

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT SCOTLAND ACT 2016 (SOCIAL SECURITY)  
(ADULT DISABILITY PAYMENT AND CHILD  
DISABILITY PAYMENT) (AMENDMENT)  
REGULATIONS 2022

*Monday 7 March 2022*

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

*Chair:* MR PHILIP HOLLOBONE

Ali, Rushanara (*Bethnal Green and Bow*) (Lab)  
 † Bacon, Gareth (*Orpington*) (Con)  
 † Black, Mhairi (*Paisley and Renfrewshire South*)  
 (SNP)  
 † Duguid, David (*Banff and Buchan*) (Con)  
 † Foxcroft, Vicky (*Lewisham, Deptford*) (Lab)  
 † Johnson, Gareth (*Dartford*) (Con)  
 Keeley, Barbara (*Worsley and Eccles South*) (Lab)  
 † Langan, Robert (*High Peak*) (Con)  
 † Linden, David (*Glasgow East*) (SNP)  
 † Lopresti, Jack (*Filton and Bradley Stoke*) (Con)

† Mishra, Navendu (*Stockport*) (Lab)  
 † Moore, Robbie (*Keighley*) (Con)  
 Ribeiro-Addy, Bell (*Streatham*) (Lab)  
 † Smith, Chloe (*Minister of State, Department for  
 Work and Pensions*)  
 † Stevenson, Jane (*Wolverhampton North East*) (Con)  
 † Vickers, Martin (*Cleethorpes*) (Con)  
 † Williams, Craig (*Montgomeryshire*) (Con)

Stella-Maria Gabriel, *Committee Clerk*

† **attended the Committee**

# First Delegated Legislation Committee

Monday 7 March 2022

[MR PHILIP HOLLOBONE *in the Chair*]

## Draft Scotland Act 2016 (Social Security) (Adult Disability Payment and Child Disability Payment) (Amendment) Regulations 2022

6 pm

**The Chair:** Before we begin, I remind Members of Mr Speaker's advice that they observe social distancing and wear masks. I call the Minister to move the motion.

**The Minister of State, Department for Work and Pensions (Chloe Smith):** I beg to move,

That the Committee has considered the draft Scotland Act 2016 (Social Security) (Adult Disability Payment and Child Disability Payment) (Amendment) Regulations 2022.

It is a pleasure to serve under your chairmanship, Mr Hollobone. Subject to approval today, these regulations will make necessary legislative changes to prevent overlapping entitlements of the soon to be introduced Scottish adult disability payment with UK disability benefits. The regulations also introduce a small drafting amendment to the child disability amendment regulations, which my predecessor brought before the Committee in July last year. Most of what I will outline today has been covered before by similar regulations. Today's regulations largely mirror the policy intent and technical application of those previous regulations, although now in relation to adult disability payments.

It is a long-standing principle that the UK Government are committed to making devolution work and to ensuring the 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 and Government under the Act, the Department for Work and Pensions 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 Act allows for the necessary legislative amendments—in this case as a result of benefits introduced under the Social Security (Scotland) Act 2018. Hon. Members will be aware that that Act 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 2016 Act.

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. They have recently legislated to provide for their disability assistance for working-age people, which will be introduced from March this year. These regulations were passed in the Scottish Parliament on 9 February. They call this assistance the adult disability payment, and I will refer to it as ADP from now on.

The regulations will effect purely technical, administrative changes by preventing overlapping payment of the Scottish ADP and UK disability benefits such as disability living allowance, personal independence payment, attendance allowance and armed forces independence payment. They also introduce some time-limited overlapping provisions for Northern Ireland. Although they do not need to re-cover the appointee provisions of the previous provisions, they will tidy up some language from the child disability payment amendment regulations of July last year so that references are consistent between both these sets of UK Government regulations and better reflect the Scottish Government's regulations. That does not change the meaning of policy or its application in any way and is purely a drafting amendment.

If these regulations are passed today, they will ensure that there are clear boundaries between payment of ADP and similar UK Government benefits to ensure there is no overlapping provision of payments. They will do that by making it clear that a Scottish resident cannot be entitled to a relevant UK Government benefit and that in the case of those who move cross-border a DWP payment will not start until the day after payment of ADP has ended. That will not only protect the public purse by avoiding double payment to the same claimant for the same need, but help prevent the need for complicated overpayment calculations for any recovery. Furthermore, it is also in the best interests of the claimant, who will have clear expectations of which Government are responsible for paying their benefits at which point in their claim or award.

