EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT, PERSONAL INDEPENDENCE PAYMENT AND EMPLOYMENT AND SUPPORT ALLOWANCE (AMENDMENT) REGULATIONS 2026

2026 No. 395

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. Declaration

2.1 Sir Stephen Timms, Minister for Social Security and Disability at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

2.2 Graeme Connor, Deputy Director for Health & Disability Reform, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sonal Devshi at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: regulations.healthanddisabilityreform@DWP.GOV.UK

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument ensures paid and voluntary work will not, in and of itself, trigger a Personal Independence Payment[1] (PIP) award review or a Work Capability Assessment[2] (WCA) reassessment for PIP, New Style Employment and Support Allowance[3] (NS ESA) and Universal Credit[4] (UC) claimants with a health condition. These regulations do not prevent reassessment if there is a relevant change in circumstances or in cases where fraud is suspected.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Wales and Scotland for amendments to The Universal Credit Regulations 2013 No. 376[5] ("the UC Regulations 2013") and The Employment and Support Allowance Regulations 2013 No. 379[6] ("the ESA Regulations 2013").

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[1] https://www.gov.uk/pip
[2] https://www.gov.uk/health-conditions-disability-universal-credit/after-assessment
[3] https://www.gov.uk/guidance/new-style-employment-and-support-allowance
[4] https://www.gov.uk/health-conditions-disability-universal-credit
[5] https://www.legislation.gov.uk/uksi/2013/376/contents
[6] https://www.legislation.gov.uk/uksi/2013/379/contents

For amendment to The Social Security (Personal Independence Payment) Regulations 2013 No.377[7] ("the PIP Regulations 2013") it is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales and Scotland for amendments to the UC Regulations 2013 and the ESA Regulations 2013. For amendments to the PIP Regulations 2013 it is England and Wales.

5. Policy Context

What is being done and why?

5.1 This instrument aims to deliver on the Government's manifesto commitment to give "disabled people the confidence to start working without the fear of an immediate benefit reassessment if it does not work out" (page 42)[8].

5.2 There are already rules in place that are intended to encourage working-age people who are in receipt of Personal Independence Payment (PIP), Universal Credit (UC), and New Style Employment and Support Allowance (NS ESA) to try work whilst on the benefit. Research and analysis published on GOV.UK 'The work aspirations and support needs of health and disability customers: Interim findings'[9] provides an overview of customers' employment aspirations, the barriers they face in accessing work, and the support they feel they need most. This research suggests there is a lack of awareness of these rules and that customers commonly worry that working could trigger a Work Capability Assessment (WCA) reassessment or PIP award review, the outcome of which can determine the amount of benefit award.

5.3 This instrument establishes the legal basis to ensure that trying paid work, or voluntary work, will not, in and of itself, trigger a PIP award review or a WCA reassessment. It does not prevent a customer from being called for a reassessment for other reasons while they are working. However, evidence about the type of work they are undertaking may still be used to support a reassessment.

5.4 This instrument will apply to everyone receiving PIP, NS ESA, and all UC customers who have Limited Capability for Work (LCW), or Limited Capability for Work and Work-Related Activity (LCWRA)[10].

What was the previous policy, how is this different?

5.5 Previous guidance and policy for WCA reassessment and PIP award review does not refer to work, or voluntary work, as being a reason in itself to trigger a reassessment or award review.

5.6 This instrument reflects the current policy approach for UC, NS ESA, and PIP, which has yet to be enshrined in law. Currently, if a customer starts work, this fact alone would not be cause to trigger an immediate benefit reassessment. By amending legislation, the aim is to send a clear signal about the Government's commitment to encouraging people with health conditions and/or disabilities into work without this immediately triggering a reassessment.

[7] https://www.legislation.gov.uk/uksi/2013/377
[8] https://labour.org.uk/wp-content/uploads/2024/06/Labour-Party-manifesto-2024.pdf
[9] https://www.gov.uk/government/publications/work-aspirations-and-support-needs-of-health-and-disability-customers/the-work-aspirations-and-support-needs-of-health-and-disability-customers-interim-findings#what-are-the-attitudes-and-aspirations-of-customers-towards-work-and-work-related-activity
[10] https://www.gov.uk/health-conditions-disability-universal-credit/after-assessment

6. Legislative and Legal Context

How has the law changed?

6.1 These measures primarily relate to Universal Credit (UC) and New Style Employment and Support Allowance (NS ESA) which are managed by the Department for Work and Pensions in England, Wales and Scotland and transferred (devolved) in Northern Ireland. Whilst the PIP Regulations 2013 extend to Scotland, this amendment has no practical effect in Scotland because legislative competence for disability benefits in Scotland is devolved.

