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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 2

Transfer to Adult Disability Payment

**Special rules for terminal illness - exception to regulation 4(5)**

9.—(1) Where the Scottish Ministers have—

- (a) received information from the Secretary of State for Work and Pensions that the transferring individual is terminally ill in terms of section 72(5) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> immediately before the date of transfer, or
- (b) not received information from the Secretary of State for Work and Pensions that the transferring individual is terminally ill in terms of section 72(5) of the Social Security Contributions and Benefits 1992, but become aware, before they have made a transfer determination, that a transferring individual has a terminal illness in terms of regulation 26(7) of the ADP Regulations,

the transfer determination must be made on the basis that the transferring individual satisfies the conditions for the enhanced rate of both the daily living component and the mobility component of Adult Disability Payment.

(2) Where paragraph (1) applies—

- (a) paragraphs (4) to (6) of regulation 26 of the ADP Regulations do not apply, and
- (b) the transferring individual's entitlement to Adult Disability Payment will commence on whichever is the later of—
  - (i) the date that the ADP Regulations came into force,
  - (ii) the day that the clinical judgement was made in accordance with regulation 26(7) of the ADP Regulations, or
  - (iii) the day one year before the date of the transfer determination.

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(1) 1992 c. 4.