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SCOTTISH STATUTORY INSTRUMENTS

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**2022 No. 31**

**SOCIAL SECURITY**

**The Disability Assistance for Working Age People  
(Consequential and Miscellaneous Amendment and  
Transitional Provision) (Scotland) Regulations 2022**

<i>Made</i>	- - - -	<i>27th January 2022</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>31st January 2022</i>
<i>Coming into force</i>	- -	<i>21st March 2022</i>

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 Working Age People (Consequential and Miscellaneous Amendment and Transitional Provision) (Scotland) Regulations 2022 and come into force on 21 March 2022.

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

“(iiid) the enhanced rate of the daily living component of adult disability payment in accordance with regulation 5 (daily living component) of the Disability Assistance for Working Age People (Scotland) Regulations 2022(3), or short-term assistance in accordance with Part 1 of schedule 2 (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1) (a) of that schedule awarded the enhanced rate of the daily living component of adult disability payment, or”.

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(1) 2018 asp 9.

(2) S.I. 1992/1409, relevantly amended by S.I. 1994/629, S.I. 1997/587, S.S.I. 2005/572, S.S.I. 2013/65, S.S.I. 2013/142 and S.S.I. 2021/73.

(3) S.S.I. 2022/54.

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

**3.—**(1) The National Assistance (Assessment of Resources) Regulations 1992<sup>(4)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation)—

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

““adult disability payment” means disability assistance for adults given in accordance with the Adult Disability Payment Regulations,

“Adult Disability Payment Regulations” means the Disability Assistance for Working Age People (Scotland) Regulations 2022<sup>(5)</sup>,”

(b) in the definition of “short-term assistance” after “Regulations” insert “or Part 1 of schedule 2 of the Adult Disability Payment Regulations”.

(3) In Part 1 of schedule 3 (sums to be disregarded)—

(a) in paragraph 4, after the second occurrence of “mobility component of child disability payment” insert “, the mobility component of adult disability payment or any payment of short-term assistance where the “earlier determination” mentioned in paragraph 1(1)(a) of Part 1 of schedule 2 (short-term assistance) of the Adult Disability Payment Regulations awarded the mobility component of adult disability payment”,

(b) in paragraph 6—

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

(ii) after sub-paragraph (e) insert—

“

(f) the daily living component of adult disability payment, or

(g) any payment of short-term assistance where the “earlier determination” mentioned in paragraph 1(1)(a) of Part 1 of schedule 2 (short-term assistance) of the Adult Disability Payment Regulations awarded the daily living component of adult disability payment”.

### **Amendment of the Advice and Assistance (Scotland) Regulations 1996**

**4.—**(1) The Advice and Assistance (Scotland) Regulations 1996<sup>(6)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 16(2) (payment of fees and outlays from property recovered or preserved) after sub-paragraph (cb) insert—

“(cc) to adult disability payment given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022<sup>(7)</sup> or short-term assistance given in accordance with Part 1 of schedule 2 (short-term assistance) of those Regulations,”.

(3) In paragraph 5 of schedule 2 (assessment of disposable capital and disposable income) after sub-paragraph (d)(azb) insert—

“(azc) adult disability payment given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022 (“the 2022 Regulations”),

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(4) S.I. 1992/2977, relevantly amended by S.I. 1995/858, S.S.I. 2013/65 and S.S.I. 2021/73.

(5) S.S.I. 2022/54.

(6) S.I. 1996/2447, relevantly amended by S.I. 1997/726, S.I. 1998/724, S.I. 2008/1879, S.S.I. 2000/399, S.S.I. 2002/495, S.S.I. 2003/163, S.S.I. 2003/421, S.S.I. 2010/166, S.S.I. 2011/134, S.S.I. 2013/65, S.S.I. 2013/137, S.S.I. 2013/142, S.S.I. 2013/250, S.S.I. 2014/90, S.S.I. 2020/424 and S.S.I. 2021/73.

(7) S.S.I. 2022/54.

(azd) short-term assistance given in accordance with Part 1 of schedule 2 of the 2022 Regulations.”.