I understand that ADP will have residency conditions attached, and it will primarily be paid only to claimants who live in Scotland. However, as part of their offer, the Scottish Government will continue to pay ADP for 13 weeks after a claimant has left Scotland and moved to another part of the UK. That will allow claimants time to sort out new benefit arrangements should they wish to. Our intention is to offer a similar facility for those moving to Scotland later this year. Modest but necessary legislative amendments to deal with this policy are therefore now needed in order to support the devolution agenda and strengthen a Union that works together in the best interests of our shared citizens.

The regulations also include provisions on behalf of the Ministry of Defence to ensure that the armed forces independence payment will similarly not overlap with ADP. Finally, provisions have 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. I commend the regulations to the Committee.

6.5 pm

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

I thank the Minister for presenting the statutory instrument. It is not a controversial one for Labour, but I do have a few quick questions. The purpose of the SI is to ensure that attendance allowance, disability living allowance, personal independence payment and armed forces independence payment cannot be paid if adult disability payment or child disability payment is also in payment. It will also ensure that if individuals move from Scotland to another part of the UK, they will not be considered as satisfying the residence requirements for AA, DLA and PIP while they are in receipt of the

13-week ADP or CDP run-on payment. It is therefore crucial that the roll-out of ADP and CDP happens as quickly and smoothly as possible.

Disabled people have been hit hard by the pandemic and are now facing huge increases in the cost of living. It is no exaggeration to say that any disruption to their income could leave many in dire straits. Will the Minister therefore please confirm what discussions she has had with the Scottish Government to ensure that her Department works closely with Scottish colleagues to prevent delays or disruption? In theory, the 13-week ADP or CDP run-on payment will allow those who move away from Scotland time to make a claim for other relevant benefits before their ADP or CDP is stopped. What assurances can the Minister give that this will be sufficient in absolutely all cases, and what contingencies are in place should the new claim be delayed? Has she had any discussions with Scottish Ministers about why it has taken so long for the Scottish Government to use their devolved benefits powers?

**David Linden** (Glasgow East) (SNP): Which of the powers that the Scottish Government recently acquired and are using does the hon. Lady have a dispute about? Is it the doubling of the game-changing Scottish child payment to £20 a week when charities were originally calling for £5 a week? Is that the kind of delay she is talking about?

**Vicky Foxcroft:** I thank the hon. Member for his point. He will be aware that the Scottish Government have a number of benefits powers that they really have not used in a timely fashion.

Given that political disputes have inhibited joint working between the UK and Scottish Governments in the past, is the Minister confident that the two can now work together effectively to administer this process and ensure that all necessary data has been shared? I appreciate the Minister laying this SI before Parliament. As I said at the start, it is one that we support, in the hope that adult disability payment and child disability payment can be rolled out in a timely and efficient manner to those who need it.

6.8 pm

**Mhairi Black** (Paisley and Renfrewshire South) (SNP): I have no doubt that the whole Committee will be grateful that I am going to keep my remarks brief. The Scottish Government have long maintained that we are

determined to implement a just and fair system of assessment for people with disabilities. We want to see a removal of unnecessary reassessments. We want to see people treated with respect and dignity at the forefront. If this statutory instrument will help to enable us to make that a reality, we will not stand in the way of it.

6.9 pm

**Chloe Smith:** I am very grateful for the support that the Opposition Front Benchers have shown. They are right to do so, because today's SI is a technical one, and these arrangements have already been legislated for in bulk and need only minor additions through this instrument.

The main question from the hon. Member for Lewisham, Deptford, about how my colleagues and I work with our Scottish Government colleagues, raises points that are relevant to the instrument and the wider work that sits behind it. The answer is that we work very closely together, and I speak and meet regularly with my opposite number, the Minister in the Scottish Government, Mr Macpherson. On top of that, our officials work diligently and closely together. We also have good interaction in parliamentary terms. You may be pleased to know, Mr Hollobone, that I will appear before the relevant Committee of the Scottish Parliament on Thursday this week. It will be the highlight of my week, and I look forward very much to discussing this kind of work there. As hon. Members have said, it is really important that we get this right, because we all want to provide the correct welfare safety net and for that to be done in an orderly way.

The hon. Lady asked about data. I can confirm that the DWP is playing its part by transferring the data required to make a reality of these devolution measures, but for that to be successful it is extremely helpful if plans can be shared with my officials well in advance. We have always tried to work with the Scottish Government on that basis, so that we have as early an alert as possible regarding what is needed, when it will be needed by, and how we can work together. I commend the instrument to the Committee.

*Question put and agreed to.*

6.12 pm

*Committee rose.*

