Transitional Regulations to ensure that natural reassessment only applies where suitable arrangements are in place to carry out an assessment. The Department will publish on the Government website (www.gov.uk) details of the means by which it will control natural reassessment shortly. The information on these pages will allow individuals to identify whether and when they may be invited to claim PIP as outlined in paragraph 7.2 above. We also expect that a tool, similar to the one in use[4], will be made available to assist in identification. The PIP pages also provide details of the phone numbers that can be used to contact the PIP Enquiry Line[5] and the PIP Claim Line[6].

7.8 Once natural reassessment activity commences we will continue to analyse and monitor both the new claim process and the process for natural reassessment. Further decisions on how and when to extend natural reassessment activity will be taken in due course and in light of further analysis.

8. Consultation outcome

8.1 The Department has not carried out any further consultations since the consultation referred to in paragraph 7.3 above. That consultation was launched on 24 June 2013 and closed on 5 August 2013. We received around 1,150 written responses. During the consultation period the Department also held a series of meetings with disabled people and the organisations that represent them.

8.2 The consultation asked for views on the *Moving around* activity assessment criteria set out in the Social Security (Personal Independence Payment) Regulations 2013[7], including the

[3] Assessment provider postcode map - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236614/pip-postcode-map.pdf
[4] https://www.gov.uk/pip-checker
[5] 0845 850 33 22 (textphone 0845 601 66 77)
[6] 0800 917 22 22 (textphone 0800 917 77 77)
[7] S.I. 2013/377

current distances of 20 and 50 metres. The Department also asked respondents what they thought the impact of the current criteria would be and whether they thought changes were required to the way in which physical mobility is assessed.

8.3 The Government published their response to the consultation on 21 October[8].

9. Guidance

9.1 Guidance for the Providers[9] and decision makers[10] has been made available online.

9.2 The guidance for Providers is unchanged by these amendments.

9.3 The Advice for Decision Makers on the PIP Transitional Regulations will be updated as a result of this amendment.

9.4 Guidance for the public is available on the Government internet site, Gov.UK/PIP, and will be updated.

10. Impact

10.1 There is no impact on business or civil society organisations.

10.2. The impact on the public sector is negligible as the amendment is a change to the order of invitations, not the fact of the invitations ultimately being sent.

10.3 An Impact Assessment has not been published for this instrument. An updated Impact Assessment for DLA reform and the introduction of PIP was published in May 2012[11]. Additional DLA and PIP caseload impacts were made available on 13 December 2012[12] and updated Carer's Allowance impacts were published on 8 February 2013[13]. An Equality Impact Assessment for DLA reform and the introduction of PIP was published on 4 May 2012[14]. This concluded that the introduction of DLA might have an impact on those with a protected characteristic in that they may receive reduced support. The Government has considered whether the amendments made by the present instrument have any additional equality impact and has paid due regard to the Public Sector Equality Duty. The Government has concluded that, although the amendments made by this instrument may affect the period over which those with a protected characteristic experience any impact (because it may affect the date on which any one individual may move from DLA to PIP), it does not otherwise change the nature or extent of such impact. In any event there are sound practical reasons for adopting this instrument, which is a proportionate means of achieving a legitimate aim.

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[8] It will be available from: https://www.gov.uk/government/policies/simplifying-the-welfare-system-and-making-sure-work-pays#who-weve-consulted

[9] Available from: https://www.gov.uk/government/publications/personal-independence-payment-assessment-guide-for-assessment-providers

[10] Available from: http://www.dwp.gov.uk/publications/specialist-guides/advice-for-decision-making/#pip

[11] www.dwp.gov.uk/docs/dla-reform-wr2011-ia.pdf

[12] http://www.dwp.gov.uk/docs/pip-reassessments-and-impacts.pdf (corrected on 8 January 2013)

[13] http://www.dwp.gov.uk/docs/pip-briefing-carers-allowance.pdf

[14] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220151/eia-dla-reform-wr2011.pdf

11. Regulating small business

11.1 The PIP Transitional Regulations do not apply to small business.

12. Monitoring & review

12.1 The Department is carrying 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.

12.2 The Department has published an outline of its evaluation proposals[15], which 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, reconsideration and appeal processes.

12.3 The Department has commissioned an early process qualitative evaluation for new PIP claims that will examine how its processes are working in practice and explore the early experiences of staff and claimants. The aim is to identify what is working well and what is not working well and, therefore, find potential areas for improving processes and delivery. We are looking to publish this research in Spring 2014. Alongside this we will be commissioning quantitative claimant surveys for both new and reassessed claimants that will begin in early 2014.

12.4 The 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

13.1 Phil Joseph, phil.joseph@dwp.gsi.gov.uk, 020 7449 5289

[15] Available from: https://www.gov.uk/government/publications/evaluation-proposals-for-personal-independence-payment-policy-briefing-note