
STATUTORY INSTRUMENTS

1991 No. 2890

The Social Security (Disability Living Allowance) Regulations 1991

PART II

GENERAL

[^{F1}Persons with an ongoing claim for disability living allowance: effect of move to Scotland

2ZB.—(1) This regulation applies where a new DLA claimant has an ongoing claim for disability living allowance on the residence change date.

(2) For the purposes of this regulation—

(a) “new DLA claimant” means a person who—

- (i) does not have an award of disability living allowance,
- (ii) makes a claim for disability living allowance and is under the age of 16 on the date on which they make that claim (“the claim date”),
- (iii) is, or in accordance with regulation 2(2), (2A) or (3B) is treated for the purposes of regulation 2(1)(a)(ii) as, present in England and Wales on the claim date,
- (iv) becomes permanently resident in Scotland after the claim date and on or after 7th July 2023, and
- (v) is, or in accordance with regulation 2(2), (2A) or (3B) is treated for the purposes of regulation 2(1)(a)(ii) as, present in England and Wales at the end of the day preceding the residence change date;

(b) a new DLA claimant has an ongoing claim for disability living allowance on the residence change date if their claim for disability living allowance has not—

- (i) been decided by the Secretary of State under section 8 of the 1998 Act before that date,
- (ii) been withdrawn in accordance with regulation 5(2) of the Claims and Payments Regulations before that date, or
- (iii) otherwise ceased, before that date, to be under consideration before being decided by the Secretary of State under section 8 of the 1998 Act.

(3) The Secretary of State must make a decision under section 8 of the 1998 Act on the new DLA claimant’s claim for disability living allowance, unless the new DLA claimant withdraws the claim in accordance with regulation 5(2) of the Claims and Payments Regulations.

(4) For the purposes of the Secretary of State making such a decision, regulation 2 applies as if the amendments made to that regulation by the Scotland Act 2016 (Social Security) (Disability Living Allowance) (Amendment) Regulations 2023 had not been made.

(5) If the Secretary of State determines that the new DLA claimant is entitled to disability living allowance—

- (a) the new DLA claimant is to be treated as satisfying the condition in regulation 2(1)(a)(ii) until the end of the transfer day, and
- (b) if—
 - (i) the new DLA claimant has an award of any component of disability living allowance which is for a fixed term period, and
 - (ii) the fixed term period is due to expire before the end of the transfer day, the fixed term period is extended so that it expires at the end of the transfer day.
- (6) In this regulation—
 - (a) “the transfer day”, in relation to a person, means—
 - (i) the final day of the run-on period, or
 - (ii) if earlier, the day preceding the day on which the person’s entitlement to Child Disability Payment begins in accordance with regulation 24 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021;
 - (b) any reference to the date on which a person makes a claim for disability living allowance (however expressed) is to be construed in accordance with regulation 6 of the Claims and Payments Regulations.]

Textual Amendments

- F1** [Regs. 2ZA, 2ZB](#) inserted (7.7.2023) by [The Scotland Act 2016 \(Social Security\) \(Disability Living Allowance\) \(Amendment\) Regulations 2023 \(S.I. 2023/664\)](#), regs. 1(1), **2(5)**

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Disability Living Allowance) Regulations 1991, Section 2ZB.