
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

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

PART 2

Transfer to Adult Disability Payment

Notice of intention to transfer to Adult Disability Payment

3.—(1) The Scottish Ministers are to notify each relevant individual of their intention to transfer that individual's entitlement to disability assistance from an entitlement to Disability Living Allowance to an entitlement to Adult Disability Payment.

(2) Notice under paragraph (1) must—

(a) be given in a way that leaves the relevant individual with a record of the information which they can show to, or otherwise share with, others, and

(b) inform the relevant individual that—

(i) they have been identified as a relevant individual for the purposes of transfer to Adult Disability Payment,

(ii) the Scottish Ministers will make a determination, without receiving an application, to transfer the individual's entitlement to Disability Living Allowance to an entitlement to Adult Disability Payment within a period to be specified within the notice (the individual will be notified when the transfer determination is made and informed about their award and start date of Adult Disability Payment),

(iii) the individual's award of Disability Living Allowance will cease—

(aa) immediately before the award of Adult Disability Payment begins, or

(bb) where a transferring individual was paid Disability Living Allowance one week in advance and 3 weekly in arrears, the date one week after the date their entitlement to Adult Disability Payment begins,

(iv) except where the individual is subject to the special rules for terminal illness in regulation 9, the Scottish Ministers will make a review determination of the individual's entitlement to Adult Disability Payment within 12 months of the date of the notice.

(3) Where a notice under paragraph (1) is given in error where the individual is neither—

(a) ordinarily resident in Scotland, nor

(b) an individual who is habitually resident in an EEA state, Gibraltar or Switzerland and has a genuine and sufficient link to Scotland,

the duty on the Scottish Ministers in regulation 4(1) does not apply.

(4) Where paragraph (3) applies in respect of an individual and a transfer determination has not been made, the Scottish Ministers are to notify the individual that the duty on the Scottish Ministers in regulation 4(1) does not apply.

(5) In paragraph (3), “sufficient” means a link to Scotland that is sufficiently close that regulation 15(3) or 20(2) of the ADP Regulations would be incompatible with the applicable agreement mentioned in either of those regulations, if the relevant individual were not entitled to Adult Disability Payment,