
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 73

SOCIAL SECURITY

**The Disability Assistance for Children and
Young People (Consequential Amendment and
Transitional Provision) (Scotland) Regulations 2021**

Made - - - - 10th February 2021
*Laid before the Scottish
Parliament* - - - - 12th February 2021
Coming into force - - 26th July 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 95 of the Social Security (Scotland) Act 2018(1) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Disability Assistance for Children and Young People (Consequential Amendment and Transitional Provision) (Scotland) Regulations 2021 and come into force on 26 July 2021.

Amendment of the Council Tax (Discounts) (Scotland) Regulations 1992

2. In regulation 2(3)(c) (care workers) of the Council Tax (Discounts) (Scotland) Regulations 1992(2)—

- (a) omit “or” after head (iii),
- (b) after head (iiib), insert—

“(iiic) the highest rate of the care component of child disability payment in accordance with regulation 11 (care component criterion: lowest, middle or highest rate care component) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(3), or short-term assistance in accordance with Part 1 of the schedule (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the highest rate of the care component of child disability payment, or”.

(1) 2018 asp 9.

(2) S.I. 1992/1409, as relevantly amended by S.I. 1994/629, S.I. 1997/587, S.S.I. 2013/65 and S.S.I. 2013/142.

(3) S.S.I. 2021/174.

Amendment of the National Assistance (Assessment of Resources) Regulations 1992

3.—(1) The National Assistance (Assessment of Resources) Regulations 1992⁽⁴⁾ are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation)⁽⁵⁾—

(a) after the definition of “child benefit”, insert—

““child disability payment” means disability assistance for children and young people given in accordance with the Child Disability Payment Regulations,

“Child Disability Payment Regulations” means the Disability Assistance for Children and Young People (Scotland) Regulations 2021⁽⁶⁾,”

(b) after the definition of “severe disablement allowance”, insert—

““short-term assistance” means assistance given in accordance with Part 1 of the schedule of the Child Disability Payment Regulations,”.

(3) In paragraph 3 of schedule 2 (sums to be disregarded in the calculation of earnings)⁽⁷⁾—

(a) in sub-paragraph (2)(b)(i)—

(i) after “attendance allowance,” insert “child disability payment,”,

(ii) after “mobility supplement” for “or” substitute “,”, and

(iii) after “severe disablement allowance” insert “or short-term assistance”,

(b) before “; or” at the end of sub-paragraph (2)(b)(vi), insert—

“, or

(vii) would be in receipt of the care component of child disability payment had the amount of that component to which the individual is entitled not been reduced to £0 in accordance with regulation 17 (effect of admission to a care home on ongoing entitlement to care component) or regulation 20 (entitlement beginning while in alternative accommodation) of the Child Disability Payment Regulations due to the individual being resident in a care home for more than 28 days”,

(c) after sub-paragraph (2), insert—

“(3) In sub-paragraph (2)(b)(vii), “care home” has the meaning given in regulation 2 of the Child Disability Payment Regulations.”.

(4) In schedule 3 (sums to be disregarded in the calculation of income other than earnings)⁽⁸⁾—

(a) in paragraph 4, after “disability living allowance”, insert “, the mobility component of child disability payment, any payment of short-term assistance where the “earlier determination” mentioned in paragraph 1(1)(a) of Part 1 of the schedule (short-term assistance) of the Child Disability Payment Regulations awarded the mobility component of child disability payment”,

(b) in paragraph 6—

(i) omit “or” at the end of sub-paragraph (b),

(ii) after sub-paragraph (c), insert—

“,

(d) the care component of child disability payment, or

⁽⁴⁾ [S.I. 1992/2977](#).

⁽⁵⁾ There are amendments to regulation 2 which are not relevant to these Regulations.

⁽⁶⁾ [S.S.I. 2021/174](#).

⁽⁷⁾ As relevantly amended by [S.I. 1993/2230](#) and [S.I. 1995/858](#).

