

Island Communities Impact Assessment (ICIA): The Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland)

Introduction

1. The importance of island-proofing was recognised in the "Empowering Scotland's Island Communities prospectus" published in June 2014. The principle of island-proofing is one of building a broad-based islands awareness into the decision making process of all parts of the public sector.
2. The Islands (Scotland) Act 2018¹ places a duty on the Scottish Ministers and other relevant authorities, including a number of public authorities, to have regard to island communities in exercising their functions, and for the Scottish Ministers this will also include the development of legislation. This duty is often referred to as "island-proofing".
3. The Scottish Government recognises the importance of island-proofing and committed to island-proofing the Social Security (Scotland) Act 2018² (the 2018 Act), in advance of the Islands Act placing a formal requirement to do so. The Scottish Government is also committed to island-proofing the legislation required in support of the devolution of social security powers to Scotland.
4. If the Scottish Ministers are of the opinion that any piece of proposed legislation is likely to have an effect on an island community which is significantly different from its effect on other communities, then the duty to island-proof legislation requires the Scottish Ministers to:
 - describe the likely significantly different effect of the legislation;
 - assess the extent to which the Scottish Ministers consider that the legislation can be developed in such a manner as to improve or mitigate, for island communities, the outcomes resulting from the legislation; and
 - set out the financial implications of steps taken under this subsection to mitigate, for island communities, the outcomes resulting from the legislation.

Executive Summary

5. An island communities impact assessment was undertaken for the main regulations making provision for Adult Disability Payment, the Disability Assistance for Working Age People (Scotland) Regulations 2022. As The Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations make provision for transferring individuals to Adult Disability Payment, we have considered any specific or differential impact these Regulations will have. As the miscellaneous amendments in the Regulations are for the purpose of providing clarity to existing provisions, these have not been considered further.

¹ <http://www.legislation.gov.uk/asp/2018/12/enacted>

² <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

6. The findings in the island communities impact assessment carried out for the , the Disability Assistance for Working Age People (Scotland) Regulations 2022 were based on desk research, engagement with and feedback from disabled people with lived experience of the current social security system³, and the Consultation on Disability Assistance.⁴ This ran between 5 March and 28 May 2019 and received 263 replies, of which 74 were from stakeholder organisations and 189 were from individuals.

7. This in turn led to targeted consultation with stakeholders representing people with protected characteristics which was undertaken during the consultation period in 2019, including disabled people from island and remote communities.

8. On 21 December 2020, the Scottish Government launched a public consultation on its proposals for the delivery of Adult Disability Payment and on the draft impact assessments. The consultation ran until 15 March 2021. The consultation received 127 responses from individuals and stakeholder organisations. We have taken a number of actions as a result of these responses including:

- Undertaking further in depth analysis of the impact of proposed changes to the application of the eligibility criteria, specifically looking at potential impacts on women and on people with one or more mental health condition and people with a learning disability and/ or learning difficulty, and on people with varying health conditions.
- The introduction of measures to ensure that a Social Security Scotland practitioner gains an understanding of the full needs and experiences of an individual where a consultation takes place.
- Actions to further ensure that the application of the reliability criteria mitigates the negative impacts of how the PIP eligibility criteria is currently applied by the Department for Work and Pensions.

9. The assessment was extended by considering rurality and remoteness in the same spirit of the Act to gauge evidence of whether the policy and regulations would impact rural/remote communities differently to other communities.

10. The assessment concluded that there would not be any new unique impacts on islands communities as a result of the provisions in those regulations, and nor will there be a specific financial impact for island communities in isolation resulting from the provisions. The assessment did note several differences between Adult Disability Payment and Personal Independence Payment which we expect to have a positive impact on disabled people in Scotland who live in rural and island locations.

11. The assessment and it's conclusions have been reviewed taking into account:

- the Scottish Government's published case transfer principles;
- two surveys regarding the case transfer process were sent out to Experience Panel members in January and February 2019. 404 and 559 responses were received respectively. A series of individual and group interviews were also

³ <https://www.gov.scot/collections/social-security-experience-panels-publications/>

⁴ <http://consult.gov.scot/social-security/improving-disability-assistance/>

conducted. Results from both surveys and the interviews were published in 2019.⁵; and

- Social Security Scotland Experience Panels that took place during 2020 and 2021 specifically looking at the differing process for transferring individuals from Disability Living Allowance for Children, Personal Independence Payment and Working Age Disability Living Allowance and these will continue to take place with a range of internal Scottish Government stakeholders.

