

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT SOCIAL SECURITY (SCOTLAND) ACT 2018  
(DISABILITY ASSISTANCE FOR CHILDREN AND  
YOUNG PEOPLE) (CONSEQUENTIAL  
MODIFICATIONS) (NO. 2) ORDER 2021

*Tuesday 2 November 2021*

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**The Committee consisted of the following Members:**

*Chair:* †PETER DOWD

- |   |   |
|---|---|
| † Brine, Steve ( <i>Winchester</i> ) (Con)  | † Murray, Ian ( <i>Edinburgh South</i> ) (Lab)  |
| † Davies, David T. C. ( <i>Parliamentary Under-Secretary of State for Wales</i> ) | Qaisar-Javed, Anum ( <i>Airdrie and Shotts</i> ) (SNP)                                  |
| † Drummond, Mrs Flick ( <i>Meon Valley</i> ) (Con)                                | † Rutley, David ( <i>Parliamentary Under-Secretary of State for Work and Pensions</i> ) |
| † Edwards, Ruth ( <i>Rushcliffe</i> ) (Con)                                       | Stephens, Chris ( <i>Glasgow South West</i> ) (SNP)                                     |
| † Elmore, Chris ( <i>Ogmore</i> ) (Lab)   | † Stewart, Bob ( <i>Beckenham</i> ) (Con)   |
| † Kruger, Danny ( <i>Devizes</i> ) (Con)  | † Wakeford, Christian ( <i>Bury South</i> ) (Con)                                       |
| † Lamont, John ( <i>Berwickshire, Roxburgh and Selkirk</i> ) (Con)                | Whittome, Nadia ( <i>Nottingham East</i> ) (Lab)  |
| Long Bailey, Rebecca ( <i>Salford and Eccles</i> ) (Lab)                          | Guy Mathers, Jonathan Finlay, <i>Committee Clerks</i>                                   |
| McDonagh, Siobhain ( <i>Mitcham and Morden</i> ) (Lab)                            |   |
| † Mills, Nigel ( <i>Amber Valley</i> ) (Con)                                      | † <b>attended the Committee</b>   |

# First Delegated Legislation Committee

Tuesday 2 November 2021

[PETER DOWD *in the Chair*]

## Draft Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) (No. 2) Order 2021

9.25 am

**The Chair:** Before we begin, may I encourage Members to wear masks when they are speaking? That is in line with current Government guidance and that of the House of Commons Commission. Please give each other and members of staff space when seated and when entering and leaving the room. I remind Members that they are asked by the House to have a Covid lateral-flow test twice a week if coming on to the parliamentary estate. That can be done either at the testing centre in the House or at home. Members should send their speaking notes by email to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk), and officials in the Gallery should communicate electronically with Ministers.

9.26 am

**The Parliamentary Under-Secretary of State for Work and Pensions (David Rutley):** I beg to move,

That the Committee has considered the draft Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) (No.2) Order 2021.

It is a pleasure to serve with you in the Chair, Mr Dowd.

The draft order we are considering today was laid on 7 September 2021. It is part of the Government's ongoing commitment to devolution, and I am grateful for the opportunity to debate it.

I will start with some background to the order. It is made under the Scotland Act 1998, which devolved powers to Scotland and legislated for the establishment of a Scottish Parliament. The biggest update to the devolution settlement as far as social security is concerned was the passing of the Scotland Act 2016, which delivered the cross-party Smith commission agreement. As a result of that Act, a wide range of measures and powers, including welfare powers, have now been transferred to the Scottish Government and Scottish Parliament.

The order we are considering is a section 104 order, which allows for legislative amendments that are considered necessary or expedient in consequence of an Act of the Scottish Parliament. It makes technical amendments to United Kingdom reserved legislation and Northern Ireland legislation to facilitate the policy aims of an Act of the Scottish Parliament.

In terms of the purpose and effect of the order before us, it amends specific elements of social security legislation in the United Kingdom as a consequence of the Social Security (Scotland) Act 2018. Through the 2018 Act, the Scottish Government are able to introduce new forms of disability assistance using the social security powers devolved under section 22 of the Scotland Act 2016. The Scottish Government introduced their first form of

disability assistance for children and young people on 26 July 2021, the child disability payment. That payment operates in broadly the same way as existing reserved benefits, namely the disability living allowance for children, currently provided by the Department for Work and Pensions.

The UK and Scottish Governments' intention is to ensure that there is equal treatment for child disability payments with similar reserved benefits. As part of their commitment to that benefit, the Scottish Government will continue to pay the child disability payment for a period of 13 weeks after a claimant has left Scotland, if they have moved to another part to the UK.

The Christmas bonus is a one-off tax-free payment of £10 made annually before Christmas to customers who get certain qualifying benefits in a certain qualifying week. Disability living allowance for children is one such qualifying benefit. The UK Government have agreed that as the child disability payment will operate as broadly equivalent to the disability living allowance, which it replaces, the child disability payment should also act as a qualifying benefit for the Christmas bonus. As such, the child disability payment will need to be listed in the Social Security Contributions and Benefits Act 1992, alongside the DWP's benefits for the purposes of determining entitlement to the Christmas bonus.

The order also makes amendments in relation to carer's allowance and carer's credit. Carer's allowance has been fully devolved since September 2018. I should be clear that changes to carer's allowance legislation to take account of the Scottish replacement qualifying benefits in and as regards Scotland need to be made by Scottish Ministers and have been included in the Disability Assistance for Children and Young People (Scotland) Regulations 2021. However, there is a small possibility that once cases are transferred to Scotland—DWP are only dealing with carers in England and Wales—a carer could be living in England and Wales but the person needing that care live over the border in Scotland. The order before us will allow reserved carer's allowance to be paid for someone caring for a person in receipt of child disability payment in those very rare circumstances.