⁽⁸⁾ As relevantly amended by [S.S.I. 2013/65](#).

- (e) any payment of short-term assistance where the “earlier determination” mentioned in paragraph 1(1)(a) of Part 1 of the schedule (short-term assistance) of the Child Disability Payment Regulations awarded the care component of child disability payment.”.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

4.—(1) The Advice and Assistance (Scotland) Regulations 1996(9) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 16(10) (payment of fees and outlays from property recovered or preserved), after paragraph (2)(ca) insert—

“(cb) to child disability payment given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(11) or short-term assistance given in accordance with Part 1 of the schedule (short-term assistance) of those Regulations.”.

(3) In schedule 2(12) (assessment of disposable capital and disposable income), after paragraph 5(d)(a) insert—

“(aza) child disability payment given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(13),

(azb) short-term assistance given in accordance with Part 1 of the schedule of those Regulations.”.

Amendment of the Education (Student Loans) Regulations 1998

5. In the definition of “disability related benefits” in paragraph 1 of schedule 2 (terms of loans) of the Education (Student Loans) Regulations 1998(14), after “2011,” insert “child disability payment given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(15), short-term assistance given in accordance with Part 1 of the schedule (short-term assistance) of those Regulations,”.

Amendment of the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000

6.—(1) The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000(16) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 4(2)(17) (description of disabled persons) after sub-paragraph (ac) insert—

“(ad) receives the higher rate of the mobility component of child disability payment in accordance with regulation 13 (mobility requirements: higher rate mobility component) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(18), or short-term assistance in accordance with Part 1 of the schedule (short-term assistance) of those Regulations where the “earlier determination” referred to in

(9) S.I. 1996/2447.

(10) As relevantly amended by S.S.I. 2013/142.

(11) S.S.I. 2021/174.

(12) As relevantly amended by S.S.I. 2013/142 and S.S.I. 2003/163.

(13) S.S.I. 2021/174.

(14) S.I. 1998/211, relevantly amended by S.S.I. 2013/142.

(15) S.S.I. 2021/174.

(16) S.S.I. 2000/59.

(17) As relevantly amended by S.S.I. 2014/145.

(18) S.S.I. 2021/174.

paragraph 1(1)(a) of that schedule awarded the higher rate of the mobility component of child disability payment.”.

- (3) In regulation 6(2)(b)(19) (fee for issue and period of issue of a badge)—
- (a) in the opening words, after “4(2)(a)” insert “, 4(2)(ad)”,
 - (b) in head (ii) after “allowance” insert “, the child disability payment, the short-term assistance”.

Amendment of the Repayment of Student Loans (Scotland) Regulations 2000

7. In the definition of “disability related benefit” in regulation 2 (interpretation) of the Repayment of Student Loans (Scotland) Regulations 2000(20), after “2011” insert “, child disability payment given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(21), short-term assistance given in accordance with Part 1 of the schedule (short-term assistance) of those Regulations”.

Amendment of the Civil Legal Aid (Scotland) Regulations 2002

8. In paragraph 7 of schedule 2 (rules for computing disposable income) of the Civil Legal Aid (Scotland) Regulations 2002(22), after sub-paragraph (h) insert—

- “(i) child disability payment given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(23),
- (j) short-term assistance given in accordance with Part 1 of the schedule (short-term assistance) of those Regulations.”.

Amendment of the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003

9. In article 4 (the severely mentally impaired) of the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003(24), after paragraph (2)(d), insert—

- “(da) the highest or middle rate of the care component of child disability payment in accordance with regulation 11 (care component criterion: lowest, middle or highest rate care component) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(25), or short-term assistance in accordance with Part 1 of the schedule (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the highest or middle rate of the care component of child disability payment.”.

