

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT SCOTLAND ACT 2016 (SOCIAL SECURITY)
(CONSEQUENTIAL PROVISION) (MISCELLANEOUS
AMENDMENT) REGULATIONS 2021

Wednesday 30 June 2021

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The Committee consisted of the following Members:

Chair: †DEREK TWIGG

Byrne, Ian (<i>Liverpool, West Derby</i>) (Lab)	† Morris, James (<i>Lord Commissioner of Her Majesty's Treasury</i>)
Caulfield, Maria (<i>Lewes</i>) (Con)	† Rutley, David (<i>Lord Commissioner of Her Majesty's Treasury</i>)
† Chamberlain, Wendy (<i>North East Fife</i>) (LD)	† Tami, Mark (<i>Alyn and Deeside</i>) (Lab)
Davies, David T. C. (<i>Parliamentary Under-Secretary of State for Wales</i>)	Thomson, Richard (<i>Gordon</i>) (SNP)
Davies, Geraint (<i>Swansea West</i>) (Lab/Co-op)	Throup, Maggie (<i>Lord Commissioner of Her Majesty's Treasury</i>)
Dowd, Peter (<i>Bootle</i>) (Lab)	† Tomlinson, Justin (<i>Minister for Disabled People, Health and Work</i>)
† Drummond, Mrs Flick (<i>Meon Valley</i>) (Con)	
Duguid, David (<i>Parliamentary Under-Secretary of State for Scotland</i>)	Seb Newman, <i>Committee Clerk</i>
† Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab)	
Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>)	† attended the Committee
Mann, Scott (<i>Lord Commissioner of Her Majesty's Treasury</i>)	

Sixth Delegated Legislation Committee

Wednesday 30 June 2021

[DEREK TWIGG *in the Chair*]

Draft Scotland Act 2016 (Social Security) (Consequential Provision) (Miscellaneous Amendment) Regulations 2021

2.30 pm

The Chair: Before we begin, I remind Members to observe social distancing, and to sit in the places that are clearly marked as available. I would also like to remind Members that Mr Speaker has stated that face coverings should be worn in Committee unless Members are exempt or are speaking. *Hansard* colleagues would be most grateful if Members could send their speaking notes to hansardnotes@parliament.uk.

The Minister for Disabled People, Health and Work (Justin Tomlinson): I beg to move,

That the Committee has considered the draft Scotland Act 2016 (Social Security) (Consequential Provision) (Miscellaneous Amendment) Regulations 2021.

The regulations will make some necessary legislative changes to prevent overlapping entitlements of the soon to be introduced Scottish child disability payment with UK disability benefits. They will also permit the Department for Work and Pensions to accept the Scottish Government's appointee arrangements for UK Government benefit purposes, thereby reducing the administrative burden for claimants and appointees in dealing with both Governments.

As many hon. Members will know, the UK Government are committed to making devolution work and to ensure the safe and secure transition of powers to the Scottish Government under the Scotland Act 2016. As a result of the devolution of social security powers to the Scottish Parliament under the Act, the DWP will need to update its legislation from time to time to reflect the introduction of the Scottish Government's replacement benefits. Section 71 of the 2016 Act allows for the necessary legislative amendments, in this case as result of benefits introduced under the Social Security (Scotland) Act 2018.

The regulations are technical in nature. They will prevent payment of the Scottish child disability payment overlapping with UK disability benefits such as the disability living allowance for children, the personal independence payment and the armed forces independence payment. They also include some time-limited provisions for Northern Ireland. In addition, the regulations enable the DWP to accept appointees aged 18 or over if they have already been granted appointee status by the Scottish Government. That is a positive change for claimants and staff.

Hon. Members will be aware that the Social Security (Scotland) Act 2018 established the legislative framework for the Scottish Government to introduce new forms of assistance using the social security powers devolved under section 22 of the Scotland Act 2016. Specifically,

section 31 of the 2018 Act allows the Scottish Government to introduce legislation to provide financial support through their disability assistance for people in Scotland with long-term additional health needs.

The Scottish Government have legislated for disability assistance for children and young people, which will be introduced from July 2021. They are calling the assistance child disability payment and I will refer to it as CDP from now on. I understand that CDP will have residency conditions attached, and primarily will only be paid to claimants who live in Scotland. However, as part of their offer, the Scottish Government will continue to pay CDP for a period of 13 weeks after a claimant has left Scotland and moved to another part of the UK. That will allow claimants to sort out new benefit arrangements should they wish to.