### **Amendment of the Education (Student Loans) Regulations 1998**

5. In the definition of “disability related benefits” in paragraph 1 of Part 1 of schedule 2 (terms of loans) of the Education (Student Loans) Regulations 1998(8) after “of those Regulations” insert “adult disability payment given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022 (“the 2022 Regulations”), short-term assistance given in accordance with Part 1 of schedule 2 (short-term assistance) of the 2022 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(9) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 4(2) (descriptions of disabled persons) after sub-paragraph (ad) insert—

“(ae) receives—

- (i) the enhanced rate of the mobility component of adult disability payment in accordance with regulation 6 (mobility component) of the Disability Assistance for Working Age People (Scotland) Regulations 2022(10) (“the Adult Disability Payment Regulations”), where the person has obtained a score of 12 points in relation to mobility activity 1 (planning and following journeys) set out in Column 1 of the table in Part 3 of schedule 1 (adult disability payment determination – mobility activities) of those Regulations,
- (ii) the standard or enhanced rate of the mobility component of adult disability payment in accordance with regulation 6 of the Adult Disability Payment Regulations, where the person has obtained a score of at least 8 points in relation to mobility activity 2 (moving around) set out in Column 1 of the table in Part 3 of schedule 1 of those Regulations, or
- (iii) short-term assistance in accordance with Part 1 (short-term assistance) of schedule 2 of the Adult Disability Payment Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule entitled the person to receive an award of adult disability payment as described in either head (i) or (ii) above.”.

(3) In regulation 6 (fee for issue and period of issue of a badge)—

- (a) in paragraph (2)(ba) after “4(2)(aa)” insert “or 4(2)(ae)”,
- (b) in paragraph (2)(ba)(ii) after “personal independence payment” insert “, adult disability payment, or 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(11), after “those Regulations” insert “, adult disability payment given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022(12) (“the 2022 Regulations”), short-term assistance given in accordance with Part 1 of schedule 2 (short-term assistance) of the 2022 Regulations”.

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(8) S.I. 1998/211, relevantly amended by S.S.I. 2001/210, S.S.I. 2013/142 and S.S.I. 2021/73.

(9) S.S.I. 2000/59, relevantly amended by S.S.I. 2007/162, S.S.I. 2013/65 and S.S.I. 2021/73.

(10) S.S.I. 2022/54.

(11) S.S.I. 2000/110, relevantly amended by S.I. 2008/1879, S.S.I. 2013/65, S.S.I. 2013/142 and S.S.I. 2021/73.

(12) S.S.I. 2022/54.

### **Amendment of the Civil Legal Aid (Scotland) Regulations 2002**

**8.**—(1) The Civil Legal Aid (Scotland) Regulations 2002(**13**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 33(a) (payments out of property recovered or preserved: exceptions) after sub-paragraph (xviii) insert—

“(xix) by way of child disability payment given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(**14**) (“the 2021 Regulations”),

(xx) by way of short-term assistance given in accordance with Part 1 (short-term assistance) of the schedule of the 2021 Regulations,

(xxi) by way of adult disability payment given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022(**15**) (“the 2022 Regulations”),

(xxii) by way of short-term assistance given in accordance with Part 1 of schedule 2 (short-term assistance) of the 2022 Regulations.”.

(3) In paragraph 7 of schedule 2 (rules for computing disposable income), after sub-paragraph (j) insert—

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(k) adult disability payment given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022(**16**) (“the 2022 Regulations”),

(l) short-term assistance given in accordance with Part 1 of schedule 2 (short-term assistance) of the 2022 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(**17**), after paragraph (2)(da) insert—

“(db) the standard or enhanced rate of the daily living component of adult disability payment in accordance with regulation 5 (daily living component) of the Disability Assistance for Working Age People (Scotland) Regulations 2022(**18**), or short-term assistance in accordance with Part 1 of schedule 2 (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the standard or enhanced rate of the daily living component of adult 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(**19**), 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—

(a) at the end of sub-head (iii) omit “or”,

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(13) S.S.I. 2002/494, relevantly amended by S.S.I. 2013/65, S.S.I. 2013/142, S.S.I. 2020/424, S.S.I. 2021/73 and S.S.I. 2021/333.

(14) S.S.I. 2021/174, amended by S.S.I. 2021/416.

(15) S.S.I. 2022/54.

(16) S.S.I. 2022/54.

(17) S.S.I. 2003/176, relevantly amended by S.I. 2008/1879, S.S.I. 2013/65, S.S.I. 2013/137, S.S.I. 2013/142 and S.S.I. 2021/73.

(18) S.S.I. 2022/54.