Amendment of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003

10. In Table B in Part 2 of the schedule (calculation of requirements) of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(26), in column 2 of the entry which modifies the table in schedule 2 of the Income Support (General) Regulations 1987, in sub-paragraph (1)(b) of the substituted paragraph 13A, after head (ii) insert—

(19) As relevantly amended by S.S.I. 2007/162.

(20) S.S.I. 2000/110, relevantly amended by S.I. 2008/1879, S.S.I. 2013/65 and S.S.I. 2013/142.

(21) S.S.I. 2021/174.

(22) S.S.I. 2002/494, relevantly amended by S.S.I. 2013/65, S.S.I. 2013/142 and S.S.I. 2020/424.

(23) S.S.I. 2021/174.

(24) S.S.I. 2003/176, to which there are amendments not relevant to these Regulations.

(25) S.S.I. 2021/174.

(26) S.S.I. 2003/460, relevantly amended by S.S.I. 2008/390 and S.S.I. 2013/142.

- “(iia) in receipt of the highest rate of the care component of child disability payment in accordance with regulation 11 (care component criterion: lowest, middle or highest rate care component) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(27) (or would be in receipt of that component at that rate had the amount of that component to which the claimant is entitled not been reduced to £0 in accordance with regulation 17 (effect of admission to a care home on ongoing entitlement to care component) or regulation 20 (entitlement beginning while in alternative accommodation) of those Regulations, where the claimant is resident in a care home),
- (iib) in receipt of short-term assistance in accordance with Part 1 of the schedule (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the highest rate of the care component of child disability payment,”.

Amendment of the National Bus Travel Concession Scheme for Older and Disabled Persons (Eligible Persons and Eligible Services) (Scotland) Order 2006

11.—(1) Article 3 (eligible persons) of the National Bus Travel Concession Scheme for Older and Disabled Persons (Eligible Persons and Eligible Services) (Scotland) Order 2006(28) is amended in accordance with paragraphs (2) to (5).

(2) In paragraph (b), after sub-paragraph (iia), insert—

“(iib) the higher rate of the mobility component of child disability payment in accordance with regulation 13 (mobility requirements: higher rate mobility component) of the Child Disability Payment Regulations, or short-term assistance in accordance with Part 1 of the schedule (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the higher rate of the mobility component of child disability payment,

(iic) the highest or middle rate of the care component of child disability payment in accordance with regulation 11 (care component criterion: lowest, middle or highest rate care component) of the Child Disability Payment Regulations, or short-term assistance in accordance with Part 1 of the schedule (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the highest or middle rate of the care component of child disability payment,”.

(3) In paragraph (k)—

(a) omit “or” at the end of sub-paragraph (iv),

(b) after sub-paragraph (v) insert—

“, or

(vi) are in receipt of the highest or middle rate of the care component of child disability payment given in accordance with regulation 11 (care component criterion: lowest, middle or highest rate care component) of the Child Disability Payment Regulations, or short-term assistance in accordance with Part 1 of the schedule (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the highest or middle rate of the care component of child disability payment,”.

(4) In paragraph (m), after sub-paragraph (iii) insert—

“(iv) is in receipt of the highest or middle rate of the care component of child disability payment in accordance with regulation 11 (care component criterion: lowest, middle or highest rate

(27) S.S.I. 2021/174.

(28) S.S.I. 2006/117, relevantly amended by S.S.I. 2013/65 and S.S.I. 2021/175.

care component) of the Child Disability Payment Regulations, or short-term assistance in accordance with Part 1 of the schedule (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the highest or middle rate of the care component”.

(5) After article 3, insert—

“**3A.**—(1) Article 3 is to be interpreted in accordance with paragraphs (2) and (3).

(2) References to “the Child Disability Payment Regulations” are to the Disability Assistance for Children and Young People (Scotland) Regulations 2021(**29**).

