

SCOTTISH STATUTORY INSTRUMENTS

2022 No. 54

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

PART 9

Making of applications and payments and duration of eligibility

When a decrease in level or cessation of entitlement takes effect

46.—(1) Where, as a result of determination without an application, the amount of Adult Disability Payment payable in respect of an individual is decreased or their entitlement to a component is ceased, the change takes effect—

- (a) in the case of a decrease pursuant to a determination made under regulation [^{F1}48(c), 48(d) or 48(e)] (determination following change of circumstances etc.) on the day after the day on which Personal Independence Payment [^{F2}or Disability Living Allowance] ceased to be paid in respect of the individual,
- [^{F3}(aa) in the case of a determination without application under regulation 48(b), on the date of the individual's death,]
- (b) in the case of a determination without application under regulation 47 or 48(a), on the date—
 - (i) where the individual was required to notify a change under section 56 of the 2018 Act, if the individual—
 - (aa) knowingly fails to notify a change, or
 - (bb) fails to notify the change as soon as reasonably practicable after it occurred, the individual should have notified the Scottish Ministers of the change, or
 - (ii) in any other case, the Scottish Ministers make the determination,
- (c) in the case of an earlier determination which was based on official error ^{F4}... within the meaning of regulation 49 (determination following official error – underpayments) or on error within the meaning of regulation 50 (determination following error – overpayments), on the date when the earlier determination took effect,
- (d) in any other case, on the date when the Scottish Ministers make the determination.

(2) Where the Scottish Ministers consider that in all the circumstances it would be unjust not to do so, they may, when making their determination, set a later date for the purposes of paragraph (1) (b), (c) or (d).

Textual Amendments

- F1** Words in [reg. 46\(1\)\(a\)](#) substituted (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\(9\)\(a\)\(i\)](#)

Changes to legislation: *The Disability Assistance for Working Age People (Scotland) Regulations 2022, Section 46 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*

- F2** Words in reg. 46(1)(a) 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(9)(a)(ii)**
- F3** Reg. 46(1)(aa) inserted (20.11.2023) by The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 (S.S.I. 2023/346), regs. 1, **4(3)**
- F4** Words in reg. 46(1)(c) 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(9)(b)**

Modifications etc. (not altering text)

- C1** Reg. 46 excluded (20.11.2023) by S.S.I. 2022/217, reg. 16(2) (as substituted by The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 (S.S.I. 2023/346), regs. 1, **5(7)**)

Commencement Information

- I1** Reg. 46 in force at 21.3.2022, see **reg. 1**

Changes to legislation:

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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\(4\)](#)