(19) S.S.I. 2003/460, relevantly amended by S.S.I. 2008/390, S.S.I. 2013/142, S.S.I. 2021/73 and S.S.I. 2021/122.

(b) after sub-head (iii) insert—

“(iia) in receipt of the enhanced rate of the daily living component of adult disability payment in accordance with regulation 5 (daily living component) of the Disability Assistance for Working Age People (Scotland) Regulations 2022<sup>(20)</sup> (“the 2022 Regulations”),

(iib) in receipt of short-term assistance in accordance with Part 1 of schedule 2 (short-term assistance) of the 2022 Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the enhanced rate of the daily living component of adult disability payment, or”.

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

**11.**—(1) The National Bus Travel Concession Scheme for Older and Disabled Persons (Eligible Persons and Eligible Services) (Scotland) Order 2006<sup>(21)</sup> is amended in accordance with paragraphs (2), (3) and (4).

(2) In article 2 (interpretation) after the definition of “the 1992 Act” insert—

““adult disability payment” means disability assistance for adults given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022<sup>(22)</sup>,”.

(3) In article 3 (eligible persons)—

(a) in paragraph (b) after sub-paragraph (iic) insert—

“(iic) the standard or enhanced rate of the daily living component of adult disability payment in accordance with regulation 5 (daily living component) of the Adult Disability Payment Regulations, or short-term assistance in accordance with Part 1 of schedule 2 (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the standard or enhanced rate of the daily living component of adult disability payment,

(iie) the mobility component of adult disability payment in accordance with regulation 6 (mobility component) of the Adult Disability Payment Regulations, or short-term assistance in accordance with Part 1 (short-term assistance) of schedule 2 of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the mobility component of adult disability payment,”,

(b) after paragraph (e) insert—

“(ea) persons of fare paying age who are living in a residential home or hospital or similar institution and who are eligible for the standard or enhanced rate of the daily living component, or for the mobility component, of adult disability payment, or short-term assistance in accordance with Part 1 ) of schedule 2 (short-term assistance) of the Adult Disability Payment Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the standard or enhanced rate of the daily living component or the mobility component of adult disability payment,”,

(c) in paragraph (k) after sub-paragraph (iia) insert—

“(iia) are in receipt of the standard or enhanced rate of the daily living component of adult disability payment in accordance with regulation 5 of the Adult Disability

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<sup>(20)</sup> S.S.I. 2022/54.

<sup>(21)</sup> S.S.I. 2006/117, relevantly amended by S.S.I. 2013/65, S.S.I. 2021/73, S.S.I. 2021/122 and S.S.I. 2021/175.

<sup>(22)</sup> S.S.I. 2022/54.

Payment Regulations, or short-term assistance in accordance with Part 1 of schedule 2 (short-term assistance) of those Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the standard or enhanced rate of the daily living component of adult disability payment,”

(d) in paragraph (k) after sub-paragraph (iii) insert—

“(iiiia) are living in a residential home or hospital or similar institution and who are eligible for the standard or enhanced rate of the daily living component of adult disability payment, or short-term assistance in accordance with Part 1 of schedule 2 (short-term assistance) of the Adult Disability Payment Regulations where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the standard or enhanced rate of the daily living component of adult disability payment.”

(4) In article 3A—

(a) at the end of paragraph (1) substitute “and (3)” for “, (3) and (4)”,

(b) after paragraph (3) insert—

“(4) References to “the Adult Disability Payment Regulations” are to the Disability Assistance for Working Age People (Scotland) Regulations 2022(23).”

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

**12.** In regulation 8(6) (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(24)—

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

(b) after sub-paragraph (aa) insert—

“(ab) the applicant is in receipt of the enhanced rate of the mobility component of adult disability payment (payable in accordance with regulation 6 (mobility component) of the Disability Assistance for Working Age People (Scotland) Regulations 2022(25)), or short-term assistance (payable in accordance with Part 1 of schedule 2 (short-term assistance) of those Regulations) where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the enhanced rate of the mobility component of adult 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(26) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2 (interpretation) after the definition of “adoption leave” insert—

““adult disability payment” means—

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(23) S.S.I. 2022/54.

(24) S.S.I. 2007/170, relevantly amended by S.S.I. 2021/73.

(25) S.S.I. 2022/54.

(26) S.S.I. 2012/303, relevantly amended by S.S.I. 2013/48, S.S.I. 2013/142, S.S.I. 2016/81, S.S.I. 2017/41, S.S.I. 2017/326, S.S.I. 2018/69, S.S.I. 2021/73, S.S.I. 2021/122 and S.S.I. 2021/249.