(3) A person is to be regarded as being in receipt of a rate of the care component of child disability payment in accordance with the Child Disability Payment Regulations during any period in which the person would be in receipt of that rate were it not for—

- (a) regulation 17(2) (effect of admission to a care home on ongoing entitlement to care component) of those Regulations, or
- (b) regulation 20 (entitlement beginning while in alternative accommodation) of those Regulations, where the person is resident in a care home.”.

Amendment of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007

12. In paragraph (6) of regulation 8 (additional requirements for applications for a proxy vote for a particular or indefinite period on grounds of blindness or other disability) of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(**30**)—

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

“(aa) the applicant is in receipt of the higher rate of the mobility component of child disability payment (payable in accordance with regulation 13 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(**31**)), or short-term assistance (payable in accordance with Part 1 of the schedule (short-term assistance) of those Regulations) where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the higher rate of the mobility component of child disability payment because of the disability specified in the application and makes a statement to that effect in the application, or”.

Amendment of the Council Tax Reduction (Scotland) Regulations 2012

13.—(1) The Council Tax Reduction (Scotland) Regulations 2012(**32**) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation)(**33**), after the definition of “child benefit” insert—

““child disability payment” means—

- (a) disability assistance for children and young people given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(**34**) (and references to the care component of that payment are to be construed in accordance with regulation 2 of those Regulations), and

(29) S.S.I. 2021/174.

(30) S.S.I. 2007/170.

(31) S.S.I. 2021/174.

(32) S.S.I. 2012/303.

(33) As relevantly amended by S.S.I. 2013/287.

(34) S.S.I. 2021/174.

- (b) where short-term assistance is being given under Part 1 of the schedule of those Regulations (short-term assistance), the “earlier determination” referred to in paragraph 1(1)(a) of that schedule is to be deemed to continue in payment for the purposes of these Regulations.”
- (3) In regulation 28 (treatment of child care charges)**(35)**—
 - (a) after paragraph (11)(f)(iv), insert—

“(ivza) child disability payment,”
 - (b) in paragraph (14)(a), after “allowance” insert “, child disability payment”.
- (4) In regulation 67 (non-dependant deductions)**(36)**—
 - (a) in paragraph (6)(b), after head (ii) insert—

“(iiza) the care component of child disability payment,”
 - (b) in paragraph (9)(a), after “disability living allowance” insert “, child disability payment”.
- (5) In Part 3 (disability premiums) of schedule 1 (applicable amount)**(37)**—
 - (a) in paragraph 8(2), after “the 1992 Act” insert “, the care component of child disability payment at the highest or middle rate”,
 - (b) in paragraph 10(1)(a)(i), after “disability living allowance” insert “, child disability payment,”
 - (c) in paragraph 11(2)(a)(i), after “the 1992 Act” insert “, the care component of child disability payment at the highest or middle rate”,
 - (d) in paragraph 11(2)(b)(i), after “the 1992 Act” insert “, the care component of child disability payment at the highest or middle rate”,
 - (e) in paragraph 11(2)(b)(ii), after “the 1992 Act” insert “, the care component of child disability payment at the highest or middle rate”,
 - (f) in paragraph 11(4)(a), after “the 1992 Act” insert “, the care component of child disability payment at the highest or middle rate”,
 - (g) in paragraph 11(5)(a), after “the 1992 Act” insert “, the care component of child disability payment at the highest or middle rate”,
 - (h) in paragraph 12(1)—
 - (i) omit “or” at the end of head (b), and
 - (ii) after head (b) insert—

“(bza) the care component of child disability payment at the highest rate is payable, or would be payable were it not for regulation 17(2) (effect of admission to a care home on ongoing entitlement to care component) or regulation 20 (entitlement beginning while in alternative accommodation), where the child or young person is resident in a care home, of the Disability Assistance for Children and Young People (Scotland) Regulations 2021**(38)**, in respect of a child or young person who is a member of the applicant’s family, or”,
 - (i) in paragraph 13(a)—
 - (i) after “disability living allowance” insert “, child disability payment”,
 - (ii) after “such allowance” insert “or payment”.