Class 3 national insurance carer's credit, which protects individual state pensions, can be awarded on application to people if they are looking after one or more people for at least 20 hours a week and the person being cared for is getting disability living allowance for children. We are also therefore amending UK legislation for England, Wales and Scotland to ensure that child disability payment can be treated as a qualifying benefit for entitlement to carer's credit. Corresponding provisions for entitlement to carer's allowance and carer's credit have also been included for Northern Ireland to ensure that child disability payment is treated as a qualifying benefit during the 13-week run-on period only. Although social security in Northern Ireland is a devolved matter, what has become known as the "parity principle" contained in sections 87 and 88 of the Northern Ireland Act 1998 provides for a single system of social security. Carer's allowance and carer's credit are therefore maintained in line with DWP in Great Britain, as part of the ongoing provision for a single social security system.

The order is a sensible and pragmatic step on the part of the UK Government in their commitment to make devolution work. It reflects the continued strong co-operation between Scottish and UK Governments. I therefore commend the order to the Committee.

9.31 am

**Ian Murray** (Edinburgh South) (Lab): I lead a merry band this morning; it is all about quality and not quantity on the Opposition Benches. This is the fifth statutory instrument I have considered that has devolved powers to Scotland, and I note that not one Scottish National party Member has turned up. I know that they are in the building because I spoke to some in the Tea Room just a few moments before I arrived here. It is quite disturbing that we are devolving powers and making the system work, particularly with regards to devolved benefits, and SNP Members do not bother to turn up to make their points, or indeed to thank the Minister for introducing the SI.

The Opposition do not oppose the measure and I thank the Minister for his remarks, but I have a number of questions. I understand that he may need to write with all the answers and I am happy to receive a letter. It is good to note what can be achieved when the UK and Scottish Governments work together. It is clear that this process has evolved from the Smith commission of 2015 and the Scotland Act 2016 and has led to the devolution of many benefits to the Scottish Parliament, including the ones under consideration today.

What is the impact on someone on universal credit who is receiving the child disability payment? The Minister has championed the £10 Christmas “bonus” but I am not sure that it will prove much of a bonus this year to those who are staring down the barrel of a £1,000 cut to their universal credit come April next year. Indeed, according to a recent survey, half of families, particularly low-income ones, were worried about not just paying for Christmas but paying their bills. We have witnessed significant rises in the cost of living and significant energy price increases, so the £10 payment, although welcome, seems small in comparison to the challenge ahead.

What discussions has the Minister had with Scottish Ministers about why it has taken so long for the Scottish Government to implement the powers? Alongside that, how much has it cost the Scottish Government to set up essentially an entirely new DWP system in Scotland, when I understand that the offer to use the UK system was always open to them? That is the arrangement adopted by Her Majesty’s Revenue and Customs as a result of the devolution of income tax, but I understand that the Scottish Government refused to adopt a similar arrangement in this case. Are there any discussions between Scottish and UK DWP Ministers about how to reduce the significant costs of setting up a new system? Why has it taken so long to effect the changes? The benefits will have been devolved for nearly 10 years by the time they get to the desks of the Scottish Parliament.

The Opposition welcome the measure and will not oppose it.

9.34 am

**Nigel Mills** (Amber Valley) (Con): I have a quick question for the Minister. He talked about the 13-week run-on when a child moves from Scotland to England. Can he assure the Committee that that period is long enough for whatever UK assessment process would be required for a child in that situation, so that they receive the UK-wide benefit in place of the Scottish one and the family does not experience any interruption in benefit payment? Is 13 weeks long enough, or should that period be longer? Can we rely on the evidence provided in Scotland to speed up the process, or should we allow a family who know they are about to move to apply for the UK-wide benefit in advance so that there is more chance of a seamless continuation of benefits for their child?

9.35 am

**David Rutley**: I thank the hon. Member for Edinburgh South for his comments, and for turning up. As he said, it is sad that we do not have any SNP Members in attendance. However, I can confirm to the Committee that the UK Government and Scottish Government are working well together, so perhaps no SNP Members are here because they are happy with the way things are progressing. I very much hope so.

The hon. Gentleman asked about the cost of setting up a new social security agency in Scotland. I think that is for the Scottish Government to answer, but I will certainly find a way to give him a more detailed answer myself. He also asked about the time it has taken the Scottish Government to implement the changes. We are working very closely with them, and obviously we want to make sure that the arrangements are right for the claimants. Ultimately, the Scottish Government need to help set the pace and we are working carefully with them on that.

The hon. Gentleman asked about the impact on universal credit, and I can confirm that the child disability payment will be disregarded in the calculation of that credit. It will be paid on top of any universal credit payment. Of course, I am sure he shares my delight and that of my hon. Friends in the Chancellor’s great work to increase the taper rate and increase the work allowance, which will help substantial numbers of low-income working families in the UK. The introduction of the household support fund will also help many others.

My hon. Friend the Member for Amber Valley asked whether the 13-week period will provide enough time to process a new claim for DLA in England and Wales, and I believe that it does. I hope that reassures him.

The order is a sensible and pragmatic step forward on the part of the UK Government in their commitment to make devolution work. On that basis, I commend it to the Committee.

*Question put and agreed to.*

9. 37 am

*Committee rose.*