6.2 This instrument amends the UC Regulations 2013, the PIP Regulations 2013 and the ESA Regulations 2013 to establish in legislation the position that a benefit recipient undertaking work (including voluntary work) alone is not a relevant circumstance or a relevant reason for reassessing their entitlement to Personal Independence Payment (PIP), NS ESA and UC.

6.3 Regulations 2 and 4 amend regulation 41 of the UC Regulations 2013 and regulations 15 and 30 of the ESA Regulations 2013 respectively, which make provision for assessments to be carried out to determine if a person has Limited Capability for Work (LCW) or Limited Capability for Work Related Activity (LCWRA). Where there has been a previous determination, this instrument maintains the discretion to reassess if the Secretary of State wishes to determine whether there has been a relevant change of circumstances in relation to the claimant's physical or mental condition.

6.4 New paragraph (1A) is inserted into regulation 41 of the UC Regulations 2013, new paragraph (9) is inserted into regulation 15 of the ESA Regulations 2013 and new paragraph (5A) is inserted into regulation 30 of the ESA Regulations 2013. As amended, those regulations state that undertaking work for payment or in expectation of payment, or undertaking voluntary work, is not a relevant change of circumstances for the purposes of determining whether a person has LCWRA or LCW. This does not affect the Secretary of State's discretion to reassess entitlement to UC or NS ESA for other reasons for example, a change in condition, improved functional ability, or suspected fraud which could be indicated, for example, by undertaking work of a particular nature.

6.5 Regulation 3 amends regulation 11 of the PIP Regulations 2013, which makes provision for fresh assessments to be carried out to re-determine if a claimant continues to have limited ability or severely limited ability to carry out either or both daily living activities or mobility activities in accordance with regulation 4. Regulation 11 gives the Secretary of State the power to do this for any reason and at any time. A new paragraph (2) is inserted which provides that doing work for payment or in expectation of payment, or doing voluntary work, will not be a reason for triggering a reassessment.

6.6 The Secretary of State retains discretion to reassess entitlement to one of these benefits for other reasons (for example, a change in condition, improvement in functional ability or suspected fraud) which could be indicated, for example, by undertaking work of a particular nature. Nothing in these regulations changes the rules relating to permitted work in NS ESA[11] and in work rules for UC[12].

[11] https://www.gov.uk/government/publications/employment-and-support-allowance-permitted-work-form/permitted-work-factsheet

[12] https://www.gov.uk/universal-credit/how-your-wages-affect-your-payments

Why was this approach taken to change the law?

6.7 The Secretary of State has discretion as to whether to re-assess a claimant. Introducing regulations to confirm that undertaking work or voluntary work is not a relevant change in circumstances or reason for reassessment achieves the aim of introducing a narrowly defined limit on the Secretary of State's discretion to reassess without eliminating the necessarily wide discretion to reassess for other reasons.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Right to Try policy was announced in the Pathways to Work Green Paper[13]. A Right to Try question was included in the consultation, asking *'What further steps could the Department for Work and Pensions take to make sure the benefit system supports people to try work without the worry that it may affect their benefit entitlement?'*.

7.2 Respondents could provide feedback in the form of a written response (either via an online form, email or post), or in person at one of the public consultation events held across the UK and virtually. The consultation ran from 18 March to 30 June 2025 and, in total, received a total of 47,983 responses[14].

7.3 There were calls from respondents for greater clarity to reassure people about the impact of work on their benefits and the support already available (12%), this demonstrates the need for the proposed legislation to provide customers with assurance that work, in and of itself, will not trigger a reassessment.

7.4 These measures primarily relate to Universal Credit (UC) and New Style Employment and Support Allowance (NS ESA) which are reserved in England, Wales and Scotland and transferred (devolved) in Northern Ireland. Personal Independence Payment (PIP) has been replaced with Adult Disability Payment[15] in Scotland and mirrored in Northern Ireland.

7.5 We have engaged with colleagues from the Devolved Governments as appropriate to explain the policy approach. PIP was fully devolved to Scotland from April 2020; the Scottish Government have replaced it with Adult Disability Payment[16] (ADP). We have discussed our plans with Scottish Government officials, they have confirmed that they do not plan to mirror these regulations for ADP. The Northern Ireland Executive normally maintains parity with the UK Government's social security measures. A decision to mirror these regulations will be made in due course.

