

## POLICY NOTE

### THE DISABILITY ASSISTANCE FOR CHILDREN AND YOUNG PEOPLE (CONSEQUENTIAL AMENDMENTS) (SCOTLAND) REGULATIONS 2021

SSI 2021/122

The above instrument was made in exercise of the powers conferred by section 95 of the Social Security (Scotland) Act 2018. The instrument is subject to the negative procedure.

The purpose of this instrument relates to the (similarly named) Disability Assistance for Children and Young People (Consequential Amendment and Transitional Provision) (Scotland) Regulations 2021 (“the Consequential Amendment and Transitional Provision Regulations”). The purpose of this instrument is to address minor comments made by the Delegated Powers and Law Reform Committee (DPLRC) in relation to four amendments made by the Consequential and Amendment and Transitional Provision Regulations. Each of the four amendments inserted text (into 4 separate pieces of legislation) that referred to the term “care home”. The term “care home” is given a relatively broad meaning by the draft the Disability Assistance for Children and Young People (Scotland) Regulations 2021 in that the definition includes ‘residential educational establishments’.

The DPLRC queried with the Scottish Government whether, for each of the four amendments, it was sufficiently clear whether the term “care home” is to be understood with reference to its relatively broad meaning under the Disability Assistance for Children and Young People (Scotland) Regulations 2021 or not. The purpose of this instrument, known as the Disability Assistance for Children and Young People (Consequential Amendments) (Scotland) Regulations 2021, is to put beyond doubt that in respect of each of the four amendments, the term “care home” has the meaning given by the Disability Assistance for Children and Young People (Scotland) Regulations 2021. The text inserted by two of these four amendments also refers to the term “family” and this instrument also clarifies how that term should be understood so that the legal effect of these two amendments is clearly understood.

#### **Policy Objectives**

The policy objective is to give full effect to the policy objectives underpinning the Consequential Amendment and Transitional Provision Regulations. This instrument achieves this by inserting a small number of definitions into four of the pieces of legislation that were amended by the Consequential Amendment and Transitional Provision Regulations. These definitions were omitted from the amendments made by Consequential Amendment and Transitional Provision Regulations by error.

#### **Consultation**

The policy note for the Consequential Amendment and Transitional Provision Regulations explains that in July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. This received more than 200 responses to questions relating to disability benefits with an even split between organisational and individual responses. In particular comments were invited on a partial Equality Impact Assessment which represented the Scottish Government’s work on the impact of social security policy on people with protected characteristics prior to the consultation.

521 formal written responses were submitted, of which 241 were from organisations and 280 from individual respondents. Of the 241 organisational responses, 81 were received from stakeholder groups relating to children/young people, equalities and human rights, disability and long term conditions and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 February 2017.<sup>1</sup>

Between 5 March and 28 May 2019, the Scottish Government undertook a public consultation on its proposals for the delivery of disability assistance. The consultation received 263 responses from individuals and stakeholder organisations, and a summary of these responses can be found in the analysis of written responses. The views expressed within the consultation responses helped shape the proposals for delivering the Child Disability Payment, and the Scottish Government published its response in October 2019.

### **Impact Assessments**

It is not considered necessary to carry out impact assessments for this instrument. These Regulations do not seek substantively change the policy areas pertaining to the legislative schemes being amended. A number of policy impact assessments have been carried out and published in respect of the delivery of Child Disability Payment.

### **Financial Effects**

A partial Business and Regulatory Impact Assessment (BRIA) has been completed relating to the Consequential Amendments and Transitional Provisions Regulations.

Scottish Government  
Social Security Directorate

03 March 2021

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<sup>1</sup> <https://www.gov.scot/publications/analysis-written-responses-consultation-social-security-scotland/>