**EXPLANATORY MEMORANDUM TO**

**THE SOCIAL SECURITY (DISABILITY ADDITIONAL PAYMENT DAY) REGULATIONS 2023**

**2023 No. 547**

## 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 His Majesty.

## 2. Purpose of the instrument

2.1 The instrument is being made to allow implementation and payment of the Disability Cost of Living Payment of £150 which was legislated for by the Social Security (Additional Payments) Act 2023[1] ("the Act"). The instrument specifies that the qualifying day for the purposes of the Act is 1 April 2023.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None

## 4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and 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 Eligibility for the Cost of Living Payments, including the Disability Cost of Living Payment, was legislated for by the Act, with the exception of specific qualifying days for each of the payments. A person will be eligible for the £150 Disability Cost of Living Payment if they are entitled to a payment of a benefit listed in the Act, in respect of a particular qualifying date (this is referred to in the Act as the disability additional payment day).

6.2 The qualifying day, which these Regulations state is 1 April 2023, read in conjunction with section 5 of the Act, determines whether a person has a qualifying entitlement for the £150 Disability Cost of Living Payment.

6.3 The Act allows for the specified qualifying day for the £150 Disability Cost of Living Payment to pre-date the date these Regulations come into force. The Regulations come into force on 13 June 2023. The choice of 1 April 2023 as the qualifying date

[1] Social Security (Additional Payments) Act 2023 (https://www.legislation.gov.uk/ukpga/2023/7/contents)

balances our wish to maximise the number of people eligible to receive a Disability Cost of Living Payment against potential fraud and operational/IT restrictions. It also serves to reduce the likelihood that claimants change their behaviours to qualify for the £150 Disability Cost of Living Payment, as the qualifying day will have passed by the time it has been publicised. Further, it also allows sufficient time to prepare payments to begin to be paid over a payment window over several days to the over 6 million people estimated to be eligible from a planned for date of 20 June.

## 7. Policy background

***What is being done and why?***

7.1 Through a package of measures announced on 17 November 2022[2], the Government will provide additional support to millions of households across the UK to mitigate continuing cost of living pressures. This includes Disability Cost of Living Payments of £150 to individuals in receipt of an eligible disability benefit at a total cost to the Exchequer of around £1.17 billion in 2023/24.

***Explanations***

7.2 This instrument specifies the qualifying day, which relates to the £150 Disability Cost of Living Payment, is 1 April 2023.

7.3 A person who is entitled to a payment of Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Constant Attendance Allowance, Adult Disability Payment, Child Disability Payment, War Pension Mobility Supplement or Armed Forces Independence Payment that is payable in respect of 1 April 2023 will receive the £150 Disability Cost of Living Payment.

7.4 Where a doubt arises around a claimant's entitlement, for example around an allegation of fraud, the Department may suspend payment. A Disability Cost of Living Payment will not be made until the Department has been able to determine whether the claimant is eligible for that payment. However, if a suspension results in a decision that claimant was entitled to the disability benefit and payment is backdated to the qualifying date, a Disability Cost of Living Payment will then be paid.

7.5 Payability is also removed from most disability benefits where a person has been in hospital or a care home for 28 days or more. Payability also stops if someone has been in prison. Removing payability in these circumstances avoids duplication of provision by preventing paying people twice to meet the same needs as those in hospital, a care home or in prison who have their 'extra costs' met. In these circumstances payment is not retrospectively made once the person leaves the relevant institution and those affected will not be entitled to a Disability Cost of Living Payment if they are not entitled to a payment in respect of 1 April 2023.

## 8. European Union Withdrawal and Future Relationship

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 This instrument does not amend or consolidate any other instruments.

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[2] https://www.gov.uk/government/publications/autumn-statement-2022-cost-of-living-support-factsheet

## 10. Consultation outcome

10.1 These Regulations specify the qualifying day for the £150 Disability Cost of Living Payment, as part of the package of measures[3] announced by the Chancellor. As the Act is not a relevant enactment for the purposes of consulting the Social Security Advisory Committee, there was no need to refer these Regulations to it.

## 11. Guidance

11.1 Guidance on Gov.uk[4] will be updated to announce 1 April 2023 as the qualifying day. The amended guidance will be available prior to 20 June 2023.

## 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 A full Impact Assessment has not been prepared for this instrument because no or no significant impact on the private, public or voluntary sectors is foreseen. However, an Impact Assessment[5] was prepared for the Act which this instrument helps to implement. This sets out that over 6 million benefit recipients are expected to receive the £150 Disability Cost of Living Payment. It also shows the estimated number of benefit recipients who are eligible to receive a Disability Cost of Living Payment by the qualifying benefit they receive, region, age, gender, parliamentary constituency and local authority.

## 13. Regulating small business

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

## 14. Monitoring & review

14.1 The Department will publish management information shortly after each payment window.

## 15. Contact

15.1 Phil Joseph at the Department for Work and Pensions, email: phil.joseph@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Karen Jochelson, Deputy Director for Disability Benefits Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Mims Davies at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

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[3] https://www.gov.uk/government/publications/autumn-statement-2022-cost-of-living-support-factsheet

[4] https://www.gov.uk/guidance/cost-of-living-payments-2023-to-2024

[5] https://publications.parliament.uk/pa/bills/cbill/58-03/0244/SocSec(AdditionalPayments)IA.pdf