

POLICY NOTE

THE DISABILITY ASSISTANCE FOR CHILDREN AND YOUNG PEOPLE (CONSEQUENTIAL AMENDMENT AND TRANSITIONAL PROVISION) (SCOTLAND) REGULATIONS 2021

SSI 2021/73

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 is to make consequential amendments and transitional provision in connection with the introduction of a new form of disability assistance, known as Child Disability Payment (CDP). CDP will eventually replace Disability Living Allowance for Children (DLAC) in Scotland. The purpose of the instrument is to allow certain passported benefits, exemptions, concessions and reliefs to apply to individuals who are entitled to CDP so that these individuals are passported to the same benefits, and qualify for the same exemptions, concessions and reliefs, as individuals with an equivalent DLAC award. The purpose of the instrument is also to stop individuals under the age of 16 years from being entitled to apply for DLAC if they are able to apply for CDP.

Policy Objectives

Social Security Scotland is an Executive Agency of the Scottish Government and will eventually be making payments to 1.4 million citizens in Scotland, with a value in excess of £3 billion per year. The Scottish Government will, in coming years, be responsible for delivering benefits for disabled people, to replace the current disability benefits delivered by the Department for Work and Pensions. The first such benefit, Child Disability Payment (CDP), will replace Disability Living Allowance for Children (DLAC) from summer 2021.

CDP will broadly follow the eligibility criteria for DLAC, however, the upper age limit will be extended from 16 to 18, for those young people who are in receipt of CDP immediately before their sixteenth birthday.

The Scottish Government is committed to delivering a safe and secure transition for disabled people whose entitlement will be transferred from DWP to Social Security Scotland. As part of that approach, the Scottish Government intends that certain benefits, exemptions, concessions and reliefs available to an individual who is entitled to DLAC should also be available to an individual who is entitled to an equivalent CDP award.

Because social security interacts with a number of devolved areas, the following allowances, disregards or premiums are within the scope of these regulations:

- Absent voting at Scottish Parliamentary and local government elections;
- Entitlement to Advice and Assistance (under the Legal Aid (Scotland) Act 1986);
- Children's Legal Assistance;
- Civil Legal Aid;
- Council tax reduction (for both adult and pension-age people);
- Council tax exemption and council tax discount;
- Disabled Person's Parking Badge (blue badge);
- National concessionary travel scheme (bus passes);
- NHS travelling expenses and fees;

- Entitlement to Child Winter Heating Assistance;
- Entitlement to apply for government grants to improve home energy efficiency;
- Repayment of student loans; and
- The disregard of income for the purposes of assessing an individual's liability to pay residential care home charges.

These regulations are intended only to ensure that where Scottish regulations refer to DLAC, there should also be a corresponding reference to Child Disability Payment or 'short-term assistance' (STA). STA is assistance that an individual can elect to receive if they are appealing to Social Security Scotland, or to the First-Tier Tribunal for Scotland, against a decision to stop or reduce their entitlement to assistance under Part 2 of the Social Security (Scotland) Act 2018. STA is not available for first-time applicants and is unique to the Scottish Social Security System. Because STA can be paid in respect of more than one form of devolved assistance, the provision makes clear that the scope of the amendment extends only to circumstances where STA is paid as a result of a qualifying CDP award being stopped or reduced. This fulfils the secondary policy objective of individuals in receipt of STA benefiting from the same income disregards and entitlements as they would have but for their CDP award being stopped or reduced.

As CDP will replace DLAC in Scotland for new applicants, this instrument makes transitional provision to remove the right of individuals under the age of 16, who are able to apply for CDP, from applying for DLAC.

Consultation

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 2017.¹

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 CDP, and the Scottish Government published its response in October 2019.

Impact Assessments

These Regulations do not seek to substantively change the nature of the policy areas that the Regulations interact with. Impact assessments for the individual policy areas affected will be published on the Scottish Government website where appropriate.

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

The Disability Assistance for Children and Young People (Scotland) Regulations 2021 are being laid contemporaneously with this instrument, with a number of impact assessments relevant to the introduction of CDP.

Financial Effects

A partial Business and Regulatory Impact Assessment (BRIA) has been completed. The impact of this policy on business is limited and no quantifiable financial effects have been identified.

Scottish Government
Social Security Directorate

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