

## EXPLANATORY MEMORANDUM TO

### THE SOCIAL SECURITY (DISABILITY ASSISTANCE FOR WORKING AGE PEOPLE) (CONSEQUENTIAL AMENDMENTS) (NO. 2) ORDER 2022

2022 No. 530

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (SI 2022/177)<sup>1</sup> made consequential amendments to GB and Northern Ireland legislation to reflect the introduction of Adult Disability Payment (ADP) which will replace Personal Independence Payment (PIP) in Scotland.
- 2.2 This instrument makes provision to correct a number of minor drafting errors in SI 2022/177.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales, Scotland, and Northern Ireland.
- 4.2 The territorial application of this instrument is the same as its extent.

#### 5. European Convention on Human Rights

- 5.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

#### 6. Legislative Context

- 6.1 Section 104 of the Scotland Act 1998<sup>2</sup> (“the 1998 Act”) allows consequential modifications to be made to UK legislation where necessary or expedient in consequence of any provision made by or under an Act of the Scottish Parliament.
- 6.2 Section 31 of the Social Security (Scotland) Act 2018 allows the Scottish Ministers to provide Disability Assistance which will, in time, replace the extra-costs disability benefits which are currently delivered by the UK Government in Scotland. These disability benefits, or components of them, can be qualifying benefits to determine entitlement to premiums or additional amounts payable in reserved income-related benefits.

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<sup>1</sup> <https://www.legislation.gov.uk/uksi/2022/177/made>

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/1998/46/contents>.

- 6.3 The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (SI 2022/177) made consequential amendment to GB and Northern Ireland legislation and came into force on 21 March 2022. However, there are a number of drafting errors in that Order which need to be corrected. Most of these are minor typographical errors, but one is of substance and therefore requires correction through this Order. The correction of substance is as follows. Article 25(7)(e)(ii) of the original Order inserts the words “the daily living component of adult disability payment at the standard or enhanced rate in accordance with regulation 5 of the Disability Assistance for”, into Schedule 4 (applicable amounts), paragraph 6(6)(a) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006. The insertion is incomplete and misses the final words which are “for Working Age People (Scotland) Regulations 2022”.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (SI 2022/177) made amendments to GB and Northern Ireland legislation to ensure that the Scottish Government’s Adult Disability Payment will be treated in the same way as PIP for reserved benefits. SI 2022/177 came into force on 21 March 2022.
- 7.2 SI 2022/177 contains a number of minor drafting errors which this instrument corrects.
- 7.3 There is no change from the original explanatory memorandum that accompanied SI 2022/177 and this explanatory memorandum should be read as an addendum to the original explanatory memorandum.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 The amendments made in SI 2022/177, and the drafting corrections made in this instrument, will be consolidated in due course within the published legislation at [www.legislation.gov](http://www.legislation.gov). In Northern Ireland they will be informally consolidated in the Law relating to Social Security (Northern Ireland) or (“Blue Volumes”). It will be available to the public at no cost via the internet at: <https://iaccess.communities-ni.gov.uk/sspldbluevolumesinternet/users/internetsearchpage.aspx>

## **10. Consultation outcome**

- 10.1 This instrument corrects drafting errors and consultation is therefore not relevant.

## **11. Guidance**

- 11.1 Relevant guidance covering the amendments in SI 2022/177 is being provided to DWP, local authority staff and the Department for Communities in Northern Ireland. Social Security Scotland will be responsible for providing guidance to its own staff. There is no change from the original explanatory memorandum.

## **12. Impact**

- 12.1 There is no significant, impact on business, charities, or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An impact assessment was not prepared for SI 2022/177 as the amendments in that Order ensure that receipts of ADP are treated the same as people in England and Wales who are receiving PIP or DLA. As this instrument simply corrects drafting errors in SI 2022/177, and there no change from the original explanatory memorandum, an impact assessment is also not required for this instrument.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses and there is no change from the original explanatory memorandum that accompanied SI 2022/177.

## **14. Monitoring & review**

- 14.1 The UK Government will keep this policy covered by SI 2022/177 under review taking account of developments in both the reserved and devolved benefit landscapes. As there is no change from the original explanatory memorandum for SI 2022/177, monitoring and review is not applicable to this instrument.

## **15. Contact**

- 15.1 Anita Silk at the Department for Work and Pensions ([ANITA.SILK@DWP.GOV.UK](mailto:ANITA.SILK@DWP.GOV.UK)) or, with respect to Northern Ireland, Anne McCleary at the Department for Communities ([anne.mccleary@communities-ni.gov.uk](mailto:anne.mccleary@communities-ni.gov.uk)).
- 15.2 Andrew Latto, Deputy Director for Devolution, Pensioner Benefits and Carer's Allowance at the Department for Work and Pensions can confirm that this explanatory memorandum meets the required standard.
- 15.3 The Minister for Disabled People, Health and Work at the Department for Work and Pensions, Chloe Smith MP, can confirm that this explanatory memorandum meets the required standard.