
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 54

**The Disability Assistance for Working
Age People (Scotland) Regulations 2022**

PART 15

**Applications for Adult Disability Payment by
individuals entitled to Child Disability Payment**

Applications by individuals entitled to Child Disability Payment

[^{F1}58.—(1) This regulation applies where an individual who is entitled to Child Disability Payment submits the required data in terms of regulation 35(4) on a day on which the individual is still entitled to Child Disability Payment and makes an application for Adult Disability Payment—

- (a) on a day on which the individual is still entitled to Child Disability Payment,
- (b) on a day on which the individual is no longer entitled to Child Disability Payment, where that day falls within the period of 8 weeks starting on the day on which the individual submitted the required data, or
- (c) on a day on which the individual is no longer entitled to Child Disability Payment, where that day is after the expiry of the 8 week period mentioned in sub-paragraph (b) and the Scottish Ministers are satisfied that there is good reason why the application was not made sooner.]

[^{F2}(2) Where, on the basis of that application, the Scottish Ministers make a determination of the individual's entitlement to Adult Disability Payment ("Adult Disability Payment determination"), and on the date of that determination—

- (a) the individual is still entitled to Child Disability Payment, the date on which their entitlement to Adult Disability Payment begins is to be—
 - (i) the day after the first day on which the individual is to be paid Child Disability Payment after the date of the Adult Disability Payment determination in accordance with regulation 25(b)(i) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021, or
 - (ii) 7 days after the first day on which the individual is to be paid Child Disability Payment after the date of the Adult Disability Payment determination in accordance with regulation 25(b)(ii) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021,
- (b) the individual is no longer entitled to Child Disability Payment, the date on which their entitlement to Adult Disability Payment begins is to be the date on which the Scottish Ministers make the Adult Disability Payment determination.]

[^{F3}(3) Where an individual receives a determination that they are entitled to a rate of Adult Disability Payment which is higher than the rate of Child Disability Payment they were entitled to immediately before their entitlement to Adult Disability Payment begins, paragraph (4) applies.

Changes to legislation: The Disability Assistance for Working Age People (Scotland) Regulations 2022, PART 15 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(4) The individual is to receive a payment equal to the value of Adult Disability Payment they would have received for the period specified in paragraph (5), reduced by the amount of Child Disability Payment that they were entitled to for the same period.

- (5) The period specified for the purposes of paragraph (4) is the period between the date—
- (a) their entitlement to Adult Disability Payment would have begun if this regulation did not apply to the individual, in terms of regulation 35(4) to (6), and
 - (b) their entitlement to Adult Disability Payment begins in terms of paragraph (2).]

Textual Amendments

- F1** Reg. 58(1) substituted (20.11.2023) by [The Disability Assistance \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/346\)](#), regs. 1, **4(4)(a)**
- F2** Reg. 58(2) substituted (20.11.2023) by [The Disability Assistance \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/346\)](#), regs. 1, **4(4)(b)**
- F3** Reg. 58(3)-(5) substituted for reg. 58(3) (29.8.2022) by [The Disability Assistance for Working Age People \(Transitional Provisions and Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/217\)](#), regs. 1(1), **19(11)**

Commencement Information

- I1** [Reg. 58](#) in force at 21.3.2022, see [reg. 1](#)

Determination without an application - terminal illness

59.—(1) Where an individual is entitled to Child Disability Payment and has a terminal illness in terms of regulation 15 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(1), the Scottish Ministers are to make a determination of the individual's entitlement to Adult Disability Payment, without receiving an application, where—

- (a) the individual—
 - (i) has reached the age of 16, and
 - (ii) makes a request that the Scottish Ministers make a determination of their entitlement to Adult Disability Payment, or
 - (b) the individual—
 - (i) has reached the age of 18, and
 - (ii) has not informed the Scottish Ministers that they do not want to receive Adult Disability Payment.
- (2) Where the Scottish Ministers make a determination under paragraph (1)—
- (a) no judgement will be required in terms of regulation 26(7) and (8) (entitlement under special rules for terminal illness), and
 - (b) regulation 26 applies with the following modifications—
 - (i) for paragraph (4), read “The individual's entitlement to the rates referred to in paragraph (1) begins on the date on which the Scottish Ministers make the determination in terms of regulation 58(1).”, and
 - (ii) paragraph (5) and (6) are omitted.

(1) Regulation 15 was amended by [S.S.I. 2021/122](#).

Changes to legislation: *The Disability Assistance for Working Age People (Scotland) Regulations 2022, PART 15 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I2 [Reg. 59](#) in force at 21.3.2022, see [reg. 1](#)

Changes to legislation:

The Disability Assistance for Working Age People (Scotland) Regulations 2022, PART 15 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 4(ba) inserted by [S.S.I. 2024/141 reg. 12\(3\)](#)
- reg. 26(12)(a)(iia) inserted by [S.S.I. 2024/141 reg. 12\(4\)](#)