

The Social Security Information-sharing (Scotland) Amendment Regulations 2022 (“the Amendment Regulations”)

Island Communities Impact Assessment

Introduction

1. There is a duty placed on the Scottish Ministers and other relevant authorities, including a number of public authorities, as contained in the Islands (Scotland) Act 2018. The duty is to have regard to island communities in exercising their functions, and for the Scottish Ministers this will also include the development of legislation. This duty is often referred to as ‘island-proofing’.

2. Island-proofing is an important principle and was recognised in the “Empowering Scotland’s Island Communities prospectus” published in June 2014. It focuses on building a broad-based islands awareness into the decision making process of all parts of the public sector.

3. The Scottish Government recognises the importance of island-proofing and committed to it in the Social Security (Scotland) Act 2018 (the Act), in advance of the Islands Act placing a formal requirement. The Scottish Government is also committed to island-proofing the secondary legislation, such as these Amendment Regulations, involved in the administration of the devolved social security system.

Background

4. Social Security Scotland began administering social security benefits in September 2018, and has since started paying Carer’s Allowance Supplement, Pregnancy and Baby, Early Learning and School Age Payments, Best Start Foods, Funeral Support Payments ,Young Carer Grant and most recently, Child Disability Payment.

5. The Scottish Government will, in coming years, be responsible for delivering benefits for disabled people, to replace the current disability benefits delivered by the Department for Work and Pensions on behalf of the UK Government. The first such benefit, Child Disability Payment, has replaced Disability Living Allowance for Children (DLAC) from summer 2021. The second such benefit, Adult Disability Payment (ADP) will replace the UK Personal Independence Payment in 2022. The Amendment Regulations are required for the launch of ADP to ensure that the gateways are able to fully cover all information-sharing requirements for ADP and related welfare services.

6. The Scottish Government is committed to delivering a system of social security founded on core principles of fairness, dignity and respect. New legal gateways are needed in order to allow the necessary information-sharing for ADP so that the delivery of benefits can continue without any interruption or stress for the client. The Amendment Regulations will:

- i). update the definition of suppliers of Accessible Vehicles and Equipment (AVE) in Regulation 2 to include ADP as part of the accreditation scheme.
- ii). amend Regulation 4 to update the definition of the function under which Scottish Ministers may share social security information with local authorities in order to determine whether an individual is entitled to a “blue badge”. The updated definition will include a statutory reference to the relevant consequential amendments that will make ADP a qualifying criterion for “blue badges”.
- iii). add a new function under Regulation 4 which allows for local authorities to request social security information from Scottish Ministers in relation to assessing an individual’s income when determining how much the individual should be charged for social care services.

7. Social Security Scotland will need to share information about ADP recipients with other persons in order to allow those persons to fulfil their legal duties, and to process information about individuals in order to determine their eligibility for services such as blue badges and supply of AVE.

Consultation Process

8. In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. This consultation sought views on both the general principles for the administration of devolved social security benefits, as well as the sharing of information with other persons in connection with social security.

9. 521 formal written responses were submitted, of which 241 were from organisations and 280 from individual respondents. Of the 241 organisational responses, 81 were received from stakeholder groups relating to children/young people, equalities and human rights, disability and long term conditions and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 February 2017¹.

10. Further stakeholder engagement with the persons affected by these regulations took place throughout 2020, including councils and health boards for island communities. Their views and working group contributions were taken into consideration during the development of these Amendment Regulations.

¹ <https://www.gov.scot/publications/analysis-written-responses-consultation-social-security-scotland/>

Issues identified

11. In line with the principles outlined in the Social Security (Scotland) Act 2018 and our Charter, the sharing of ADP information will be conducted in a way that is proportionate and in line with our core values of dignity, fairness and respect.

12. The Scottish Government recognises that people living in small island communities may have particular concerns in relation to this. For example, these may relate to issues such as the sharing of information about a health condition, a disability or time spent in legal detention.

13. Any ADP information shared with the Scottish Government will protect individual's right to privacy and confidentiality. Where the individual asks the Scottish Government to collect information on their behalf, the Scottish Government will do so discreetly and in accordance with the UK GDPR and the Data Protection Act 2018. No more information than is necessary to obtain the required information, about an individual will be shared. Similarly, where information is provided to others, such as local authorities, to enable them to work out entitlement to 'passported' services such as blue badges, no more information will be shared than is required to enable the relevant function(s) to be fulfilled.

14. As with every other aspect of the work to develop the new social security system, the Scottish Government has sought to involve expert organisations and people outside of government in the development of the Amendment Regulations. This builds on the earlier work and commitment to work with people through the earlier consultation exercise and in the development of the Act.

15. The Scottish Government is keen to ensure that as much information as possible will be online. This includes rules around entitlement and information about reporting any changes. We are aware however that some remote island communities may not have access to digital services nor is it everyone's preferred choice of communication.

16. The Scottish Government is aware that people want tailored solutions to suit their different preferences and needs, and will therefore work to ensure the availability of digital, telephone and face to face communication channels where possible.

Conclusions

17. The Scottish Government is not aware of any evidence that the Amendment Regulations will have an impact on the key island industries, infrastructure or natural environment.

18. Scottish Ministers are aware of the duty to consult island communities before making a material change or amendment to any policy, strategy or service which, in the Scottish Ministers' opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities. This has been the same approach taken in respect of the Amendment Regulations.

Reporting

19. The Act places a duty on the Scottish Ministers to publish an annual report on the performance of the Scottish social security system, which will include information on the impact of island-proofing.

20. Scottish Ministers have also committed to engaging with, and reporting regular progress to the Islands Strategic Group, to ensure that those representing the interests of island communities and others with experience of the current system, are fairly represented in the development and delivery of the Scottish social security system.

Social Security Directorate September 2021

Authorisation	
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