

**2021 No. 1188**

**CONSTITUTIONAL LAW**

**DEVOLUTION, SCOTLAND**

**SOCIAL SECURITY**

**The Social Security (Scotland) Act 2018 (Information-Sharing  
and Disability Assistance) (Consequential Provision and  
Modifications) Order 2021**

<i>Made</i> - - - -	<i>26th October 2021</i>
<i>Laid before Parliament</i>	<i>28th October 2021</i>
<i>Coming into force</i> - -	<i>22nd November 2021</i>

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(2), (3) and (5) of the Scotland Act 1998(a).

**PART 1**

**Introductory**

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Social Security (Scotland) Act 2018 (Information-Sharing and Disability Assistance) (Consequential Provision and Modifications) Order 2021.

(2) This Order comes into force on 22nd November 2021.

(3) Article 3 extends to England and Wales and to Scotland only.

(4) Article 4 extends to Scotland and to Northern Ireland only.

(5) Each amendment made by articles 5 to 13 has the same extent as the provision being amended.

**Interpretation**

**2.** In this Order, “the 2018 Act” means the Social Security (Scotland) Act 2018(b).

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(a) 1998 c. 46; section 104 was relevantly amended by section 12 of the Scotland Act 2012 (c. 11).

(b) 2018 asp 9.

## PART 2

### Information-sharing

#### **Information-sharing: Secretary of State**

**3.**—(1) This paragraph applies to information which is held by the Secretary of State in connection with determining any of the following—

- (a) whether a person fulfils the requirements set out in regulation 9(4B) (minimum ages for holding or obtaining licences) of the Motor Vehicles (Driving Licences) Regulations 1999(a),
- (b) whether a disabled person satisfies paragraph 19(2)(aaa) (vehicles for disabled people) of Schedule 2 (exempt vehicles) to the Vehicle Excise and Registration Act 1994(b).

(2) Information to which paragraph (1) applies may be supplied by the Secretary of State to the Scottish Ministers to enable the Scottish Ministers to supply, under paragraph (4), information required in connection with determining the matters mentioned in paragraph (1).

(3) This paragraph applies to information which is held by the Scottish Ministers for the purpose of a relevant Scottish social security function.

(4) Information to which paragraph (3) applies may be supplied by the Scottish Ministers to the Secretary of State for use for the purpose of determining the matters mentioned in paragraph (1).

(5) In paragraphs (1) to (4)—

- (a) references to the Secretary of State include a person providing services to the Secretary of State,
- (b) references to the Scottish Ministers include a person providing services to the Scottish Ministers.

(6) Information supplied under this article must not be supplied by the recipient of the information to any other person without—

- (a) the authority of the Secretary of State, in the case of information supplied under paragraph (2),
- (b) the authority of the Scottish Ministers, in the case of information supplied under paragraph (4).

(7) Where information supplied under this article has been used for the purpose for which it was supplied, it is lawful for the information to be used by the recipient for any other purposes for which information held for that purpose could be used.

(8) In this article, “relevant Scottish social security function” means a function of the Scottish Ministers under regulations made under section 31 (disability assistance) of the 2018 Act.

#### **Information-sharing: Department for Communities in Northern Ireland**

**4.**—(1) Information held by the Department for Communities for the purpose of a social security function may be supplied by the Department for Communities to the Scottish Ministers for use for the purpose of a relevant Scottish social security function.

(2) Where information supplied to the Scottish Ministers under paragraph (1) has been used for the purpose of a relevant Scottish social security function, it is lawful for the Scottish Ministers to use the information for any other purposes for which information held by them for that purpose could be used.

(3) Information held by the Scottish Ministers for the purpose of a relevant Scottish social security function may be supplied by them to the Department for Communities for use for the purpose of a social security function.

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(a) S.I. 1999/2864; relevant amending instrument is S.I. 2013/2184. Paragraph (4B) is added by article 5 of this Order.

(b) 1994 c. 22; paragraph 19(2)(aaa) was inserted by article 8 of S.I. 2021/886.

(4) Where information supplied to the Department for Communities under paragraph (3) has been used for the purpose of a social security function, it is lawful for the Department for Communities to use the information for any other purposes for which information held by the Department for that purpose could be used.

(5) In paragraphs (1) to (4)—

- (a) references to the Department for Communities include a person providing services to the Department for Communities,
- (b) references to the Scottish Ministers include a person providing services to the Scottish Ministers.

(6) Information supplied under this article must not be supplied by the recipient of the information to any other person without—

- (a) the authority of the Department for Communities, in the case of information supplied under paragraph (1),
- (b) the authority of the Scottish Ministers, in the case of information supplied under paragraph (3).

(7) In this article—

“Department for Communities” means the Department for Communities in Northern Ireland,

“social security function” means a function of the Department for Communities relating to social security,

“relevant Scottish social security function” means a function of the Scottish Ministers under the 2018 Act and any regulations made under it.

