
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends social security legislation in the United Kingdom as a consequence of section 31 (disability assistance) and, insofar as it extends to Northern Ireland only, sections 24 (duty to give assistance), 28 (carer’s assistance), 30 (winter heating assistance) and 36 (short-term assistance) of the Social Security (Scotland) Act 2018 ([asp 9](#)) (“the 2018 Act”) and regulations made under sections 28 and 31 of the 2018 Act. The regulations in relation to which consequential provision is made in this Order are the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019 ([S.S.I. 2019/324](#)), made under section 28 of the 2018 Act. Article 1(2) provides that this Order comes into force on 26th July 2021.

Part 2 applies across the United Kingdom and makes provision to include persons in receipt of disability assistance within the definition of a “disabled person” for the purposes of rules relating to the treatment of property held in trust for the benefit of a disabled person under Chapter 4 of Part 3 of the Inheritance Tax Act 1984 ([c.51](#)), or held in trust for the benefit of a disabled person under the Finance Act 2005 ([c.7](#)).

The Individual Savings Account Regulations 1998 ([S.I. 1998/1870](#)) and the Child Trust Funds Regulations 2004 ([S.I. 2004/1450](#)) are amended to permit applications to be made to Her Majesty’s Revenue and Customs to allow withdrawal from Individual Savings Accounts or Child Trust Funds in respect of children who are terminally ill within the meaning of the 2018 Act.

The Income Tax (Earnings and Pensions) Act 2003 ([c.1](#)) is amended so that income tax does not arise in respect of the provision of childcare by an employer, where the child is in receipt of disability assistance for children and young people in accordance with regulations made under section 31 of the 2018 Act.

Consequential amendments are also made to the Finance Act 1994 ([c.9](#)), the Vehicle Excise and Registration Act 1994 ([c.22](#)), the Value Added Tax Act 1994 ([c.23](#)), and the Capital Allowances Act 2001 ([c.2](#)), as regards the mobility component of disability assistance. These amendments ensure that persons in receipt of the mobility component of disability assistance and who are (i) users of the Accessible Vehicles and Equipment Scheme (the equivalent scheme in Scotland to the Motability Scheme) or (ii) registered keepers of a vehicle, benefit from the same tax exemptions, zero-rating and vehicle excise duty concessions applicable to persons in receipt of the mobility component of Disability Living Allowance or Personal Independence Payments.

Part 3 provides for disability assistance to be disregarded as capital or income in Great Britain when determining a claimant’s entitlement to benefits under the Income Support (General) Regulations 1987 ([S.I. 1987/1967](#)), the Jobseeker’s Allowance Regulations 1996 ([S.I. 1996/207](#)), the State Pension Credit Regulations 2002 ([S.I. 2002/1792](#)), the Housing Benefit Regulations 2006 ([S.I. 2006/213](#)), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 ([S.I. 2006/214](#)), and the Employment and Support Allowance Regulations 2008 ([S.I. 2008/794](#)).

Parts 4, 5, 6 and 7 provide, respectively, for disability assistance, young carer grants, short-term assistance and winter heating assistance to be disregarded as income or capital in Northern Ireland when determining a claimant’s entitlement to benefits under the Income Support (General) Regulations (Northern Ireland) 1987 ([S.R. 1987 No. 459](#)), the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 ([S.R. 1996 No. 198](#)), the State Pension Credit Regulations (Northern Ireland) 2003 ([S.R. 2003 No. 28](#)), the Housing Benefit Regulations (Northern Ireland) 2006 ([S.R. 2006 No. 405](#)), the Housing Benefit (Persons who have attained the qualifying age for state pension

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 No. 886*

credit) Regulations (Northern Ireland) 2006 ([S.R. 2006 No. 406](#)), the Employment and Support Allowance Regulations (Northern Ireland) 2008 ([S.R. 2008 No. 280](#)), and (in Parts 5 and 7) the Universal Credit Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 216](#)).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.