EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CLAIMS AND PAYMENTS, EMPLOYMENT AND SUPPORT ALLOWANCE, PERSONAL INDEPENDENCE PAYMENT AND UNIVERSAL CREDIT) (TELEPHONE AND VIDEO ASSESSMENT) (AMENDMENT) REGULATIONS 2021

2021 No. 230

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 The purpose of this instrument is to specify additional methods of assessing claimants with health conditions and/or disabilities applying for Industrial Injuries Disablement Benefit (IIDB), Employment and Support Allowance (ESA), Personal Independence Payment (PIP) and Universal Credit (UC). It makes clear that telephony and video channels can be used in addition to the existing channels of paper based and face-to-face assessments.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent and application of regulations 2 and 5 of this instrument is England and Wales.

4.2 The territorial extent and application of regulations 3 and 4 of this instrument is England and Wales and Scotland.

4.3 Scottish Government will be making corresponding provisions in Scotland for regulations 2 and 5.

4.4 The Department for Communities in Northern Ireland will be making corresponding provisions for Northern Ireland.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The instrument will amend the Social Security (Claims and Payments) Regulations 1979, the Employment and Support Allowance Regulations 2008, the Universal Credit Regulations 2013 and the Employment and Support Allowance Regulations 2013 to specify telephone and video as additional channels for conducting health assessments to determine entitlement to Industrial Injuries Disablement Benefit, Employment and Support Allowance and Universal Credit.

6.2 The instrument will amend the Social Security (Personal Independence Payment) Regulations 2013 to introduce video as an additional channel for conducting health assessments to determine entitlement to Personal Independence Payment.

7. Policy background

What is being done and why?

7.1 Prior to the Covid-19 pandemic, claimants with health conditions and/or disabilities applying for Industrial Injuries Disablement Benefit (IIDB), Employment and Support Allowance (ESA), Personal Independent Payment (PIP) and Universal Credit (UC) were required, in most cases, to attend a face-to-face assessment. In order to safeguard claimants and staff, from March 2020 the Department suspended all face-to-face assessments, whilst exploring alternative methods of conducting health assessments by remote means.

7.2 This instrument makes clear that telephone and video channels can be used as additional methods of conducting health assessments to establish entitlement to IIDB, ESA, PIP and UC.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 None.

10. Consultation outcome

10.1 We did not conduct a formal consultation however we have, and will continue to, engage with stakeholders following the publication of the Health and Disability Green Paper.

11. Guidance

11.1 Once the Department are at the point of rolling out a multi-channel approach to health assessments we will amend the departmental guidance to detail how telephone and video assessments will work in practice across ESA, IIDB, PIP and UC.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because the impact on the public sector is negligible.

13. Regulating small business

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

14. Monitoring & review

14.1 We are in the process of planning the evaluation approach. While a randomised control trial comparing face to face, telephone and video assessment would provide the most robust data, that is not possible at present while face to face assessments stay switched off. We know from ONS data**[1]** that disabled people have reported worsening level of physical and mental health during the pandemic, therefore we cannot compare current video and telephone assessments with a pre-Covid face to face cohort. We are considering longer term approaches that would allow us to compare across video, telephone and face-to-face and plan to seek expert advice through the methods advisory group (the DWP group that gives us access to academic advice).

14.2 The regulation does not include a statutory review clause.

15. Contact

15.1 Amy Curtis at the Department for Work and Pensions Telephone: 07770 881 352 or email: amy.curtis1@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Vikki Knight, Deputy Director for Disability Strategy at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Justin Tomlinson, Minister for Disabled People at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

Coronavirus and the social impacts on disabled people in Great Britain: ONS, September 2020 https://www.ons.gov.uk/releases/coronavirusandthesocialimpactsondisabledpeopleingreatbritainoctober2020