- (a) disability assistance for adults given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022(27) (and references to the daily living component and the mobility 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 schedule 2 (short-term assistance) of those Regulations, 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)—
- (a) after paragraph (11)(f)(v) insert—
    - “(va) adult disability payment,”
  - (b) in paragraph (14)(a) after “child disability payment” insert “, adult disability payment”.
- (4) In regulation 67 (non-dependant deductions)—
- (a) in paragraph (6)(b)—
    - (i) at the end of head (iia) omit “or”,
    - (ii) after head (iia) insert—
      - “(iib) the daily living component of adult disability payment, or”
  - (b) in paragraph (9)(a) after “child disability payment” insert “, adult disability payment”.
- (5) In Part 3 of schedule 1 (disability premiums)—
- (a) in paragraph 8(2), after “the care component of child disability payment at the highest or middle rate” insert “, the daily living component of adult disability payment at the standard or enhanced rate”,
  - (b) in paragraph 10(1)(a)—
    - (i) in sub-head (i), after “child disability payment” insert “, adult disability payment”,
    - (ii) after sub-head (iii) insert—
      - “(iiia) would be in receipt of either the daily living component or the mobility component of adult disability payment were it not for regulation 28(2) (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the Disability Assistance for Working Age People (Scotland) Regulations 2022,”
  - (c) in paragraph 11—
    - (i) in sub-paragraph (2)(a)(i), after “the care component of child disability payment at the highest or middle rate” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
    - (ii) in sub-paragraph (2)(b)(i), after “the care component of child disability payment at the highest or middle rate” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
    - (iii) in sub-paragraph (2)(b)(ii), after “the care component of child disability payment at the highest or middle rate” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
    - (iv) in sub-paragraph (4)(a), after “the care component of child disability payment at the highest or middle rate” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,

- (v) in sub-paragraph (5)(a), for “the care component of child disability payment at the highest or middle rate” substitute “the standard or enhanced rate of the daily living component of adult disability payment”,
- (d) in paragraph 12, after sub-paragraph (1)(c) insert—
  - “, or
  - (d) the daily living component of adult disability payment at the enhanced rate is payable, or would be payable were it not for regulation 28(2) (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the Disability Assistance for Working Age People (Scotland) Regulations 2022, in respect of the applicant or a member of the applicant’s family who has not attained the qualifying age for state pension credit”,
- (e) in paragraph 13(a) after “child disability payment” insert “, adult disability payment”.
- (6) In paragraph 2(a) of schedule 2 (amount of alternative maximum council tax reduction), after “child disability payment” insert “, adult disability payment”.
- (7) In paragraph 10 of schedule 4 (sums to be disregarded in the calculation of income other than earnings), after “child disability payment” insert “, adult 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(**28**) are amended in accordance with paragraphs (2) to (9).
- (2) In regulation 2(1) (interpretation) after the definition of “adoption leave” insert—
    - ““adult disability payment” means—
    - (a) disability assistance for adults given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022(**29**) (and references to the daily living 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 schedule 2 (short-term assistance) of those Regulations, 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 (iia) insert—
    - “(iiib) adult disability payment.”
  - (4) In regulation 29 (treatment of child care charges)—
    - (a) after paragraph (11)(f)(ivza) insert—
      - “(ivzb) adult disability payment.”
    - (b) in paragraph (14)(a) after “child disability payment” insert “, adult disability payment”.
  - (5) In regulation 48 (non-dependant deductions)—
    - (a) after paragraph (6)(b)(iiza) insert—
      - “(iizb) the daily living component of adult disability payment.”
    - (b) in paragraph (9)(a) after “child disability payment” insert “, adult disability payment”.

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(28) S.S.I. 2012/319, relevantly amended by S.I. 2014/3255, S.I. 2020/354, S.S.I. 2013/49, S.S.I. 2013/142, S.S.I. 2013/218, S.S.I. 2015/46, S.S.I. 2016/81, S.S.I. 2017/41, S.S.I. 2017/326, S.S.I. 2018/211, S.S.I. 2018/295, S.S.I. 2019/29, S.S.I. 2019/133, S.S.I. 2019/325, S.S.I. 2020/413, S.S.I. 2021/73 and S.S.I. 2021/122.