12. This subsequent assessment concluded that there is no specific or differential impacts for island communities resulting from these Regulations.

Policy Background

13. The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, Scottish Ministers took executive and legal competence for disability benefits, including Disability Living Allowance, Attendance Allowance and Personal Independence Payment.

14. At the transfer of executive competence, the Department for Work and Pensions agreed to continue to deliver Disability Living Allowance in Scotland on behalf of Scottish Ministers under an agency agreement. At this time, there were approximately 42,000 individuals in receipt of Working Age Disability Living Allowance individuals⁶ who had not yet migrated to Personal Independence Payment. It was, therefore, also agreed that the Department for Work and Pensions would halt the programme of managed migration onto Personal Independence Payment for individuals aged between 16 and 65 on 08 April 2013.

15. However, any individual in receipt of Working Age Disability Living Allowance reporting a relevant change of circumstances, due an award renewal, otherwise requiring an award review or requesting to move was still required to apply for Personal Independence Payment until such times as Adult Disability Payment was launched in Scotland.

Policy Objective

16. The Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022 make provision to transfer the award of any individual in receipt of Working Age Disability Living Allowance to Adult Disability Payment, where an individual wishes to move to Adult Disability Payment or would otherwise be required to apply for Personal Independence Payment.⁷

17. The eligibility criteria for Adult Disability Payment differs from the eligibility criteria for Disability Living Allowance and broadly aligns with the eligibility criteria for

⁵ See <https://www.gov.scot/publications/social-security-experience-panels-case-transfer-survey-findings/> and <https://www.gov.scot/publications/social-security-experience-panels-designing-case-transfer-process-main-report/>

⁶ Working Age, in the context of this cohort, refers to those individuals in receipt of Disability Living Allowance who were under 65 in April 2013 when the transition from Disability Living Allowance to Personal Independence Payment began, even though many will now be over the state pension age.

⁷ Scottish Ministers are still considering how to transfer the awards for those to which these circumstances do not apply. The transfer process for these individuals will be provided for through separate regulations in due course.

Personal Independence Payment. However, the Scottish Government has made improvements to the application process, the way awards are made, and the collection of supporting information about an individual's disability or health condition, to make the processes involved in assessing entitlement for Adult Disability Payment less onerous and to improve decision-making.

18. The Scottish Government has also introduced a new individual consultation service to aid the decision making process. This will be substantially different from the assessments used to determine entitlement to Personal Independence Payment by the Department for Work and Pensions.

19. The Scottish Ministers have developed a safe and secure transfer process, which will require no action on behalf of the individual wherever possible, and has been designed in line with the following case transfer principles:

- no individual will be required to re-apply for their benefit;
- after Adult Disability Payment is launched nationally individuals will, wherever possible, be transferred before they are required to undergo a DWP face-to-face assessment
- individuals will continue to receive the right payment, at the right time; and
- we will complete the case transfer process as soon as possible while ensuring it is safe and secure.

20. The regulations also seek to make miscellaneous amendments to the Personal Independence Payment (Transitional Provisions) Regulations 2013, the Disability Assistance for Children and Young People (Scotland) Regulations 2021, and the Disability Assistance for Working Age People (Scotland) Regulations 2022 in order to clarify the intent and effect of the regulations, remove ambiguities, and in consequence of the case transfer provisions.

21. This impact assessment is one of a package to accompany the regulations. The others are: Business and Regulatory Impact Assessment (BRIA); Equality Impact Assessment (EQIA); Children's Rights and Wellbeing Impact Assessment (CRWIA); Data Protection for Legislation Impact Assessment and the Fairer Scotland Duty Assessment.

Scope of the ICIA

22. The scope of this assessment carried out for the Disability Assistance for Working Age People (Scotland) Regulations 2022 was to consider the impact of the impact of replacing Personal Independence Payment with the Adult Disability Payment on disabled people between the ages of 16 and state pension age and their families, who live in remote and island communities.

23. This subsequent assessment considers whether there is any specific or differential impact on individuals and their families, who live in remote and island communities, of provisions in the current Regulations to transfer Disability Living Allowance awards to Adult Disability Payment, where individuals would otherwise be required to apply for Personal Independence Payment.

