
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 54

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

PART 6

Entitlement under rules relating to age

Determination of an award after the person has reached the relevant age

25.—(1) This regulation applies where—

- (a) the individual—
 - (i) has reached the relevant age, and
 - (ii) is entitled to an award (“the original award”) ^{F1}... of Adult Disability Payment, pursuant to an exception in regulation 23 or 24, and
- (b) the Scottish Ministers are under a duty to make a subsequent determination of their entitlement by way of a determination without an application under regulation 48(a).

(2) The restrictions in paragraph (3) apply in relation to a determination referred to in paragraph (1)(b) where—

^{F2}(a)

- (b) the determination is being made under regulation 48(a) in relation to—
 - (i) a change of circumstances which occurred after the person reached the relevant age, or
 - (ii) a material fact which the Scottish Ministers were not previously aware of, or medical evidence received from a healthcare professional or other person approved by the Scottish Ministers, where the Scottish Ministers become aware of the material fact or medical evidence after the individual reached the relevant age.

(3) The restrictions referred to in paragraph (2) are—

- (a) where the original mobility component award is for the standard rate then, regardless of whether the award would otherwise have been for the enhanced rate, the Scottish Ministers—
 - (i) may only make an award for the standard rate of that component, and
 - (ii) may only make such an award where entitlement results from substantially the same condition or conditions in respect of which the mobility component in the original award was given,
- (b) where the original mobility component award is for the enhanced rate, the Scottish Ministers may only award that rate of that component where entitlement results from substantially the same condition or conditions in respect of which the mobility component in the original award was given.

Changes to legislation: *The Disability Assistance for Working Age People (Scotland) Regulations 2022, Section 25 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- [^{F3}(c) where the original award did not include an award of the mobility component, the Scottish Ministers may not award that component at either the standard or enhanced rate.]
- (4) Where the original award does not include an award of the mobility component but the individual had—
- (a) a previous award of—
 - (i) the mobility component of Adult Disability Payment,
 - (ii) the mobility component of Personal Independence Payment, or
 - (iii) the mobility component of Disability Living Allowance, and
 - (b) the previous award of the component under sub-paragraph (a) ceased no more than 1 year prior to the date on which the determination referred to in paragraph (1)(b) takes or would take effect,

for the purpose of this regulation, entitlement under that previous award is to be treated as if it were under the original award.

(5) Paragraph (2)(b)(ii) does not include medical evidence in the form of a clinical judgement which was made in accordance with regulation 26(7) and (8) before the individual reached the relevant age.

- (6) In this regulation, “healthcare professional” means a—
- (a) registered medical practitioner,
 - (b) registered nurse, or
 - (c) healthcare professional who is registered by the Health and Care Professions Council.

Textual Amendments

- F1** Words in [reg. 25\(1\)\(a\)\(ii\)](#) omitted (29.8.2022) by virtue of [The Disability Assistance for Working Age People \(Transitional Provisions and Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/217\)](#), [regs. 1\(1\)](#), [19\(6\)\(a\)](#)
- F2** [Reg. 25\(2\)\(a\)](#) omitted (29.8.2022) by virtue of [The Disability Assistance for Working Age People \(Transitional Provisions and Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/217\)](#), [regs. 1\(1\)](#), [19\(6\)\(b\)](#)
- F3** [Reg. 25\(3\)\(c\)](#) inserted (29.8.2022) by [The Disability Assistance for Working Age People \(Transitional Provisions and Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/217\)](#), [regs. 1\(1\)](#), [19\(6\)\(c\)](#)

Commencement Information

- I1** [Reg. 25](#) in force at 21.3.2022, see [reg. 1](#)

Changes to legislation:

The Disability Assistance for Working Age People (Scotland) Regulations 2022, Section 25 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 4(ba) inserted by [S.S.I. 2024/141 reg. 12\(3\)](#)
- reg. 26(12)(a)(iia) inserted by [S.S.I. 2024/141 reg. 12\(4\)](#)