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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021

PART 2

Disability assistance: England and Wales, Scotland and Northern Ireland

*Disability assistance: amendments relating to taxation excluding taxation as regards motor vehicles*

**Amendment of the Inheritance Tax Act 1984**

2.—(1) The Inheritance Tax Act 1984<sup>(1)</sup> is amended as follows.

(2) In section 89A (self-settlement by person expected to fall within the definition of “disabled person”)<sup>(2)</sup>—

(a) in subsection (5)—

(i) in paragraph (a), after “allowance,” insert “disability assistance,”,

(ii) at the end of paragraph (b), omit “and”,

(iii) at the end of paragraph (c), omit the full stop and insert—

“, and

(d) that there will be no provision made by regulations under section 31 of the SS(S)A 2018 for the reduction of the value of a payment of disability assistance to £0 when the person is—

(i) resident in a care home,

(ii) resident in an educational establishment,

(iii) undergoing medical or other treatment as an in-patient in a hospital or similar institution, or

(iv) undergoing imprisonment or detention in legal custody.”,

(b) in subsection (8)—

(i) before the definition of “SSCBA 1992”, insert—

““disability assistance” means disability assistance given in accordance with regulations made under section 31 of the SS(S)A 2018.”,

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<sup>(1)</sup> 1984 c.51.

<sup>(2)</sup> Section 89A was added by paragraph 6(1) of Schedule 20 to the Finance Act 2006 (c.25), and relevantly amended by paragraph 7 of Schedule 44 to the Finance Act 2013 (c.29).

- (ii) at the end of the definition of “SSCB(NI)A 1992”, omit “and”,
- (iii) after that definition insert—

““SS(S)A 2018” means the Social Security (Scotland) Act 2018(3), and”.

### **Amendment of the Individual Savings Account Regulations 1998**

3.—(1) The Individual Savings Account Regulations 1998(4) are amended as follows.

(2) In regulation 4ZE (permitted withdrawals from a junior ISA account where the named child is terminally ill)(5)—

(a) in paragraph (2)(b), in Case 1—

- (i) in paragraph (i), omit “or Scotland”,
- (ii) at the end of paragraph (i), omit “or”,
- (iii) at the end of paragraph (ii) omit the full stop and insert—

“, or

(iii) in Scotland, falls within either of the provisions mentioned in paragraph (i), or is to be regarded as having a terminal illness in accordance with regulations for disability assistance for children and young people made under section 31 of the Social Security (Scotland) Act 2018.”,

(b) in paragraph (6)—

- (i) in sub-paragraph (a), omit “and Scotland”,
- (ii) at the end of sub-paragraph (a), omit “or”,
- (iii) at the end of sub-paragraph (b), omit the full stop and insert—

“, or

(c) for Scotland, in either of the provisions mentioned in sub-paragraph (a), or as set out in regulations for disability assistance for children and young people made under section 31 of the Social Security (Scotland) Act 2018.”.

### **Amendment of the Income Tax (Earnings and Pensions) Act 2003**

4.—(1) The Income Tax (Earnings and Pensions) Act 2003(6) is amended as follows.

(2) In section 318B (childcare: meaning of “care”, “child” and “parental responsibility”)(7), after subsection (3)(a), insert—

“(aa) disability assistance is given in respect of the child in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018.”.

### **Amendment of the Child Trust Funds Regulations 2004**

5.—(1) The Child Trust Funds Regulations 2004(8) are amended as follows.

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(3) 2018 asp 9.

(4) S.I. 1998/1870; relevant amending instruments are S.I. 2011/1780 and S.I. 2014/654.

(5) Regulation 4ZE was added by regulation 8 of S.I. 2011/1780, and relevantly amended by S.I. 2014/654.

(6) 2003 c.1.

(7) Sections 318 to 318D were substituted for section 318 by paragraph 1 of Schedule 13 to the Finance Act 2004 (c.12). There are amendments to section 318B which are not relevant to this Order.

(8) S.I. 2004/1450; relevant amending instruments are S.I. 2004/2676 and S.I. 2014/649.

(2) In regulation 18A (permitted withdrawals from an account where the child is terminally ill)<sup>(9)</sup>—

(a) in paragraph (2)(b), in Case 1—

(i) in paragraph (i), omit “or Scotland”,

(ii) at the end of paragraph (i), omit “or”,

(iii) at the end of paragraph (ii), omit the full stop and insert—

“; or

(iii) in Scotland, falls within either of the provisions mentioned in paragraph (i), or is to be regarded as having a terminal illness, in accordance with regulations for disability assistance for children and young people made under section 31 of the Social Security (Scotland) Act 2018.”,

(b) in paragraph (6)—

(i) in sub-paragraph (a), for “England, Wales and Scotland” substitute “England and Wales”,

(ii) at the end of sub-paragraph (a), omit “or”,

(iii) at the end of sub-paragraph (b), omit the full stop and insert—

“; or

(c) for Scotland, as set out in regulations made under section 31 of the Social Security (Scotland) Act 2018.”.

### **Amendment of the Finance Act 2005**

**6.**—(1) The Finance Act 2005<sup>(10)</sup> is amended as follows.

(2) In Schedule 1A (meaning of “disabled person”)<sup>(11)</sup>—

(a) in paragraph 1, after sub-paragraph (c), insert—

“(ca) a person in receipt of disability assistance for children and young people by virtue of entitlement to—

(i) the care component at the highest or middle rate in accordance with regulations made under section 31 of the SS(S)A 2018, or

(ii) the mobility component at the higher rate in accordance with regulations made under section 31 of the SS(S)A 2018.”,

(b) after paragraph 3, insert—

#### *“Disability assistance for children and young people*

**3A.** A person (“A”) is to be treated as a disabled person under paragraph 1(ca) if A satisfies HMRC that A would be entitled to receive disability assistance for children and young people by virtue of entitlement to the care component at the highest or middle rate, or to the mobility component at the higher rate, but for provision made by regulations under section 31 of the SS(S)A 2018 for—

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<sup>(9)</sup> Regulation 18A was added by regulation 12 of [S.I. 2004/2676](#), and relevantly amended by [S.I. 2014/649](#).

<sup>(10)</sup> [2005 c.7](#).

<sup>(11)</sup> Schedule 1A was added by paragraph 19 of Schedule 44 to the Finance Act [2013 \(c.29\)](#), and relevantly amended by section 291(2) of the Finance Act [2014 \(c.26\)](#).

- (a) the cessation of entitlement to disability assistance during periods when a person does not meet the conditions as to residence and presence prescribed by regulations made under that section, or
- (b) the reduction of the value of a payment of disability assistance to £0 when a person is—
  - (i) resident in a care home,
  - (ii) resident in an educational establishment, or
  - (iii) undergoing detention in legal custody.”,
- (c) in paragraph 8—
  - (i) after the definition of “constant attendance allowance”, insert—
    - ““disability assistance” means disability assistance given in accordance with regulations made under section 31 of the SS(S)A 2018,
    - “disability assistance for children and young people” means a category of disability assistance specifically for children and young people,”,
  - (ii) after the definition of “SSCB(NI)A 1992”, insert—
    - ““SS(S)A 2018” means the Social Security (Scotland) Act 2018,”.