Key Findings

24. This section provides an overview of issues for Scottish rural/remote and island communities that were relevant for Disability Assistance for Working Age People (Scotland) Regulations 2022:

- Island stakeholders have emphasised the importance of understanding the island experience. Each island has its own specific considerations and constraints.
- Rural Scotland accounts for 98% of the land mass of Scotland and 17% of the population are resident there.⁸
- At the time of the 2011 Census, Scotland had 93 inhabited islands with a total population of 103,700 (which was 2% of Scotland's population).⁹ Of these islands, only five are connected to the Scottish mainland by bridge or causeway.
- The Islands Act identifies six local authorities representing island communities in Part 4 of the Act (Section 20 (2), which are Argyll and Bute Council; Comhairle nan Eilean Siar/Western Isles; Highland Council; North Ayrshire Council; Orkney Islands Council; and Shetland Islands Council. Amongst them, Orkney, Shetland and Western Isles are entirely island authorities, while Highland, Argyll and Bute and North Ayrshire local authorities cover island regions as well as mainland regions.

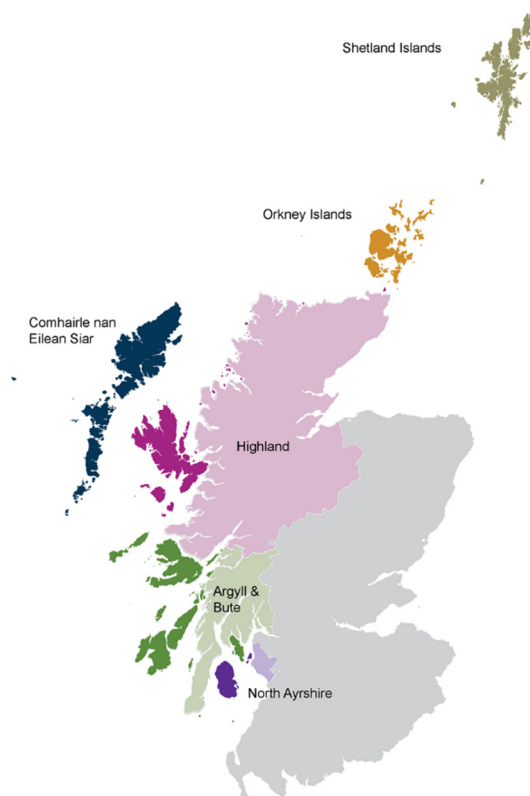


Figure 1: Map highlighting all 6 local authorities representing Island Communities (islands in darker shades where islands are part of mainland Local Authorities)¹⁰

⁸ Scottish Government (2018) [Rural Scotland: key facts 2018](#)

⁹ NRS (2015) [Scotland's Census 2011: Inhabited islands report](#)

¹⁰ <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2017/9/4/Islands--Scotland--Bill-1>

Demography and Health

25. According to the 2011 Census, 83% of island residents reported their health as being 'Very good' or 'Good' compared with 82% for Scotland as a whole.¹¹ The proportion of island residents with a long-term (lasting 12 months or more) health problem or disability that limited their day-to-day activities was just under 20%, including 9% who reported their daily activities were limited a lot.¹² The corresponding proportions for Scotland as a whole were very similar.

26. 62% of island residents are aged between 16-65 with the median age being 45 which is higher than the average across Scotland as a whole (41).¹³

27. United Kingdom wide, disabled people have higher poverty rates than the general population. Disabled people make up 28% of people in poverty. A further 20% of people who are in poverty live in a household with a disabled child. Data related to disability specific to island communities on disability is not available.

28. In Scotland 410,000 households in poverty (42%) include a disabled person. Disabled young adults in the United Kingdom aged 16-24 years have a particularly high poverty rate of 44%.¹⁴

29. There are higher rates of food insecurity among disabled people (18%) compared to non-disabled people (5%). There is also a higher likelihood of living in relative poverty after housing costs with a disabled person in the household (24% of families with a disabled person compared to 17% of families with no disabled members).¹⁵ If disability benefits are not counted towards household income, this rises to 30%. 'Family' in these circumstances refers to the core family in a household, comprising one or two adults and children, if any.

