

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT SOCIAL SECURITY (SCOTLAND) ACT 2018
(DISABILITY ASSISTANCE) (CONSEQUENTIAL
MODIFICATIONS) ORDER 2024

Wednesday 9 October 2024

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The Committee consisted of the following Members:

Chair: CLIVE EFFORD

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|---|---|
| † Andrew, Stuart (<i>Daventry</i>) (Con) | † Lamont, John (<i>Berwickshire, Roxburgh and Selkirk</i>) (Con) |
| † Buckley, Julia (<i>Shrewsbury</i>) (Lab) | † McCluskey, Martin (<i>Inverclyde and Renfrewshire West</i>) (Lab) |
| † Campbell, Irene (<i>North Ayrshire and Arran</i>) (Lab) | † Murray, Ian (<i>Secretary of State for Scotland</i>) |
| † Cooper, John (<i>Dumfries and Galloway</i>) (Con) | Murray, Susan (<i>Mid Dunbartonshire</i>) (LD) |
| † Cox, Pam (<i>Colchester</i>) (Lab) | † Norris, Dan (<i>North East Somerset and Hanham</i>) (Lab) |
| † Cross, Harriet (<i>Gordon and Buchan</i>) (Con) | † Ward, Melanie (<i>Cowdenbeath and Kirkcaldy</i>) (Lab) |
| † Dickson, Jim (<i>Dartford</i>) (Lab) | Beth Goodwin, <i>Committee Clerk</i> |
| † Dixon, Anna (<i>Shipley</i>) (Lab) | † attended the Committee |
| † Fenton-Glynn, Josh (<i>Calder Valley</i>) (Lab) | |
| † Hughes, Claire (<i>Bangor Aberconwy</i>) (Lab) | |
| † Jardine, Christine (<i>Edinburgh West</i>) (LD) | |

Third Delegated Legislation Committee

Wednesday 9 October 2024

[CLIVE EFFORD *in the Chair*]

Draft Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Modifications) Order 2024

9.25 am

The Secretary of State for Scotland (Ian Murray): I beg to move,

That the Committee has considered the draft Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Modifications) Order 2024.

It is a great pleasure to move our first Scotland Office motion and draft order as a Labour Government, and it is an even greater pleasure to have you in the Chair for this historic moment, Mr Efford. It is also great to have so many new Members in the room with us. I do not know what they have done to upset the Whips in order to have to be here at 9.25 on a Wednesday morning, but they are all here and obviously keen to get involved with this wonderful order, which I am sure they have all read.

Laid before the House on 26 July, the draft order is the result of collaborative working between the two Governments of Scotland, and supports the Scottish Government's decision to introduce pension age disability payments in Scotland later this month. As I said, this is the first Scotland Act order that this new Labour Government have brought before a Committee to approve since our election, and given that it was started under the shadow Secretary of State for Scotland, I suppose it could be argued that it is another example of clearing up his mess.

The order comes in the year of the 25th anniversary of the Scottish Parliament, delivered by the last Labour Government. Devolution happened because of political giants such as the late John Smith and Donald Dewar who believed in a strong Scottish Parliament within the United Kingdom. Those men also believed in the values of co-operation over conflict, and understood that we achieve more by working together than we ever do by standing apart. It is in that spirit that this Government have set out to reset the relationship with the Scottish Government to deliver for the Scottish people. That is what the majority of Scots want, deserve and voted for on 4 July.

The Scotland Act 2016 devolved significant powers to the Scottish Parliament, including responsibility for social security benefits and employment support. The Scottish Government's introduction of the pension age disability payment under section 31 of the Social Security (Scotland) Act 2018 exercises that responsibility. The Scottish Government, through their Executive agency, Social Security Scotland—that is a bit easier to say at this time of the morning than after three glasses of wine—will administer that benefit in Scotland.

As, at introduction, the pension age disability payment is broadly analogous to attendance allowance in England and Wales, it is the intention of the UK Government

that those individuals in receipt of the pension age disability payment should also receive the same treatments in the reserved social security and tax systems as those on attendance allowance. Scottish recipients will transfer from the Department for Work and Pensions to Social Security Scotland.

The order before us today is made under section 104 of the Scotland Act 1998, which allows for necessary amendments to legislation

“in consequence of any provision made by or under any Act of the Scottish Parliament”.