(35) As relevantly amended by [S.S.I. 2013/142](#).

(36) As relevantly amended by [S.S.I. 2013/142](#).

(37) As relevantly amended by [S.S.I. 2013/48](#) and [S.S.I. 2013/142](#).

(38) [S.S.I. 2021/174](#).

(6) In schedule 2 (amount of alternative maximum council tax reduction), in paragraph 2(a)(39) after “disability living allowance” insert “, child disability payment”.

(7) In schedule 4 (sums to be disregarded in the calculation of income other than earnings), in paragraph 10(40) after “disability living allowance” insert “, child disability payment”.

Amendment of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012

14.—(1) The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(41) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 2(1) (interpretation), after the definition of “child benefit” insert—

““child disability payment” means—

- (a) disability assistance for children and young people given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(42) (and references to the care component of that payment are to be construed in accordance with regulation 2 of those Regulations), and
- (b) where short-term assistance is being given under Part 1 of the schedule of those Regulations (short-term assistance), the “earlier determination” referred to in paragraph 1(1)(a) of that schedule is to be deemed to continue in payment for the purposes of these Regulations.”.

(3) In regulation 27(1)(j) (meaning of “income”), after head (iii) insert—

“(iia) child disability payment.”.

(4) In regulation 29(43) (treatment of child care charges)—

(a) after paragraph (11)(f)(iv), insert—

“(ivza) child disability payment.”,

(b) in paragraph (14)(a), after “allowance” insert “, child disability payment”.

(5) In regulation 48(44) (non-dependant deductions)—

(a) in paragraph (6)(b)—

(i) omit “or” at the end of head (ii),

(ii) after head (ii) insert—

“(iiza) the care component of child disability payment.”,

(iii) at the end of head (iia) insert “or”,

(b) in paragraph (9)(a), after “disability living allowance” insert “, child disability payment”.

(6) In Part 3 (disability premiums) of schedule 1(45) (applicable amount)—

(a) in paragraph 6(2), after “the 1992 Act” insert “, the care component of child disability payment at the highest or middle rate”,

(b) in paragraph 7(2)(b)(ii), after “the 1992 Act” insert “the care component of child disability payment at the highest or middle rate”,

(c) in paragraph 8(1),—

(39) As relevantly amended by [S.S.I. 2013/142](#).

(40) As relevantly amended by [S.S.I. 2013/142](#).

(41) [S.S.I. 2012/319](#).

(42) [S.S.I. 2021/174](#).

(43) As relevantly amended by [S.S.I. 2013/142](#).

(44) As relevantly amended by [S.S.I. 2013/49](#) and [S.S.I. 2013/142](#).

(45) As relevantly amended by [S.S.I. 2013/49](#) and [S.S.I. 2013/142](#).

(i) omit “or” at the end of head (a),

(ii) after head (b) insert—

“, or

(c) the care component of child disability payment at the highest rate is payable, or would be payable were it not for regulation 17(2) (effect of admission to a care home on ongoing entitlement to care component) or regulation 20 (entitlement beginning while in alternative accommodation), where the person is resident in a care home, of the Disability Assistance for Children and Young People (Scotland) Regulations 2021, in respect of a child or young person who is a member of the applicant’s family.”,

(d) in paragraph 9(a), after “disability living allowance” insert “, child disability payment”.

(7) In schedule 2(46) (sums to be disregarded in the calculation of earnings), in paragraph 5(1) (a), after head (v) insert—

“(va) child disability payment.”.

(8) In Part 1 (capital to be disregarded) of schedule 4(47) (capital disregards), after paragraph 21(2)(e) insert—

“(ea) child disability payment.”.

(9) In schedule 5(48) (amount of alternative maximum council tax reduction), in paragraph 2(a) after “disability living allowance” insert “, child disability payment”.