## PART 3

### Modifications

#### **Amendment of the Motor Vehicles (Driving Licences) Regulations 1999**

**5.—**(1) The Motor Vehicles (Driving Licences) Regulations 1999<sup>(a)</sup> are amended as follows.

(2) In regulation 9 (minimum ages for holding or obtaining licences)—

- (a) at the end of paragraph (4)(a), omit “or”,
- (b) after paragraph (4)(a), insert—
  - “(aa) who fulfils the requirements set out in paragraph (4B); or”,
- (c) after paragraph (4A)<sup>(b)</sup>, insert—

“(4B) The requirements referred to in paragraph (4)(aa) are—

- (a) the person has received an award of the mobility component of disability assistance for children and young people, at the higher rate, in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018, and
- (b) the award mentioned in sub-paragraph (a) was in force immediately before the 16th birthday of that person.”.

#### **Amendment of the Representation of the People (Scotland) Regulations 2001**

**6.—**(1) The Representation of the People (Scotland) Regulations 2001<sup>(c)</sup> are amended as follows.

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(a) S.I. 1999/2864; relevant amending instrument is S.I. 2013/2184.

(b) Paragraph (4A) was inserted by S.I. 2013/2184.

(c) S.I. 2001/497; relevant amending instruments are S.I. 2007/925, S.I. 2013/388 and S.I. 2013/591.

(2) In regulation 53(5)(b) (additional requirements for applications for a proxy vote for a particular or indefinite period on grounds of blindness or any other disability)—

- (a) after “2011”, for “or” substitute “,”,
- (b) after “Welfare Reform Act 2012”, insert—

“or the higher rate of the mobility component of disability assistance for children and young people (payable in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018(a))”.

#### **Amendment of the Representation of the People (England and Wales) Regulations 2001**

**7.**—(1) The Representation of the People (England and Wales) Regulations 2001(b) are amended as follows.

(2) In regulation 53(5)(b) (additional requirements for applications for a proxy vote for a definite or indefinite period on grounds of severe sight-impairment or any other disability)—

- (a) after “2011”, for “or” substitute “,”,
- (b) after “Welfare Reform Act 2012”, insert—

“or the higher rate of the mobility component of disability assistance for children and young people (payable in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018)”.

#### **Amendment of the Representation of the People (Northern Ireland) Regulations 2008**

**8.**—(1) The Representation of the People (Northern Ireland) Regulations 2008(c) are amended as follows.

(2) In regulation 57(4)(b) (additional requirements for applications on grounds of blindness or other disability)—

- (a) at the end of paragraph (iii), omit “or”,
- (b) at the end of paragraph (iv), insert “or”,
- (c) after paragraph (iv), insert—

“(v) the higher rate of the mobility component of disability assistance for children and young people (payable in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018),”.

#### **Amendment of the Recall of MPs Act 2015 (Recall Petition) Regulations 2016**

**9.**—(1) The Recall of MPs Act 2015 (Recall Petition) Regulations 2016(d) are amended as follows.

- (2) In regulation 3 (interpretation), after the definition of “the 2000 Act”, insert—  
““the 2018 Act” means the Social Security (Scotland) Act 2018;”.

(3) In regulation 64(5)(b) (additional requirements for applications for a proxy signature for a definite or an indefinite period on grounds of blindness or other disability: England and Wales and Scotland)—

- (a) at the end of paragraph (ii), omit “or”,
- (b) at the end of paragraph (iii), insert “or”,

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(a) 2018 asp 9.

(b) S.I. 2001/341; relevant amending instruments are S.I. 2006/2910, S.I. 2013/388 and S.I. 2013/591.

(c) S.I. 2008/1741; relevant amending instruments are S.I. 2010/278, S.I. 2013/3021 and S.R. 2016 No. 228.

(d) S.I. 2016/295.

(c) after paragraph (iii), insert—

“(iv) the higher rate of the mobility component of disability assistance for children and young people (payable in accordance with regulations made under section 31 of the 2018 Act),”.

(4) In regulation 65(4)(b) (additional requirements for applications for a proxy signature for an indefinite period on grounds of blindness or other disability: Northern Ireland)—

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

(b) at the end of paragraph (iii), insert “or”,

(c) after paragraph (iii), insert—

“(iv) the higher rate of the mobility component of disability assistance for children and young people (payable in accordance with regulations made under section 31 of the 2018 Act),”.

## PART 4

### Social Security

#### **Amendment of the Housing Benefit Regulations 2006**

**10.**—(1) The Housing Benefit Regulations 2006(a) are amended as follows.

(2) In regulation 75F(1)(f)(b) (exception to the benefit cap: receipt of specified benefit)—

(a) in the opening words, after “(e)”, insert “, (eza)”,

(b) after paragraph (iv), insert—

“(v) that person is not receiving it under regulation 17 (effect of admission to a care home on ongoing entitlement to care component) of the DACYP Regulations;”.