(29) S.S.I. 2022/54.



- (6) In Part 3 (disability premiums) of schedule 1 (applicable amount)—
- (a) in paragraph 6(2) after “the care component of child disability payment at the highest or middle rate” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
  - (b) in paragraph 7—
    - (i) in sub-paragraph (2)—
      - (aa) in head (a)(i) after “armed forces independence payment” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
      - (bb) in head (b)(i) after “armed forces independence payment” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
      - (cc) in head (b)(ii) after “the care component of child disability payment at the highest or middle rate” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
    - (ii) in sub-paragraph (6)(a) after “the 1992 Act” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
    - (iii) in sub-paragraph (7)(a) after both occurrences of “the 1992 Act” insert “, the standard or enhanced rate of the daily living component of adult disability payment”,
  - (c) in paragraph 8—
    - (i) in sub-paragraph (1)—
      - (aa) at the end of head (b) omit “or”,
      - (bb) after head (c) insert—
        - “, or
        - (d) the enhanced rate of the daily living component of adult disability payment is payable, or would be payable were it not for regulation 28(2) (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the Disability Assistance for Working Age People (Scotland) Regulations 2022, in respect of a young person who is a member of the applicant’s family”,
    - (d) in paragraph 9(a) after “child disability payment” insert “, adult disability payment”.
- (7) In schedule 2 (sums to be disregarded in the calculation of earnings) after paragraph 5(1)(a)(va) insert—
- “(vb) adult disability payment,”.
- (8) In Part 1 of schedule 4 (capital to be disregarded) after paragraph 21(2)(ea) insert—
- “(eb) adult disability payment,”.
- (9) In schedule 5 (amount of alternative maximum council tax reduction) in paragraph 2(a), after “child disability payment” insert “, adult disability payment”.

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

**15.** In regulation 6 (person eligible to apply for a grant) of the Home Energy Assistance Scheme (Scotland) Regulations 2013(30)—

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(30) S.S.I. 2013/148, relevantly amended by S.S.I. 2013/253, S.S.I. 2014/40 and S.S.I. 2021/73.

- (a) in paragraph (6)(a)—
  - (i) at the end of head (iia) omit “or”,
  - (ii) after head (iia) insert—
    - “(iib) is or lives with a partner who is in receipt of the enhanced rate of the daily living component of adult disability payment in accordance with regulation 5 (daily living component) of the Disability Assistance for Working Age People (Scotland) Regulations 2022<sup>(31)</sup> or the enhanced rate of the mobility component of adult disability payment in accordance with regulation 6 (mobility component) of those Regulations, or”,
- (b) in paragraph (6)(b) after “child disability payment” insert “, adult disability payment”,
- (c) in paragraph (8)(b) after “child disability payment” insert “, adult disability payment”,
- (d) in paragraph (9) after sub-paragraph (da) insert—
  - “(db) adult disability payment given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022,”.

#### **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<sup>(32)</sup> after sub-paragraph (j) insert—

- “(k) adult disability payment given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022<sup>(33)</sup>,
- (l) short-term assistance given in accordance with Part 1 of schedule 2 (short-term assistance) of the Regulations mentioned in sub-paragraph (k)”.

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

**17.** In paragraph 5(6) (additional requirements for applications for proxy vote on grounds of disability) of schedule 3 (absent voting) of the Scottish Parliament (Elections etc.) Order 2015<sup>(34)</sup>—

- (a) at the end of head (aa) omit “or”,
- (b) after head (b) insert—
  - “, or
- (c) the application states that the applicant is in receipt of the enhanced rate of the mobility component of adult disability payment in accordance with regulation 6 (mobility component) of the Disability Assistance for Working Age People (Scotland) Regulations 2022<sup>(35)</sup>, or short-term assistance (payable in accordance with Part 1 of schedule 2 (short-term assistance) of those Regulations) where the “earlier determination” referred to in paragraph 1(1)(a) of that schedule awarded the enhanced rate of the mobility component of adult disability payment because of the disability specified in the application”.

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<sup>(31)</sup> S.S.I. 2022/54.

<sup>(32)</sup> S.S.I. 2013/200, relevantly amended by S.S.I. 2020/424 and S.S.I. 2021/73.

<sup>(33)</sup> S.S.I. 2022/54.

<sup>(34)</sup> S.S.I. 2015/425, relevantly amended by S.S.I. 2021/73.