30. 35% of 'workless families' (defined as families where parents are predominately out of work or have little connection to the labour market; who live in social rented accommodation and are reliant on benefits for their income) have an adult with a disability or long-term illness. A further 25% of 'struggling to get by' families (unemployed or working part-time, half of which are single-parent families) have one or more adults with a disability or long-term illness.¹⁶ In households without children, 50% of 'insecure singles' (defined as workless, primarily single individuals living in social housing) had a disability or long-term health condition.¹⁷ This rises to 68% for 'detached singles'. This group is similar to the 'insecure singles' group with the addition that they are less likely to have internet access or to participate in cultural activities, making them more disconnected.

31. Research undertaken by the Scottish Government¹⁸ and by stakeholders in 2020 have found that a lack of connectivity in rural or remote communities has been compounded by the impacts of the Covid-19 pandemic. An absence of good quality internet connection can significantly impact on an individual's ability to socialise and partake in cultural activities, particularly where people already have mobility restrictions as a result of a disability or health condition.

11 NRS (2015) [Scotland's Census 2011: Inhabited islands report](#)

12 NRS (2015) [Scotland's Census 2011: Inhabited islands report](#)

13 https://www.scotlandscensus.gov.uk/documents/analytical_reports/Inhabited_islands_report.pdf

14 <https://www.irf.org.uk/income-and-benefits>

15 <http://www.gov.scot/isbn/9781787816909>

16 <https://www.gov.scot/publications/poverty-perspective-typology-poverty-scotland/pages/5/>

17 <https://www.gov.scot/publications/poverty-perspective-typology-poverty-scotland/pages/6/>

18 [Covid+and+Inequalities+Final+Report+For+Publication+-+PDF.pdf \(www.gov.scot\)](#)

32. Even where one or more individual in the household is in employment, the same level of income secures a lower standard of living than it would for a household without someone with a disability or long-term health condition. This is because disabled people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition.¹⁹ Sometimes, these costs are greater for disabled people living in island and rural communities. For example, travel costs, may be higher as individuals may have to pay the cost of taxis, for example if they need to travel to and from hospital where it is not possible to use public transport (and/or public transport may not be available).

Cost of Living

33. The cost of many amenities and activities are higher for people living in island communities than those living on the mainland. A lack of choice and accessibility means that shopping, mobile phone services and broadband can be more expensive for people living in island communities compared to those on the mainland. The greater distances and remoteness means that day to day travel, postage, fuel, day-trips and holidays are also more expensive for people in remote communities.

34. Citizens Advice Scotland²⁰ have identified issues of grid, utilities, digital and travel as key barriers for people in accessible rural, remote rural and remote small towns. Furthermore, a typical food basket can cost as much as 50% more on island communities in Scotland, while transport can be up to £40 a week more expensive due to longer distances for commuting and a higher price for petrol.²¹

35. According to Highlands and Islands Enterprise (HIE), household budgets in remote rural Scotland are typically 10-40% higher than elsewhere in the United Kingdom.²² For households in the most remote parts of Scotland, additional costs can be greater than 40%. HIE attribute these extra costs to three principal sources:

- the higher prices that households must pay for food, clothes and household goods;
- much higher household fuel bills, influenced by climate and fuel sources;
- the longer distances that people have to routinely travel, particularly to work.

36. The Joseph Rowntree Foundation reported that levels of poverty among disabled people are generally underestimated.²³ Because disabled people's needs are often greater than for those without a disability, the cost of living for disabled people is frequently higher. These costs are higher in island and remote communities due to an environment that is less accessible, with higher costs for reasonable adjustments to technology, housing and transport.

37. A range of work is being undertaken by the Scottish Government to address the challenges that people in island and rural communities face. For example, the Islands Strategic Group was established in August 2016. The group considers strategic issues affecting the island communities of Scotland, and to ensure greater

¹⁹ <https://www.jrf.org.uk/income-and-benefits/>

²⁰ Sutherland, F (2015) Remotely excluded: barriers facing Scotland's rural consumers CAS, Edinburgh, 36 pp

²¹ A Minimum Income Standard: For Remote rural Scotland; Loughborough University, UHI & Highlands and Islands Enterprise; 2013

²² [A Minimum Income Standard for Remote Rural Scotland, 2013](#)

²³ https://www.npi.org.uk/files/7814/0490/1005/Disability_long_term_conditions_and_poverty.pdf

involvement of the relevant councils in helping to identify and design solutions to the unique needs and challenges these communities face.

