

POLICY NOTE

THE DISABILITY ASSISTANCE (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2023

SSI 2023/XXX

The above instrument was made in exercise of the powers conferred by sections 31(2) and 95 of the Social Security (Scotland) Act 2018¹. The instrument is subject to affirmative procedure.

This instrument amends the following sets of principal regulations: the Disability Assistance for Children and Young People (Scotland) Regulations 2021 and the Disability Assistance for Working Age People (Scotland) Regulations 2022, which set out the rules and eligibility criteria for Child Disability Payment (CDP) and Adult Disability Payment (ADP) respectively. These are both forms of assistance to support disabled individuals, people with a long term illness or those who are terminally ill.

It also amends the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022 (ADP transitional provisions) which enable the transfer of entitlement for individuals in receipt of Disability Living Allowance (DLA), currently delivered by the Department for Work and Pensions (DWP), to ADP. Finally, it makes a minor amendment to the Social Security (Invalid Care Allowance) Regulations 1976 which set out the rules and eligibility criteria for Carer's Allowance.

Policy Objectives

These regulations make a number of amendments to the principal regulations for CDP, ADP and the ADP transitional provisions. Amending these principal regulations will ensure that these benefits are aligned with the Scottish Government's overall policy intent for disability assistance which is to improve outcomes for disabled people.

The main objective of these regulations is to make further improvements to the journey for young people moving from CDP to ADP. This includes enabling the payment cycles of clients moving from CDP to ADP to be maintained. The regulations include further amendments which are intended to clarify certain provisions relating to this journey, such as the upper age criteria for CDP.

The regulations also make other minor and consequential amendments to the principal regulations.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

¹ <https://www.legislation.gov.uk/asp/2018/9/contents/enacted>

Consultation

Scottish Commission on Social Security

Under section 97(2) of the Social Security (Scotland) Act 2018, the Scottish Ministers have consulted the Scottish Commission on Social Security (SCoSS). A draft policy note and draft regulations were provided for scrutiny, along with draft impact assessments to aid the scrutiny process. SCoSS published their scrutiny report on 19 May 2023, making 3 recommendations. The Scottish Government's response was sent to SCoSS on 26 July 2023. This follows extensive scrutiny by SCoSS of the principal regulations, with a number of changes made in response.

Stakeholder engagement

Between 5 March and 28 May 2019, the Scottish Government undertook a public consultation on its proposals for the delivery of disability assistance. The consultation received 263 responses from individuals and stakeholder organisations, and a summary of these responses can be found in the analysis of written responses.² The views expressed within the consultation responses helped shape the proposals for both CDP and ADP, and the Scottish Government published its response in October 2019.³ Respondents were broadly supportive of the policy proposals, however, several changes were made in response to the consultation. These regulations do not introduce new policy so are still in alignment with the consultation and views expressed by stakeholders.

Stakeholder views gathered during the consultation were taken into account in the principal CDP and ADP Regulations. The changes we are proposing to make will smooth the journey for clients moving from CDP to ADP meaning that their payment cycles will be maintained and they will receive their ADP on the same date their CDP was previously paid.

Impact Assessments

The following Impact Assessments have been completed for this instrument:

- A Child Rights and Wellbeing Impact Assessment
- An Equalities Impact Assessment
- A Business and Regulatory Impact Assessment
- An Island Communities Impact Assessment
- A Fairer Scotland Duty Impact Assessment

It is anticipated from the analysis in these impact assessments that these regulations will have a positive impact on disabled people, particularly those young people transitioning from CDP to ADP. There are no significant equalities or rights impacts that require further consideration in relation to the commencement of these regulations. We have reviewed the impact assessments from the perspective of this specific cohort of individuals moving from CDP to ADP and consider there are potential positive impacts, such as providing continuity of payment

² [Disability assistance in Scotland: analysis of consultation responses - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/disability-assistance-in-scotland-analysis-of-consultation-responses/pages/10/)

³ [Disability assistance in Scotland: response to consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/disability-assistance-in-scotland-response-to-consultation/pages/10/)

cycles. From this review we understand that there are no significant equalities or rights impacts that require further consideration in relation to the commencement of these amendment regulations.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed. The Scottish Fiscal Commission have confirmed they do not anticipate the changes proposed by these amendments will create a material change in spending. The impact of this policy on business is limited to a minor short to medium term increase in administrative burden on welfare rights and income maximisation services indirectly affected as a result of young people seeking advice and signposting. However, no quantifiable financial effects have been identified. The Scottish Government does not believe that these amendments will have an adverse impact on the competitiveness of Scottish companies or the third sector within Scotland, the UK, or elsewhere in Europe or the rest of the world.

Scottish Government
Social Security Directorate

September 2023