

Draft Order laid before Parliament under paragraphs 1, 2 and 3 of Schedule 7 to the Scotland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
SOCIAL SECURITY**

**The Social Security (Scotland) Act 2018 (Disability
Assistance for Children and Young People)
(Consequential Modifications) (No. 2) Order 2021**

Made - - - - 2021
Coming into force - - 2021

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(5) of the Scotland Act 1998(1).

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

PART 1

Introductory

Citation, commencement and extent

1.—(1) This Order may be cited as the Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) (No. 2) Order 2021.

- (2) This Order comes into force on the day after the day on which it is made.
- (3) Part 2 extends to England and Wales only.
- (4) Part 3 extends to England and Wales and to Scotland only.
- (5) Part 4 extends to Northern Ireland only.

(1) 1998 c.46; section 104 was relevantly amended by section 12 of the Scotland Act 2012 (c.11).

PART 2

England and Wales

Amendment of Section 70 of the Social Security Contributions and Benefits Act 1992

2.—(1) Section 70 of the Social Security Contributions and Benefits Act 1992(2) (carer’s allowance) is amended as follows.

(2) In subsection (2) after “(S.I. 2011/517)” insert “or a child disability payment by virtue of entitlement to the care component at the highest or middle rate by virtue of regulations made under section 31 of the Social Security (Scotland) Act 2018 (asp 9)”.

PART 3

England and Wales, and Scotland

Amendment of Section 150 of the Social Security Contributions and Benefits Act 1992

3.—(1) Section 150 of the Social Security Contributions and Benefits Act 1992(3) (interpretation of Part X) is amended as follows.

(2) In subsection (2) in the definition of “attendance allowance”, after paragraph (f), insert—

“(g) a child disability payment given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018 (asp 9);”.

Amendment of regulation 37 of the State Pension Regulations 2015

4.—(1) Regulation 37 of the State Pension Regulations 2015(4) (credits for persons engaged in caring) is amended as follows.

(2) In paragraph (4) in the definition of “relevant benefit”, after sub-paragraph (g), insert—

“(h) the care component of child disability payment at the middle or highest rate in accordance with regulation 11 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021.”(5).

PART 4

Northern Ireland

Amendment of Section 70 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992

5.—(1) Section 70 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(6) (Carer’s allowance) is amended as follows.

(2) At the end of subsection (2)(d) omit “or”.

(2) 1992 c.4; relevant amending instruments are S.I. 2013/388 and S.I. 2013/796. Separately section 70 as it extends to Scotland has been amended by S.S.I. 2021/174.

(3) There are amendments to section 150 not relevant to this instrument.

(4) S.I. 2015/173; regulation 37 was added by regulation 2 of S.I. 2016/240.

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

(6) 1992 (c.7); relevantly amended by S.R. 2016 No. 228.

(3) After subsection (2)(d) insert—

“(da) a child disability payment by virtue of entitlement to the care component at the highest or middle rate by virtue of the Disability Assistance for Children and Young People (Scotland) Regulations 2021 in circumstances where the person is resident in Northern Ireland and regulation 36(1) of those Regulations applies; or”.

Amendment of regulation 37 of the State Pension Regulations (Northern Ireland) 2015

6.—(1) Regulation 37 of the State Pension Regulations (Northern Ireland) 2015(7) (credits for persons engaged in caring) is amended as follows.

(2) In paragraph (4) in the definition of “relevant benefit”, after sub-paragraph (g), insert—

“(h) the care component of child disability payment at the middle or highest rate in accordance with regulation 11 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021 in circumstances where the person is resident in Northern Ireland and regulation 36(1) of those Regulations applies.”.

London
Date

Name
Secretary of State
Office of the Secretary of State for Scotland

(7) [S.R. 2015 No. 315](#); regulation 37 was added by regulation 2(2) of [S.R. 2016 No. 100](#).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) (No. 2) Order 2021 No. 1301

EXPLANATORY NOTE

(This note is not part of the Order)

The Disability Assistance for Children and Young People (Scotland) Regulations 2021 (S.S.I. 2021/174) made under section 31 of the Social Security (Scotland) Act 2018 (asp 9) introduce arrangements for the payment of disability assistance for children and young people in the form of a “child disability payment”. The child disability payment replaces the disability living allowance for children residing in Scotland.

Part 2 of this Order makes consequential amendments to social security legislation in England and Wales, governing entitlement to carer’s allowance.

Part 3 makes consequential amendments to social security legislation in England and Wales, and Scotland, governing entitlement to certain benefits. Article 3 amends the Social Security Contributions and Benefits Act 1992 (c.4) so that child disability payment is a qualifying benefit for the Christmas Bonus. Article 4 amends the State Pension Regulations 2015 (S.I. 2015/173) so that a person can be credited with a Class 3 national insurance credit for a week in which they are caring for someone who is entitled to a child disability payment.

Part 4 makes consequential amendments to social security legislation in Northern Ireland, governing entitlement to carer’s allowance and carer’s credit. Child disability payment is only available to children and young people residing in Scotland. However, the Scottish Government will continue to make payment of child disability payment to any child or young person who relocates from Scotland to another part of the United Kingdom for a period of 13 weeks, from the date of the move, to allow for an application for disability living allowance to be processed.

A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.