
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

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

PART 10

Determination of entitlement to Adult Disability Payment without application

Determination following official error – underpayments

49.—(1) The Scottish Ministers are to make a determination of an individual’s entitlement to Adult Disability Payment, without receiving an application, where—

- (a) they have previously made a determination of the individual’s entitlement to Adult Disability Payment (“the original determination”),
- (b) they establish that, due to an official error, the original determination was incorrect resulting in the individual—
 - (i) not being given an award of Adult Disability Payment, or
 - (ii) being given a lower award than that,to which the individual was entitled,
- (c) the Scottish Ministers are not considering a request for a re-determination of the individual’s entitlement to the Payment, and
- (d) the individual has not appealed to the First-tier Tribunal for Scotland against the Scottish Ministers’ determination of the individual’s entitlement to Adult Disability Payment.

(2) In making a determination required by paragraph (1) the Scottish Ministers are to use—

- (a) the information—
 - (i) provided in the application that led to the original determination,
 - (ii) any other information they have obtained in connection with that application, and
- (b) any other information they have obtained in connection with the individual’s entitlement to Adult Disability Payment.

(3) In this regulation, “official error” means an error made by someone acting on behalf of the Scottish Ministers or on behalf of a Minister of the Crown that was not materially contributed to by anyone else.