
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 416

The Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021

Amendment of Part 1 of the schedule (short-term assistance)

19.—(1) In paragraph 1 of the schedule (entitlement to short-term assistance)—

(a) in sub-paragraph (1)—

(i) for head (b) substitute—

“(b) the individual’s entitlement to Child Disability Payment is under review within the meaning of—

(i) paragraph 1(2) of schedule 10 of the 2018 Act, or

(ii) sub-paragraph (1A), and”,

(ii) in head (c)(ii)—

(aa) omit “ordinarily”,

(bb) omit “with the date of the transfer”,

(cc) after “36” insert “(4)”,

(b) after sub-paragraph (1) insert—

“(1A) An individual’s entitlement to Child Disability Payment is under review in terms of sub-paragraph (1)(b)(ii) if—

(a) a decision of the First-Tier Tribunal for Scotland under section 49 of the 2018 Act, in relation to the subsequent determination of the individual’s entitlement to Child Disability Payment mentioned in paragraph 1(1)(a), is set aside after a review under section 43(2) of the Tribunals (Scotland) Act 2014⁽¹⁾ (review of decisions), and

(b) the First-Tier Tribunal for Scotland decides not to uphold a determination of an individual’s entitlement to Child Disability Payment in an appeal under section 46 of the 2018 Act and the First-Tier Tribunal for Scotland is to make a determination of the individual’s entitlement to Child Disability Payment under section 49 of the 2018 Act.

(1B) Where an individual’s entitlement to Child Disability Payment is set aside after a review in terms of sub-paragraph (1A)(a), the Scottish Ministers are to make a determination without application of the individual’s entitlement to short-term assistance.”,

(c) in sub-paragraph (3)—

(i) for “or 18(2)” substitute “, 18(2)”,

(ii) before “applies” insert “, or 20(2) (entitlement to care component beginning while in alternative accommodation)”,

- (d) in sub-paragraph (4)—
 - (i) in head (a) omit “of the determination”,
 - (ii) at the end of head (c) omit “or”,
 - (iii) at the beginning of head (d) insert “where”,
 - (iv) at the end of head (d) insert—
 - “, or
 - (e) where a decision of the First-tier Tribunal for Scotland under section 49 of the 2018 Act, in relation to the subsequent determination of the individual’s entitlement to Child Disability Payment mentioned in paragraph 1(1)(a), is set aside after review under section 43(2) of the Tribunals (Scotland) Act 2014 (review of decisions) and the First-tier Tribunal for Scotland is to make a determination of the individual’s entitlement to Child Disability Payment under section 49 of the 2018 Act, on the day that the decision is set aside.
- (5) Regulation 37 (periods in respect of a re-determination request) applies to short-term assistance in the same way as it applies to Child Disability Payment.”.
- (2) In paragraph 3 of the schedule (end of entitlement)—
 - (a) in sub-paragraph (1)—
 - (i) for head (b) substitute—
 - “(b) a re-determination of an individual’s entitlement to Child Disability Payment is made by the Scottish Ministers under section 43 of the 2018 Act (duty to re-determine),”
 - (ii) in head (c) for “decision” substitute “determination”,
 - (iii) at the end of head (c) omit “or”,
 - (iv) at the end of head (d) insert—
 - “, or
 - (e) where the individual withdraws their application to bring an appeal against the subsequent determination of the individual’s entitlement to Child Disability Payment mentioned in paragraph 1(1)(a), on that day.”
 - (b) for sub-paragraph (2) substitute—
 - “(2) Where an individual’s entitlement to short-term assistance is to end under sub-paragraph (1), the Scottish Ministers are to make a determination without application.”.