38. While Adult Disability Payment is not intended to be an income-replacement benefit, it is intended to provide support with helping to meet the extra costs associated with having a disability, such as paying for care and mobility needs. For some disabled people, it brings additional entitlement to other benefits. Our case transfer process is designed to ensure individuals continue to get the right payments at the right time. It is also designed to ensure individual's entitlement to passported benefits and premia is protected throughout the transfer. Individuals may in some circumstances be required to contact public bodies responsible for delivering passported benefits and premia to confirm ongoing entitlement. We will provide individuals with information on when and how to do this as part of the case transfer process.

Connectivity and accessibility

39. Citizens Advice Scotland have identified issues of grid, utilities, digital and travel as key barriers for people in accessible rural, remote rural and remote small towns.²⁴ According to the research briefings²⁵ from 2017 about the Islands (Scotland) Bill, residents of islands rely on ferry crossings and air travel to reach the mainland and larger islands, and key services such as secondary and higher education, care, and medical services.

40. In 2011, the proportion of island households with at least one car or van available was 79%, compared with just over two-thirds (69%) nationally. In rural remote areas and island communities, disabled people face a lack of access to opportunities that are more readily and frequently available to those on the mainland or in urban areas. Furthermore, a lack of accessibility to employment, education and leisure opportunities can be made more difficult for someone with mobility issues, especially when transport options are limited.

41. Bus services in remote and island communities can be unreliable and are often community run. Even where buses are available, they often run rarely and timetables do not always meet the needs of people living in the community. Furthermore, if there is already someone with a wheelchair or pram on the bus it is not always possible for a wheelchair user to board. Not all islands are served by buses and there are not always taxis available. We heard how disabled people on islands rely heavily on neighbours, friends and families driving them as a primary means of transport.

42. The needs of wheelchair users can be different in island and rural communities than the needs of wheelchair users in an urban environment due to more challenging terrain.

²⁴ Sutherland, F (2015) Remotely excluded: barriers facing Scotland's rural consumers CAS, Edinburgh, 36pp
²⁵ <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2017/9/4/Islands--Scotland--Bill-1>

Our approach

43. Social Security Scotland local delivery officers will share locations with other services so that they are based where individuals currently go to ensure that individuals can access advice and support in existing island locations. Social Security Scotland will also offer a multi-channel approach, including telephone, paper-based and face-to-face applications to ensure that people are not isolated through a lack of access to technology.

44. We will also support individuals to gather supporting information. This includes, if authorised by the individual, gathering information on the individual's behalf. For individuals living in rural or island communities, this will be beneficial as it may be difficult for them to contact relevant sources given the remoteness and lack of connectivity.

45. We have also introduced individual consultations to replace the current Department for Work and Pensions assessments provision. If a consultation is required, it will take place at a time and place that suits the needs of the individual. Consultations will take place primarily over the phone with individuals having the option to request that it take place in person at a time and place that suits them, including at home or a separate location of their choosing.

46. We will be taking a multi-channel approach to how consultations take place, including telephone and video calls. This will allow individuals who are unable to travel easily to attend consultations, and without them having to travel to unfamiliar locations. On the other hand, we know that this will not work for everyone which is why when a face to face consultation is required, such as when the individual requests this, individuals will have the option of the consultation taking place face-to-face at a partner location, such as a GP, or the individual's home. This will be available across Scotland and includes remote and island locations.

47. For individuals entitled to the highest rate of the mobility component of Adult Disability Payment, they will also have the option of accessing the Accessible Vehicles and Equipment (AVE) scheme. This is our devolved equivalent of the United Kingdom's Motability scheme which will provide a range of vehicles (including cars, wheelchair accessible vehicles, powered wheelchairs and scooters) and will help to meet the mobility needs of eligible individuals. All leases include insurance, breakdown cover, servicing and road tax. Accredited providers of the AVE Scheme must provide a service which is accessible to all recipients in Scotland of the qualifying allowance, regardless of their circumstances, location or means.

48. We will also ensure that individuals currently leasing a vehicle, wheelchair or scooter from Motability are able to continue to access that vehicle when their case is transferred to Social Security Scotland so that their mobility needs will continue to be met.