7.6 The Social Security Advisory Committee (SSAC) scrutinised the regulations on 21 January 2026[17].

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[13] https://www.gov.uk/government/consultations/pathways-to-work-reforming-benefits-and-support-to-get-britain-working-green-paper/pathways-to-work-reforming-benefits-and-support-to-get-britain-working-green-paper

[14] https://www.gov.uk/government/consultations/pathways-to-work-reforming-benefits-and-support-to-get-britain-working-green-paper/outcome/government-response-to-the-pathways-to-work-consultation

[15] https://www.mygov.scot/adult-disability-payment

[16] https://www.mygov.scot/personal-independence-payment-is-moving

[17] https://www.gov.uk/government/publications/social-security-advisory-committee-minutes-of-meetings-in-2026/minutes-of-the-meeting-held-on-21-january

7.7 The Department presented the regulations to the Social Security Advisory Committee (SSAC) on 21 January 2026. Under the powers conferred by Section 172(1) of the Social Security Administration Act 1992[18], SSAC have taken the regulations on formal reference and have written to Secretary of State with the following recommendations:

7.8 Recommendation 1a – to further amend legislation to prevent the Secretary of State from initiating a reassessment within at least six months of a claimant commencing paid or voluntary work under the 'Right to Try' guarantee, except where there is a suspicion of fraud or non-work related evidence of a change of circumstances.

7.9 Recommendation 1b – to further amend legislation to establish that functional capacity derived through work activity during the protected period should not be treated, on its own, as evidence that the person has sustained, reliable capability in any assessment or reassessment.

7.10 Recommendation 2 – to issue guidance to assessment providers that functional capacity demonstrated in a work setting should not be treated as evidence of sustained, reliable capability for PIP or WCA purposes during the first six months of employment, voluntary work, or public office under the guarantee.

7.11 Recommendation 3 – to update guidance to establish that leaving employment or voluntary work for health reasons within the protected period will, unless evidence shows otherwise, be accepted as good reason for sanctions and conditionality decisions.

7.12 Recommendation 4 – to ensure the communications strategy aligns with the realities of the regulations, guidance, and assessment framework so claimants are not misled. Messaging should be tested with claimants and advisers to ensure it does not over promise, and should be adjusted in light of early experience. Guidance should also be updated to ensure communications are aligned for assessment providers, work coaches, decision makers, assessors, and tribunals.

7.13 Recommendation 5 – to extend engagement with current and recent claimants and disabled people's organisations to identify what package of guarantees would give claimants confidence to attempt work. Engagement should determine the minimum conditions, duration, scope and legal status needed for a genuine and reliable guarantee, supported by a test and learn approach to the proposals and communications. The Department should report back to SSAC within twelve months on progress toward a legislative framework.

7.14 The Department has accepted Recommendation 1a and 1b. As they likely require primary legislation, it cannot be delivered through these regulations, but the Department will consider the proposal further and explore whether it can be incorporated into the future expansion of the Right to Try Work offer.

7.15 The Department has partially accepted Recommendation 2 and will consider whether guidance and operational instructions can be strengthened to promote consistent application of the Right to Try protections, while recognising that any such amendments would require careful consideration of legal, policy and operational impacts

7.16 The Department accepts Recommendation 3 and will update sanctions and conditionality guidance to clarify that leaving employment or voluntary work for

[18] https://www.legislation.gov.uk/ukpga/1992/5/section/172

health-related reasons will be treated as good reason, unless there is evidence to the contrary.

7.17 The Department accepts Recommendation 4 and will develop a communications strategy to ensure claimants are not misled.

7.18 The Department accepts Recommendation 5 and will continue wider stakeholder engagement and adopt a test and learn approach to consider how the Right to Try offer can be expanded to support claimants.

7.19 An Unnumbered Act Paper, The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026), in response to SSAC's recommendations, will be laid before Parliament on 13 April 2026. The response will be published on GOV.UK[19] and can be found by searching for The Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026 unnumbered act paper, the response will also be published on the SSAC[20] website.

8. Applicable Guidance

8.1 Guidance for staff and decision makers in the Department for Work and Pensions, and for operational staff, will be updated internally when the legislation comes into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared because this is not a regulatory provision as detailed in section two of the Better Regulation Framework[21].

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the legislation only affects welfare benefits administered by the Department and local authorities.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this instrument reflects the current approach. There are no costs or savings associated with the instrument.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation to formally review the impacts of these regulations will not go above and beyond that which is already in place as part of the Department's routine data collection.

10.2 The instrument does not include a statutory review clause.

[19] https://www.gov.uk
[20] https://www.gov.uk/government/organisations/social-security-advisory-committee
[21] https://www.gov.uk/government/publications/better-regulation-framework

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.