SCOTTISH STATUTORY INSTRUMENTS

2020 No. 340

SOCIAL SECURITY

The Social Security (Personal Independence Payment) Amendment (Scotland) Regulations 2020

Made - - - -	*28th October 2020*
Laid before the Scottish Parliament	*30th October 2020*
Coming into force - -	*30th November 2020*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 83(3) and 94(2) of the Welfare Reform Act 2012(**a**) and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security (Personal Independence Payment) Amendment (Scotland) Regulations 2020 and come into force on 30 November 2020.

(2) These Regulations extend to Scotland only.

Amendment of the Social Security (Personal Independence Payment) Regulations 2013

2.—(1) Regulation 27 (revision and supersession of an award after the person has reached the relevant age) of the Social Security (Personal Independence Payment) Regulations 2013(**b**) is amended in accordance with paragraphs (2) and (3).

(2) For paragraph (2) substitute—

"(2) Where the original award includes an award of the mobility component and is superseded—

(a) pursuant to regulation 23 of the Decisions and Appeals Regulations for a relevant change of circumstances which occurred after C reached the relevant age; or

(**a**) 2012 c.5. The function of making regulations under section 83(3) of the Act is exercisable by the Secretary of State by virtue of section 94(1) of the Act. The functions of the Secretary of State under sections 83 and 94 of the Act, as regards Scotland, transferred to the Scottish Ministers on 1 April 2020. This is both in terms of regulations 3 and 4 of S.I. 2017/444, which provides 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 of 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. Under section 172(1) of the Social Security Administration Act 1992 (c.5), the Secretary of State is required to refer to the Social Security Advisory Committee (SSAC) proposals for regulations under 'relevant enactments', as defined in section 170(5) of that Act. This includes regulations under the Welfare Reform Act 2012. However, as a result of section 33(1) of the Scotland Act 2016, the function of the Secretary of State to consult the SSAC has not transferred to the Scottish Ministers. There is therefore no requirement for the Scottish Ministers to consult the SSAC before making these Regulations.

(**b**) S.I. 2013/377.

(b) pursuant to regulation 26(1)(a) of the Decisions and Appeals Regulations where—

(i) the application for supersession was made by C after C reached the relevant age, or

(ii) the supersession proceedings were initiated by the Scottish Ministers after C reached the relevant age,

the restrictions in paragraph (3) apply in relation to the supersession.".

(3) After paragraph (2) insert—

"(2A) In paragraph (2), "the Decisions and Appeals Regulations" means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(**a**).".

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

St Andrew's House,
Edinburgh
28th October 2020

(**a**) S.I. 2013/381, to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 27 of the Social Security (Personal Independence Payment) Regulations 2013 ("the PIP Regulations").

Under section 83(1) of the Welfare Reform Act 2012 ("the Act") a person is not entitled to the daily living or mobility component of Personal Independence Payment for any period after they reach the relevant age (defined in section 83(2) of the Act as pensionable age or, if higher, 65) ("the age restriction"). Regulation 27(1) of the PIP Regulations provides that the age restriction does not apply where the person has reached the relevant age, is entitled to an award of either or both components pursuant to an exception in regulation 25 or 26 of the PIP Regulations, and that award falls to be revised or superseded. Regulation 27(2) of the PIP Regulations modifies regulation 27(1) such that entitlement to the mobility component is restricted, as set out in regulation 27(3), where the original award is superseded for a change of circumstance which occurred after the person reached the relevant age.

Regulation 3 of these Regulations amends regulation 27(2) of the PIP Regulations so that the regulation 27(3) restriction applies not only where the original award is superseded for a change of circumstances that occurred after the person reached the relevant age, but also where it is superseded as a result of receipt of medical evidence from a healthcare professional or other person approved by the Scottish Ministers where the application for supersession (or Scottish Ministers' action initiating a supersession) began after the person reached the relevant age.

No business and regulatory impact assessment has been prepared for these Regulations as no impact on business, charities or voluntary bodies is foreseen.

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£4.90

S202010291004 11/2020 19585

http://www.legislation.gov.uk/id/ssi/2020/340

ISBN 978-0-11-104700-2

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