Culture

49. Stakeholders have identified potential cultural barriers to applying for Adult Disability Payment. This is because of the close-knit nature of island communities. Although there is research that evidences the positive impact of the support provided by close-knit communities, certain barriers may also be present.

50. The need for privacy and dignity is emphasised by disabled people in remote and island communities, for example, by ensuring that consultations take place in locations that do not identify them as a disabled person or in receipt of benefits.

51. Dignity, fairness and respect underpins how Social Security Scotland will deliver Adult Disability Payment including protecting the privacy of individuals.

Choice and representation

52. We have heard how there are limited options for people living in island and remote communities with regard to leisure activities, support services and support groups, with the importance of choice being a key theme in previous social security and disability assistance consultations. However, such choices are often diminished or non-existent in rural areas.

53. Social Security Scotland local delivery officers will share locations with other services so that they are based where individuals currently go to ensure that individuals can access advice and support in existing island locations. As previously discussed, Social Security Scotland will also offer a multi-channel approach, including telephone, paper-based and face-to-face applications to ensure that people are not isolated through a lack of access to technology.

Implementation

54. A communications strategy and comprehensive guidance has been developed in advance of the national launch of Adult Disability Payment, including information on case transfer. This will ensure that individuals who are eligible and their families, the third sector, local authorities, the education sector and advice providers are aware of Adult Disability Payment, know how to apply, understand the eligibility criteria, and that those currently in receipt of working age disability benefits understand how and when their case will transfer.

55. The communications strategy is linked in with wider Scottish Government initiatives for improving outcomes for disabled people and for remote and island communities. This will ensure that Adult Disability Payment is part of wider efforts to meet the needs of people living in island communities.

Monitoring and Review

56. On-going stakeholder engagement with key organisations will provide the Scottish Government with an opportunity to monitor the impact of the policy.

57. The Communities Analysis Division within the Scottish Government will also run a comprehensive evaluation programme to consider the impact of the changes made to introduce new forms of Scottish disability assistance, with a full suite of equalities data for new applicants. As part of the programme, thematic evaluation projects will be commissioned to examine the impact of key policy changes on the delivery of disability benefits and how this has been experienced by the individual. Initially there will be four core evaluation projects, including one specifically on case transfer.

58. Within the case transfer evaluation project, we will explore the journey and outcomes for individuals transferring from Working Age Disability Living Allowance to Adult Disability Payment, given the differing entitlement rules and award components. Given the on-going nature of the case transfer process, we will ensure that projects are planned and timetabled carefully to allow for relevant learning to be incorporated into the transfer process in the shorter term, but also allow for interaction with parallel projects that may have longer timescales, in order to ensure we have an overall picture of the full case transfer process.

59. The Scottish Ministers have also committed to engaging with, and reporting regular progress to, the Islands Strategic Group to ensure that those representing the interests of island communities and others with experience of the current system, are fairly represented in the development and delivery of the Scottish social security system.

60. The Social Security (Scotland) Act 2018 places a duty on the Scottish Ministers to report annually to the Scottish Parliament on the performance of the Scottish social security system during the previous financial year. The report is to describe what the Scottish Ministers have done in that year to meet the expectations on them set out in the Social Security Charter.

Conclusion

61. Scottish Ministers are aware of the duty to consult island communities before making a material change to any policy, strategy or service which, in the Scottish Ministers' opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities. The impact assessment for the Disability Assistance for Working Age People (Scotland) Regulations 2022 highlighted that living in island and remote communities present unique challenges for disabled people.

62. The introduction of Adult Disability Payment and the case transfer process are expected to have a positive impact on disabled people across Scotland, regardless of location, with a secondary positive impact on their families and carers. Adult Disability Payment will help to address a number of issues raised in the assessments such as the higher cost of living in remote and island communities, and challenges faced in relation to connectivity and accessibility.

63. We have not identified any evidence that the introduction of Adult Disability Payment or the case transfer process will directly or indirectly discriminate against remote and island communities. The Scottish Government has concluded that no further changes to the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendments) (Scotland) Regulations are necessary as a result of this subsequent assessment.

64. The Scottish Government is committed to designing the devolved social security system with people in Scotland. On-going engagement with disabled people, external stakeholders and advisory groups will ensure that the impact of the regulations remain under continuous review.

Authorisation

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