#### **Amendment of the Housing Benefit Regulations (Northern Ireland) 2006**

**11.**—(1) The Housing Benefit Regulations (Northern Ireland) 2006(c) are amended as follows.

(2) In regulation 73F(1)(g)(d) (exception to the benefit cap: receipt of specified benefit)—

(a) in the opening words, after “(e),”, insert “(eza),”,

(b) after head (iv), insert—

“(v) that person is not receiving it under regulation 17 (effect of admission to a care home on ongoing entitlement to care component) of the DACYP Regulations;”.

#### **Amendment of the Universal Credit Regulations 2013**

**12.**—(1) The Universal Credit Regulations 2013(e) are amended as follows.

(2) In regulation 83(1)(h) (exceptions – entitlement or receipt of certain benefits)—

(a) in the opening words, after “(g)”, insert “and (ha)”,

(b) after paragraph (iv), insert—

“(v) is not receiving it by virtue of regulation 17 (effect of admission to a care home on ongoing entitlement to care component) of the DACYP Regulations;”.

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(a) S.I. 2006/213.

(b) Regulation 75F was inserted by S.I. 2012/2994 and relevantly amended by S.I. 2021/786.

(c) S.R. 2006 No. 405.

(d) Regulation 73F was inserted by S.R. 2016 No. 55 and relevantly amended by S.R. 2016 No. 228 and S.I. 2021/786.

(e) S.I. 2013/376; relevant amending instruments are S.I. 2013/630, S.I. 2016/909 and S.I. 2021/786.

**Amendment of the Universal Credit Regulations (Northern Ireland) 2016**

**13.**—(1) The Universal Credit Regulations (Northern Ireland) 2016<sup>(a)</sup> are amended as follows.

(2) In regulation 83(1)(i) (exceptions – entitlement or receipt of certain benefits)—

(a) in the opening words, after “(h)”, insert “and (ia)”,

(b) after head (iv), insert—

“(v) is not receiving it by virtue of regulation 17 (effect of admission to a care home on ongoing entitlement to care component) of the DACYP Regulations;”.

26th October 2021

*Alister Jack*  
Secretary of State  
Office of the Secretary of State for Scotland

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<sup>(a)</sup> S.R. 2016 No. 216; relevant amending instruments are S.R. 2018 No. 92 and S.I. 2021/786.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

In consequence of the range of information necessary for the appropriate administration of social security functions, this Order provides a mechanism for the sharing of information relevant to devolved Scottish social security functions between the Scottish Ministers and the Secretary of State, and the Scottish Ministers and the Department for Communities in Northern Ireland. It also amends motor vehicles, electoral and social security legislation as a consequence of the provision of disability assistance for children and young people in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018 (asp 9).

Article 3 contains a power to allow the Scottish Ministers and the Secretary of State to share information with each other in relation to determining the entitlement of an individual to obtain a driving licence for a small vehicle at the age of 16, or to an exemption from liability to pay vehicle tax, as a result of being in receipt of the mobility component of disability assistance for children and young people, at the higher rate.

Article 4 contains a power to allow the Scottish Ministers and the Department for Communities to share information with each other which is relevant to the exercise of devolved social security functions.

Any information supplied under articles 3 or 4 must not be passed on without the authorisation of the person who supplied the information. Once supplied, information may be used by the recipient for any other purposes for which information held for the purpose for which it is supplied could be used compatibly. Section 123 (unauthorised disclosure of information relating to particular persons) of the Social Security Administration Act 1992 (c. 5) applies to the disclosure of information under article 3. Section 117 (unauthorised disclosure of information relating to particular persons) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) applies to the disclosure of information under article 4. This helps safeguard against inappropriate disclosure of information by any person who is or has been employed in social security administration or adjudication.

Article 5 makes amendments to motor vehicles regulations to provide that receipt of the mobility component of disability assistance for children and young people, at the higher rate, is among the forms of benefit which entitle a person to early acquisition of a driving licence, at the age of 16.

Articles 6 to 9 make amendments to electoral regulations to provide that receipt of the mobility component of disability assistance for children and young people, at the higher rate, is among the forms of benefit which entitle a person to apply to vote by proxy, and to sign by proxy a petition for recall of an MP, without the need for attestation of an application.

Articles 10 to 13 make amendments to social security regulations to allow ongoing exemption from the benefit cap where an individual is entitled to the care component of Child Disability Payment, but is not in receipt of this because they have become a resident of a care home.

The Disability Assistance for Children and Young People (Scotland) Regulations 2021 (S.S.I. 2021/174) made under section 31 of the Social Security (Scotland) Act 2018 (asp 9) introduce arrangements for the payment of disability assistance for children and young people in the form of a “Child Disability Payment”. The Child Disability Payment replaces the disability living allowance for children residing in Scotland.

Child Disability Payment is only available to children and young people residing in Scotland. However, the Scottish Government will continue to make payment of Child Disability Payment to any child or young person who relocates from Scotland to another part of the United Kingdom for a period of 13 weeks, from the date of the move, to allow for an application for disability living allowance to be processed.

A full Impact Assessment has not been produced for this order as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

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