STATUTORY INSTRUMENTS

2016 No. 189

SOCIAL SECURITY

The Personal Independence Payment (Transitional Provisions) (Amendment) Regulations 2016

Made - - - -	*17th February 2016*
Laid before Parliament	*24th February 2016*
Coming into force - -	*4th April 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 93 and 94(1), (2) and (3)(a) of, and paragraphs 1(1), 3(1)(c) and 4(1) of Schedule 10 to, the Welfare Reform Act 2012(**a**).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations need not be referred to it(**b**).

Citation and commencement

1.—(1) These Regulations may be cited as the Personal Independence Payment (Transitional Provisions) (Amendment) Regulations 2016.

(2) They come into force on 4th April 2016.

Amendment of the Personal Independence Payment (Transitional Provisions) Regulations 2013

2. In regulation 17 of the Personal Independence Payment (Transitional Provisions) Regulations 2013(**c**) (procedure following and consequences of determination of claim for personal independence payment)—

(a) for paragraph (1)(b) substitute—

"(b) except where paragraph (2) of regulation 13 applies to the claimant, the claimant's entitlement to disability living allowance shall terminate—

(i) where paragraph (1B) applies, on the earlier of—

(aa) the last day of the payment period during which the assessment determination is made, or

(bb) the first Tuesday after the making of the assessment determination;

(ii) in any other case, on the last day of the period of 28 days starting with the first pay day after the making of the assessment determination.";

(**a**) 2012 c.5.
(**b**) *See* section 173(1)(b) of the Social Security Administration Act 1992 (c.5).
(**c**) S.I. 2013/387.

(b) after paragraph (1) insert—

"(1A) In paragraph (1), "payment period" means a period in respect of which disability living allowance is paid to the claimant in accordance with regulation 22 of the 1987 Regulations.

(1B) This paragraph applies if—

(a) the transfer claimant is terminally ill for the purposes of section 82 of the Act,

(b) the outcome of an assessment determination in respect of that claimant is an award of personal independence payment, and

(c) the total weekly rate of personal independence payment payable by virtue of that award is greater than the total weekly rate of disability living allowance payable by virtue of that claimant's existing award of disability living allowance.";

(c) in paragraph (2)—

(i) for sub-paragraph (a) substitute—

"(a) the day on which the claimant's entitlement to disability living allowance terminates in accordance with paragraph (1)(b) of this regulation,";

(ii) in sub-paragraph (b), delete "immediately after that".

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

Justin Tomlinson
Parliamentary Under Secretary of State,
Department for Work and Pensions

17th February 2016

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 4th April 2016, amend the Personal Independence Payment (Transitional Provisions) Regulations 2013 (S.I. 2013/387) ("the PIP Transitional Regulations").

The PIP Transitional Regulations contain transitional provisions for the phasing out of the benefit known as disability living allowance ("DLA") and its replacement by personal independence payment ("PIP"). If entitlement to PIP is established for a person transferring from DLA to PIP, then under regulation 17(1) and (2) of those Regulations, that person is not entitled to PIP until a period of 28 days has elapsed, starting with the first pay day after the making of the PIP decision. The PIP decision determines whether a person is entitled to the daily living component, the mobility component or both and, if so entitled, the rate and the period of the award.

Regulation 2 of these Regulations introduces an exception to the 28 day period for a person who is terminally ill, if that person is awarded PIP at a total weekly rate which is greater than their total weekly rate of DLA. It ensures that their entitlement to DLA will terminate on the last day of the payment period during which the PIP decision is made, or the first Tuesday following the making of that decision (whichever is the earlier). They will be entitled to PIP from the following day. Section 82(4) of the Welfare Reform Act 2012 defines a person as terminally ill at any time if at that time they suffer from a progressive disease and their death in consequence of that disease can reasonably be expected within 6 months.

An impact assessment has not been published for this instrument as it has no impact on business or civil society organisations.

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