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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2022 No.**

The Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022

PART 4

Miscellaneous amendments

**Amendment of the Disability Assistance for Children and Young People (Scotland) Regulations 2021**

**18.**—(1) The Disability Assistance for Children and Young People (Scotland) Regulations 2021<sup>(1)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 6 (interpretation – residence and presence conditions) omit the definitions of—

(a) “civil partnership”, and

(b) “person who is living with another person as if they were in a civil partnership”.

(3) In regulation 28 (when an increase in level of entitlement takes effect), after paragraph (1) (c) insert—

“(ca) in the case of a determination made in accordance with regulation 31(a), where the period that an individual has been—

(i) for the purpose of regulation 17, resident in a care home,

(ii) for the purposes of regulation 18, in legal detention, or

(iii) for the purposes of regulation 20, resident in a care home or in legal detention,

has come to an end, on the day on which the individual leaves that place, or”.

(4) In Part 1 of the schedule (short-term assistance), for paragraph 4 substitute—

**“Reduction of payment of Child Disability Payment where short-term assistance is paid**

**4.** Where an individual has received short-term assistance for a period and a determination is subsequently made that the individual is entitled to Child Disability Payment for the same period, any payment of Child Disability Payment to be made as a result of the subsequent determination for that period—

(a) where the individual is to be paid Child Disability Payment at the same rate as or a lower rate than any short-term assistance and any Child Disability Payment already paid to that individual for that period, is to be reduced to £0,

(b) in any other case, is to be reduced by any short-term assistance and any Child Disability Payment already paid to that individual for that period.”.

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(1) S.S.I. 2021/174, relevantly amended by S.S.I. 2021/146.

(5) In paragraph 13 (modification of these Regulations: transferring individuals) of Part 3 of the schedule (transfer to Child Disability Payment)—

(a) in sub-paragraph (za) for “11(3)” substitute “11(2), 11(3)”,

(b) at the end of sub-paragraph (a) omit “and”,

(c) after sub-paragraph (b) insert—

“, and

(c) regulation 25 (time of payment) is to be read as if for paragraph (b) there were substituted—

“(b) any subsequent payment—

(i) 4 weekly in arrears,

(ii) weekly in advance, or

(iii) where the Scottish Ministers consider that it would be unjust not to do so, at such intervals as may be specified in the notice of determination.””