<sup>(35)</sup> S.S.I. 2022/54.

## **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<sup>(36)</sup> are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation) after the definition of “the 2021 Regulations” insert—  
““the 2022 Regulations” means the Disability Assistance for Working Age People (Scotland) Regulations 2022<sup>(37)</sup>,  
“Adult Disability Payment” means disability assistance for adults given in accordance with the 2022 Regulations.”.

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

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

“(ii) the enhanced rate of the daily living component of—

(aa) Personal Independence Payment, or

(bb) Adult Disability Payment, and”.

(b) in paragraph (5) for “paragraph (1)(b)(ii)” substitute “paragraph (1)(b)(ii)(aa)”.

(c) after paragraph (7) insert—

“(8) For the purposes of the rule in paragraph (1)(b)(ii)(bb), an individual is to be treated as being entitled to receive payment even if, throughout the qualifying week—

(a) regulation 27(2) (effect of admission to a care home on ongoing entitlement to daily living component) of the 2022 Regulations applies to the individual,

(b) regulation 28(2) (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the 2022 Regulations applies to the individual,

(c) regulation 32 (entitlement beginning while in alternative accommodation) of the 2022 Regulations applies to the individual due to the individual being resident in a care home or being an in-patient in a hospital or similar institution.

(9) In paragraph (8), “care home” has the meaning given in regulation 2 of the 2022 Regulations.”.

(4) In regulation 8 (determination following backdated award of assistance), in paragraph (b)(i)—

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

(b) after head (cc) insert—

“, or

(dd) the enhanced rate of the daily living component of Adult Disability Payment.”.

## **Amendment of the Disability Assistance for Children and Young People (Scotland) Regulations 2021**

**19.**—(1) The Disability Assistance for Children and Young People (Scotland) Regulations 2021<sup>(38)</sup> are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation – general) after the definition of “the 2018 Act” insert—

““Adult Disability Payment” means disability assistance for adults given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022.”.

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<sup>(36)</sup> S.S.I. 2020/352, relevantly amended by S.S.I. 2021/73 and S.S.I. 2021/415.

<sup>(37)</sup> S.S.I. 2022/54.

<sup>(38)</sup> S.S.I. 2021/174, amended by S.S.I. 2021/416.

- (3) In regulation 10 (entitlement to other benefits)—
- (a) at the end of paragraph (b) omit “or”,
  - (b) after paragraph (c) insert—
    - “, or
    - (d) Adult Disability Payment”.
- (4) In Part 1 of the schedule (short-term assistance)—
- (a) for paragraph 1(2) (entitlement to short-term assistance) substitute—
 

“(2) An individual is not entitled to short-term assistance where the individual is no longer entitled to Child Disability Payment as a result of a subsequent determination made under—

    - (a) regulation 31(a) (determination following change of circumstances etc.) where the change of circumstances is that the individual—
      - (i) no longer meets the requirements of regulation 4 (age criteria), or
      - (ii) is entitled to Adult Disability Payment under a determination—
        - (aa) made pursuant to an application made by the individual in accordance with regulation 58 (applications by individuals entitled to Child Disability Payment), or
        - (bb) made without receiving an application in accordance with regulation 59 (determination without application – terminal illness),
    - of the Disability Assistance for Working Age People (Scotland) Regulations 2022(39), or
    - (b) regulation 31(b).”
  - (b) in paragraph 2(4) (value and form) after “Regulations” insert “25 (time of payment).”.

**Transitional provision – extinguishment of right to apply for Personal Independence Payment**

**20.**—(1) No person may claim personal independence payment who is aged 16 years or older and—

- (a) during the initial period for applications for adult disability payment—
  - (i) in phase 1 is resident in the local authority area of Perthshire and Kinross, City of Dundee or Western Isles,
  - (ii) in phase 2 is resident in the local authority area of Perthshire and Kinross, City of Dundee, Western Isles, Angus, North Lanarkshire or South,
  - (iii) in phase 3 is resident in the local authority area of Perthshire and Kinross, City of Dundee, Western Isles, Angus, North Lanarkshire, South Lanarkshire, Fife, City of Aberdeen, Aberdeenshire, Moray, North Ayrshire, East Ayrshire or South Ayrshire, or
- (b) after the expiry of the initial period for applications—
  - (i) is resident in Scotland, or
  - (ii) is a person to whom regulation 15(3) (residence and presence conditions – individuals resident in Ireland), regulation 17 (serving members of Her Majesty’s forces, civil servants and their family members) or regulation 20 (persons residing

outside the United Kingdom to whom a relevant EU regulation applies) of the Adult Disability Payment Regulations applies.

