
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

The Disability Assistance for Working
Age People (Scotland) Regulations 2022

PART 15

Applications for Adult Disability Payment by
individuals entitled to Child Disability Payment

Applications by individuals entitled to Child Disability Payment

58.—(1) This regulation applies where an individual who is entitled to Child Disability Payment makes an application for Adult Disability Payment.

(2) Where, on the basis of that application a determination is made that the individual is entitled to Adult Disability Payment, the date on which their entitlement begins is to be the date when the Scottish Ministers make the determination.

(3) The value of the first payment of Adult Disability Payment to be given to the individual is to be increased by the value of Adult Disability Payment which the individual would have been paid for the period between the date—

- (a) their entitlement to Adult Disability Payment would have begun if this regulation did not apply to the individual, in terms of regulation 35(4) to (6), and
- (b) their entitlement begins in terms of paragraph (2).

Determination without an application - terminal illness

59.—(1) Where an individual is entitled to Child Disability Payment and has a terminal illness in terms of regulation 15 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(1), the Scottish Ministers are to make a determination of the individual's entitlement to Adult Disability Payment, without receiving an application, where—

- (a) the individual—
 - (i) has reached the age of 16, and
 - (ii) makes a request that the Scottish Ministers make a determination of their entitlement to Adult Disability Payment, or
- (b) the individual—
 - (i) has reached the age of 18, and
 - (ii) has not informed the Scottish Ministers that they do not want to receive Adult Disability Payment.

(2) Where the Scottish Ministers make a determination under paragraph (1)—

- (a) no judgement will be required in terms of regulation 26(7) and (8) (entitlement under special rules for terminal illness), and
- (b) regulation 26 applies with the following modifications—
 - (i) for paragraph (4), read “The individual’s entitlement to the rates referred to in paragraph (1) begins on the date on which the Scottish Ministers make the determination in terms of regulation 58(1).”, and
 - (ii) paragraph (5) and (6) are omitted.