Amendment of the Home Energy Assistance Scheme (Scotland) Regulations 2013

15.—(1) Regulation 6 (person eligible to apply for a grant) of the Home Energy Assistance Scheme (Scotland) Regulations 2013(49) is amended in accordance with paragraphs (2) to (5).

(2) In paragraph (6)(a)—

(a) omit “or” at the end of head (ii),

(b) after head (ii) insert—

“(iia) is or lives with a partner who is in receipt of the highest rate of the care component of child disability payment in accordance with regulation 11 (care component criterion: lowest, middle or highest rate care component) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(50) or the higher rate of the mobility component of child disability payment in accordance with regulation 13 (mobility requirements: higher rate mobility component) of those Regulations, or”.

(3) In paragraph (6)(b), after “personal independence payment” insert “, child disability payment”.

(4) In paragraph (8)(b), after “personal independence payment” insert “, child disability payment”.

(5) In paragraph (9), after sub-paragraph (d) insert—

(46) As relevantly amended by [S.S.I. 2013/142](#).

(47) As relevantly amended by [S.S.I. 2013/142](#) and [S.S.I. 2017/236](#).

(48) As relevantly amended by [S.S.I. 2013/142](#).

(49) [S.S.I. 2013/148](#), relevantly amended by [S.S.I. 2013/253](#).

(50) [S.S.I. 2021/174](#).

- “(da) child disability payment given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(51),”.

Amendment of the Children’s Legal Assistance (Scotland) Regulations 2013

16. In paragraph 5 of schedule 1 (assessment of disposable income for the purposes of children’s legal aid) of the Children’s Legal Assistance (Scotland) Regulations 2013(52), after subparagraph (h) insert—

- “(i) child disability payment given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(53),
 (j) short-term assistance given in accordance with Part 1 of the schedule (short-term assistance) of those Regulations.”.

Amendment of the Scottish Parliament (Elections etc.) Order 2015

17. In paragraph 5(6) of schedule 3 (absent voting) of the Scottish Parliament (Elections etc.) Order 2015(54)—

- (a) omit “or” at the end of head (a),
 (b) after head (a) insert—

“(aa) the application states that the applicant is in receipt of the higher rate of the mobility component of child disability payment (payable in accordance with regulation 13 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(55)), or short-term assistance (payable in accordance with Part 1 of the schedule (short-term assistance) of those Regulations) where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the higher rate of the mobility component of child disability payment because of the disability specified in the application, or”.

Amendment of the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020

18.—(1) The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020(56) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation)—

- (a) after the definition of “the 2018 Act”, insert—

““the 2021 Regulations” means the Disability Assistance for Children and Young People (Scotland) Regulations 2021(57)

- (b) after the definition of “child”, insert—

““Child Disability Payment” means disability assistance for children and young people given in accordance with the 2021 Regulations,”.

(3) In regulation 4 (eligibility rules for child winter heating assistance)—

- (a) for paragraph (1)(b) substitute—

(51) S.S.I. 2021/174.

(52) S.S.I. 2013/200, relevantly amended by S.S.I. 2020/424.

(53) S.S.I. 2021/174.

(54) S.S.I. 2015/425, to which there are amendments not relevant to these Regulations.

(55) S.S.I. 2021/174.

(56) S.S.I. 2020/352.

(57) S.S.I. 2021/174.

- “(b) entitled to receive payment of the highest rate of the care component of—
 - (i) Disability Living Allowance, or
 - (ii) Child Disability Payment, and”
 - (b) in paragraph (2), for “paragraph (1)(b)” substitute “paragraph (1)(b)(i)”, and
 - (c) after paragraph (2), insert—
 - “(3) For the purposes of the rule in paragraph (1)(b)(ii), an individual is to be treated as being entitled to receive payment even if, throughout the qualifying week—
 - (a) regulation 17(2) (effect of admission to a care home on ongoing entitlement to care component) of the 2021 Regulations applies to the individual, or
 - (b) regulation 20 (entitlement beginning while in alternative accommodation) of the 2021 Regulations applies to the individual due to the individual being resident in a care home.
 - (4) In paragraph (3), “care home” has the meaning given in regulation 2 of the 2021 Regulations.”.
 - (4) In regulation 8(b) (determination following backdated award of assistance), for subparagraph (i) substitute—
 - “(i) following an appeal, an award of the highest rate of the care component of—
 - (aa) Disability Living Allowance, or
 - (bb) Child Disability Payment,
- is made that is a backdated award, and”.