- (2) During the initial period for applications, paragraph (1) does not apply to a person—
- (a) who was born after 8 April 1948,
  - (b) who has an award of disability living allowance, and
  - (c) to whom any of the following provisions of the PIP Transitional Regulations apply—
    - (i) regulation 3(1) (invitations to persons entitled to disability living allowance to claim personal independence payment), where the person’s award of disability living allowance is—
      - (aa) subject to a scheduled review, or
      - (bb) for a fixed term period which is due to come to an end,
    - (ii) regulation 3(5), where the person has reported a change of circumstances,
    - (iii) regulation 4 (claims by persons entitled to disability living allowance for personal independence payment other than by invitation), where the person voluntarily makes a claim for personal independence payment.
- (3) During the initial period for applications, paragraph (1) does not apply to a person—
- (a) who has an award of personal independence payment, and
  - (b) to whom regulation 33(2) (advance claim for and award of personal independence payment) of the PIP (Claims and Payments) Regulations applies, where the person makes a further claim for personal independence payment during the period of 6 months mentioned in that regulation.
- (4) After the initial period for applications, paragraph (1) does not apply to a person—
- (a) who was born after 8 April 1948,
  - (b) who has an award of disability living allowance, and
  - (c) to whom regulation 3(1) of the PIP Transitional Regulations applies, where the person received the invitation mentioned in that regulation prior to the end of the initial period for applications.
- (5) In this regulation—
- “adult disability payment” means disability assistance for adults given in accordance with the Adult Disability Payment Regulations,
- “Adult Disability Payment Regulations” means the Disability Assistance for Working Age People (Scotland) Regulations 2022(**40**),
- “disability living allowance” means a disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992(**41**),
- “initial period for applications” means the period referred to in regulation 64 (transitory provision– initial period for applications) of the Adult Disability Payment Regulations, beginning with 21 March 2022 and ending with 29 August 2022 and references to phases of that period are to be construed in accordance with regulation 64(3) of those Regulations,
- “personal independence payment” means personal independence payment under—
- (a) Part 4 of the Welfare Reform Act 2012(**42**), or
  - (b) article 82 of the Welfare Reform (Northern Ireland) Order 2015(**43**),

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(40) S.S.I. 2022/54.

(41) 1992 c. 4, amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c. 30) and S.I. 2021/804.

(42) 2012 c. 5.

(43) S.I. 2015/2006 (N.I. 1).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“PIP (Claims and Payments) Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013<sup>(44)</sup>, and

“PIP Transitional Regulations” means the Personal Independence Payment (Transitional Provisions) Regulations 2013<sup>(45)</sup>.

St Andrew’s House,  
Edinburgh  
27th January 2022

*BEN MACPHERSON*  
Authorised to sign by the Scottish Ministers

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<sup>(44)</sup> S.I. 2013/380.

<sup>(45)</sup> S.I. 2013/387, relevantly amended by S.I. 2013/2689 and S.S.I. 2020/218.

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## 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 adult disability payment, under section 31 of the Social Security (Scotland) Act 2018 (“the 2018 Act”). The adult disability payment is provided for by the Disability Assistance for Working Age People (Scotland) Regulations 2022 (“the Adult 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 adult disability payment is under review within the meaning of schedule 10 of that Act.

Regulations 2 to 19 make consequential amendments to secondary legislation in connection with the introduction of adult disability payment. The amendments ensure that individuals who are entitled to adult disability payment have the same entitlements and disregards under that legislation as individuals who are entitled to personal independence payment (“PIP”) payable under the Welfare Reform Act 2012. In addition, regulation 8(2) makes a consequential amendment and regulation 19(4) makes miscellaneous amendments, in relation to child disability payment given in accordance with the Disability for Children and Young People (Scotland) Regulations) 2021.

Adult disability payment will replace PIP 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 the Adult Disability Payment Regulations. Regulation 20 provides, subject to some exceptions, that no person aged 16 or older who is able to apply for adult disability payment due to being resident in Scotland, or otherwise meeting the residence and presence conditions in the Adult Disability Payment Regulations, may now apply for PIP.

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](http://www.legislation.gov.uk).