

SCHEDULE 1

PART 3

Transfer to Child Disability Payment

Determination without application of entitlement to Child Disability Payment

9.—(1) The Scottish Ministers are to make a determination without application in respect of a transferring individual of that individual's entitlement to Child Disability Payment.

(2) Entitlement to Child Disability Payment under a determination under sub-paragraph (1) begins on the date specified in the notice of determination given to the transferring individual in accordance with section 40 of the 2018 Act.

(3) The determination under sub-paragraph (1) is to be made on the basis of—

- (a) such information as the Scottish Ministers have received from the Secretary of State for Work and Pensions in respect of the transferring individual's entitlement to Disability Living Allowance, and
- (b) any other information available to the Scottish Ministers that appears to them to be relevant.

(4) Subject to paragraph 11, a determination under sub-paragraph (1) must be made on the basis that the transferring individual is entitled to the components and rates of Child Disability Payment that are equivalent to those components and rates of Disability Living Allowance to which the individual was entitled immediately before the date of transfer.

(5) A determination under sub-paragraph (1)—

- (a) may be made on the assumption that whatever can be discerned about the transferring individual's circumstances from the information mentioned in sub-paragraph (3) remains accurate on the date on which the determination is made,
- (b) notwithstanding the generality of head (a), is to be made on the assumption that the conditions relating to residence and presence set out in regulations 5 to 9 (residence and presence conditions etc.) are satisfied in the individual's case, and
- (c) must be made not later than 13 weeks after the date of the notice under paragraph 8(1) unless the Scottish Ministers have—
 - (i) good reason to extend that period,
 - (ii) agreed the period for extension with the Secretary of State for Work and Pensions, and
 - (iii) notified the transferring individual of the extension and the reason for it.