
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

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

PART 9

Making of applications and payments and duration of eligibility

When an application is to be treated as made and beginning of entitlement to assistance

35.—(1) An application for Adult Disability Payment is to be treated as made—

- (a) on the day it is received by the Scottish Ministers, or
- (b) if applicable, on the day identified by the Scottish Ministers in accordance with paragraph (2).

(2) If, before making a determination on the basis of an application, the Scottish Ministers consider that the individual in respect of whom the application is made—

- (a) would not satisfy a requirement in—
 - (i) regulation 5 (daily living component),
 - (ii) regulation 6 (mobility component),
 - (iii) regulation 11 (required period condition: daily living component),
 - (iv) regulation 12 (required period condition: mobility component),
 - (v) Part 5 (residence and presence conditions), or
 - (vi) regulation 22 (age criteria),

if the application were treated as made on the day it was received, and

- (b) would likely be entitled to receive Adult Disability Payment if those requirements were satisfied within a 13-week period beginning on the day it was received,

the Scottish Ministers may choose the date within that 13 week period on which the application is to be treated as made.

(3) Where, on the basis of an application (other than where regulation 58(1) applies), a determination is made that an individual is entitled to Adult Disability Payment, the date on which entitlement begins is to be identified in accordance with paragraphs (4) to (6).

(4) Where an application is made within 8 weeks of the day on which the full name and date of birth of an individual (“the required data”) is submitted by, or on behalf of, the individual to the Scottish Ministers for the purpose of an application for Adult Disability Payment, entitlement begins on whichever is the later of the day—

- (a) on which the required data was submitted, or
- (b) identified in accordance with paragraph (2).

(5) Subject to paragraph (6), where an application is made after the 8 week period described in paragraph (4), entitlement begins on the day on which the application is treated as made in accordance with paragraph (1).

(6) Where the Scottish Ministers are satisfied that there is a good reason why an application was made after the 8 week period described in paragraph (4), they may treat the application as having been made within that period.

(7) For the purposes of section 38(3) of the 2018 Act, the period covered by an application for Adult Disability Payment—

- (a) under paragraph (1)(a)—
 - (i) begins on the day on which the application is treated as having been made, and
 - (ii) ends on the day on which the determination of entitlement is made, and
- (b) under paragraph (1)(b)—
 - (i) is deemed to begin on the day before the determination of entitlement is made provided that the requirements are satisfied, and
 - (ii) ends on the day on which the determination of entitlement is made.