If the regulations are passed today, they will ensure that there are clear boundaries between entitlement to CDP and UK Government benefits to ensure that there is no overlapping provision. They will do that by making it clear that entitlement to a relevant UK Government benefit will not start until the day after payment of CDP has ended. That will reflect the Scottish CDP legislation, which also prevents overlap with UK Government benefits. That will not only protect the public purse by avoiding double payment but will also help to prevent the need for complicated overpayment calculations and recovery. Furthermore, it is also in the best interest of the claimant, who will have clearer expectations of which Government are responsible for paying their benefits at which point in their claim or award.

The statutory instrument also includes provision on behalf of the Ministry of Defence to ensure that the armed forces independence payment will similarly not overlap with CDP. Provisions have also been included to prevent overlapping entitlement when a claimant moves to Northern Ireland and is in receipt of the 13-week run-on payment from the Scottish Government. Finally, we also recognise that many DWP claimants will also be claimants of the Scottish Government's devolved provisions. The instrument will make changes to UK Government legislation to allow the DWP to accept that a person over the age of 18 has appointee status, if they have already been granted it by the Scottish Government. That removes unnecessary burdens on the claimant, appointee and the Department through effective and proportional collaboration on information being shared and used by respective Governments.

The UK Government are working collaboratively with the Scottish Government to ensure that the two systems of social security will operate effectively alongside each other, and that the required legislation that underpins them is delivered successfully for the people of Scotland and, where relevant, claimants in England, Wales and Northern Ireland.

I commend the regulations, which highlight the importance that the UK Government place on the effective functioning of devolution, and ask the Committee's approval to implement them.

2.35 pm

Vicky Foxcroft (Lewisham, Deptford) (Lab): It is a pleasure to serve under your chairpersonship, Mr Twigg.

As the Minister rightly outlined, the change in legislation simple removes the potential for any overlap between the disability living allowance and the new Scottish equivalent, CDP. As colleagues may be aware, CDP is due to be piloted in Scotland in Dundee city, Perth and Kinross and the Western Isles for families of children with a disability or long-term health condition. Applications open on 26 July and families in need of financial support should apply to the new Scottish system from that date. It is the first application-based disability benefit to be introduced by the Scottish Government since the transfer of those powers in 2016. The pilot is due to followed by full national roll-out in the autumn. The payments will be managed by Social Security Scotland. CDP will replace the disability living allowance for children, which is currently delivered by the DWP.

The three-area pilot has been designed to provide a further opportunity for feedback and analysis, to ensure that CDP meets the needs of disabled children and their families before its national expansion. Although the Opposition support the payment, my Scottish colleagues and I are concerned that little is being proposed to improve the lives of disabled people. Scottish Labour is of the view that, much like the broader disability allowance, alongside implementation and the transfer of claimants to the new Scottish payment, there should be a review of how the system operates, what eligibility criteria are used and so on. The Scottish Government's intention, however, is to finish the transfer process first, and then begin a review, which is not likely to take place until at least 2023.

The lower rate of the mobility component should be reviewed and revisions made for children in specific impairment groups, such as those with autism, learning difficulties and/or mental health issues. It is also disappointing to note that there is no deviation from the current benefit rates. A full assessment should be made of what level of financial support people need to ensure that they can lead fulfilling lives.

The Scottish Government should take this opportunity to improve the system rather than just replicating existing arrangements and simply moving the administration to Scotland. However, if the administration of the benefit is seen to be easier and more compassionate as a result of bringing it in-house, I want to know what are the Government's plans to learn from that?

Labour will not oppose the SI, but we place on record our desire to have a benefits system that meets the needs of disabled people fully and reflects the increased cost of living that many face. It should also treat disabled people with dignity, allow them to have fulfilling lives and enable them to reach their full potential.

2.39 pm

Justin Tomlinson: I thank the hon. Lady for her helpful contribution and indication of Opposition support for the measure. The broader points raised go beyond the debate, so I will try not to be too tempted, but our forthcoming health and disability Green Paper will consider how we support people through benefits and disability employment. A cross-Government exercise will also address the national disability strategy, which will consider how we all collectively create a more inclusive society and remove barriers. That is for another day.

The Government are committed to the safe and secure transfer of powers to the Scottish Government, and recognise the importance of making timely and necessary changes to our legislation to ensure that the two benefit systems work together effectively. I commend the regulations to the Committee and ask for its approval to implement them.

Question put and agreed.

2.40 pm

Committee rose.

