
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for Adult Disability Payment which is a type of disability assistance given by the Scottish Ministers under section 31 of the Social Security (Scotland) Act 2018.

Part 2 provides an overview of arrangements for payment of disability assistance for working age people (“Adult Disability Payment”).

Part 3 sets out the eligibility criteria for the daily living component and the mobility component of Adult Disability Payment.

Part 4 sets out the required period condition for entitlement to the daily living component and mobility component.

Part 5 sets out the residence and presence conditions for entitlement to the assistance.

Part 6 sets out the entitlement rules relating to age.

Part 7 sets out the rules for entitlement to the assistance on account of having a terminal illness.

Part 8 sets out the effects on payment of the assistance when an individual is resident in a care home, hospital or legal detention.

Part 9 deals with the making of applications, payments, the amount and form of Adult Disability Payment and ongoing eligibility. It also provides for circumstances in which assistance may be suspended, when increases or decreases of entitlement take effect, and giving assistance by way of deduction.

Part 10 deals with reconsideration of entitlement, where an award of assistance has already been made and is being revisited. It provides for determinations without application to be made where a specified period has elapsed, there is a change in circumstances, to address error resulting in overpayments, official errors resulting in underpayments, or to effect a deduction decision.

Part 11 provides for the situation where people in Scotland in receipt of Adult Disability Payment move to another part of the United Kingdom, or people in another part of the United Kingdom in receipt of the equivalent assistance, Personal Independence Payment, move to Scotland.

Part 12 provides for time periods for dealing with requests for re-determination of entitlement.

Part 13 makes provision for the Scottish Ministers to make payment to suppliers of adapted vehicles, with whom recipients of the assistance have entered agreements for hire or hire purchase. These suppliers must be accredited according to a scheme operated by the Scottish Ministers.

Part 14 and Part 2 of schedule 2 make provision for an initial period for applications to take place before the full rollout of the assistance.

Part 15 deals with applications for Adult Disability Payment made by individuals who are in receipt of Child Disability Payment. It also provides for a determination of entitlement to Adult Disability Payment without an application where an individual is in receipt of Child Disability Payment and is terminally ill.

Part 16 and Part 3 of schedule 2 make provision to transfer individuals who meet the residence and presence conditions and are awarded Personal Independence Payment to become entitled to Adult Disability Payment.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Disability Assistance for Working Age People (Scotland) Regulations 2022 No. 54*

Part 17 sets out the qualifications and experience necessary to carry out assessments, where these are required to determine an individual's entitlement to receive the assistance.

Part 18 and Part 1 of schedule 2 deal with entitlement to short-term assistance, to bridge the gap, in the event that entitlement to the assistance is reduced or removed. This is payable, in certain circumstances, during the time when the change in entitlement is being challenged but the outcome is not yet known.

Part 19 and Part 4 of schedule 2 make provision for a consequential amendment to the Social Security Contributions and Benefits Act 1992.

Part 20 makes further provision for the initial period for applications by way of transitory provisions.

Schedule 1 sets out the activities, descriptors and points to be applied when determining an individual's entitlement to the daily living component and mobility component of the assistance.