Transitional provision – extinguishment of right to apply for Disability Living Allowance

- 19.—**(1) No person may claim disability living allowance who is under the age of 16 years and—
- (a) during the initial period for applications for child disability payment, is resident in the local authority area of Perthshire and Kinross, City of Dundee or the Western Isles, or
 - (b) after the expiry of that period—
 - (i) is resident in Scotland, or
 - (ii) is a person to whom regulation 5(4) or (6) (residence and presence conditions – individuals resident in Ireland, members of Her Majesty’s forces and civil servants) or regulation 9 (persons residing outside the United Kingdom to whom a relevant EU regulation applies) of the Child Disability Payment Regulations applies.
- (2) Paragraph (1) does not apply to a person who has an award of disability living allowance which is of—
- (a) both the mobility component and the care component and the award in respect of either or both is for a fixed term period, or
 - (b) one of those components only and the award is for a fixed term period,
- if the person has been notified by the Secretary of State for Work and Pensions that, because the fixed term period is due to come to an end, the person needs to claim disability living allowance again, or to apply for a supersession of the award, if the person wishes to continue to be entitled to disability living allowance in respect of the component or components subject to the fixed term period.
- (3) In this regulation—
- “child disability payment” means disability assistance for children and young people given in accordance with the Child Disability Payment Regulations,

“Child Disability Payment Regulations” means the Disability Assistance for Children and Young People (Scotland) Regulations 2021⁽⁵⁸⁾,

“disability living allowance” means a disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992⁽⁵⁹⁾,

“initial period for applications” means the period referred to in regulation 44 (transitory provision – initial period for applications) of the Child Disability Payment Regulations, beginning with 26 July 2021 and ending with 21 November 2021.

St Andrew’s House,
Edinburgh
10th February 2021

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

⁽⁵⁸⁾ S.S.I. 2021/174.
⁽⁵⁹⁾ 1992 c.4.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential and transitional provision in connection with the introduction of a new form of disability assistance, known as child disability payment, under section 31 of the Social Security (Scotland) Act 2018 (“the 2018 Act”). The child disability payment is provided for by the Disability Assistance for Children and Young People (Scotland) Regulations 2021 (“the Child Disability Payment Regulations”), along with an associated form of short-term assistance under section 36 of the 2018 Act that is payable in certain circumstances when an individual’s award of child disability payment is under review within the meaning of schedule 10 of that Act.

Regulations 2 to 18 make consequential amendments to secondary legislation in connection with the introduction of child disability payment. The amendments ensure that individuals who are entitled to child disability payment have the same entitlements and disregards under that legislation as individuals who are entitled to disability living allowance (“DLA”) payable under the Social Security Contributions and Benefits Act 1992.

Child disability payment will replace DLA in Scotland for new applicants, and as such these Regulations also make provision in connection with the transition from the pre-existing statutory framework for disability benefits in Scotland to that provided for under the 2018 Act and Child Disability Payment Regulations. Regulation 19 provides that no person under the age of 16 years who is able to apply for Child Disability Payment due to being resident in Scotland, or in some circumstances being resident outwith Scotland and having a genuine and sufficient link to Scotland, may now apply for DLA.

A business and regulatory impact assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Social Security Directorate, Victoria Quay, Edinburgh, EH6 6QQ and online at www.legislation.gov.uk.