It is therefore the appropriate vehicle to make these technical but important changes to recognise pension age disability payment in reserved systems. Scotland Act orders are a demonstration of devolution in action, and I am pleased to say that the Scotland Office has taken through more than 250 orders since devolution began in 1997.

I will explain the effect that this order will have and the provision that it will make. The order makes amendments to ensure that the pension age disability payment is recognised as a qualifying benefit in the same way as attendance allowance within the reserved social security system, with regard to entitlements to additional reserved UK Government benefits and premiums. This includes the Christmas bonus and carer's allowance. It means that recipients of pension age disability payment will be entitled to receive the annual £10 Christmas bonus payment if it has not already been paid with another benefit. Should all other eligibility criteria be met, it will also ensure that reserved carer's allowance can be paid to someone caring for someone in receipt of pension age disability payment in Scotland. It also amends the taxation of trusts with disabled beneficiaries to treat those with beneficiaries in receipt of pension age disability payments in the same way as those with beneficiaries who receive attendance allowance.

Once the order is in force, it will also prevent dual entitlement to benefits paid because of the same needs: individuals entitled to pension age disability payments cannot be entitled to receive personal independence payment, attendance allowance and disability living allowance at the same time. This is in the same way as disability living allowance and personal independence payment are not payable to people in receipt of attendance allowance before the transfer. The order will also prevent overlapping entitlement for pension age disability payments and armed forces independence payments.

Equivalent provision is being made in Northern Ireland in respect of pension age disability payments and to prevent dual entitlement to child disability payment and adult disability payment with equivalent Northern Ireland social security benefits. Child disability payment and adult disability payment are forms of disability assistance paid in Scotland, and introduced by Scottish Ministers under section 31 of the 2018 Act.

In summary, the order makes amendments to UK legislation to support the introduction of pension age disability payments in Scotland. It ensures that the new Scottish benefit can operate effectively and that its recipients are treated equitably. Twenty-five years into the Scottish Parliament, this is devolution in action. The vast majority of Scots want to see their Governments work together to produce better results for them, and that is what we are going to do.

9.30 am

John Lamont (Berwickshire, Roxburgh and Selkirk) (Con): It is a pleasure to serve with you in the Chair, Mr Efford.

As we have heard, the main purpose of the order is to make consequential amendments to UK legislation to ensure that recipients of the pension age disability payment—the Scottish Government’s devolved benefit that will replace attendance allowance—are treated in the same way as those in receipt of attendance allowance in respect of reserved benefits and for tax purposes. For example, receipt of pension age disability payment will passport a person to an additional amount in pension credit in the same way as attendance allowance does.

As proposed by the Scottish Government, the pension age disability payment will operate in a broadly similar way to attendance allowance. I am pleased that the Scottish Government and the UK Government have worked together to deliver the pension age disability payment. I know a little bit about the work to prepare this from my time in the Scotland Office, and I pay tribute to the officials in the room today who have done a huge amount of work behind the scenes to get us to this point. The credit for the hard work that has been done to deliver the order should rest with the officials, I would suggest, rather than any politician in this room.

I am happy to confirm that the Opposition will support the order today. However, although it is uncontroversial, there are questions about how the pension age disability payment might interact with reserved matters should the rules diverge from those for attendance allowance in the future. As with other devolved benefits, the Scottish Government have ruled out significant changes to the pension age disability payment eligibility rules until the process of moving attendance allowance claimants in Scotland over to the new benefit is complete. This is known as case transfer. I welcome it, and the Scottish Government intend to complete case transfer to pension age disability payment by the end of 2025. However, once case transfer is complete, it is possible that the eligibility criteria for the pension age disability payment could diverge from those for attendance allowance.

That point was highlighted at a recent meeting of the Scottish Parliament’s Social Justice and Social Security Committee. There was a discussion about the risk of divergence in terms of continued access to reserved passported benefits for pension age disability payment recipients. The DWP told the Committee that it would find a way to ensure that people receive their entitlements to reserved benefits. The Scottish Government’s Cabinet Secretary raised the possibility in future of making substantial changes to any of the disability benefits that would greatly increase the number of people who were eligible in Scotland who would not be eligible in the rest of the United Kingdom. In these circumstances, the Scottish Government would be asking the DWP to pay out benefits that would not be paid to people in a similar situation in England.

It would be for the UK Government and DWP to decide what to do. Has this been considered by the Minister and his DWP colleagues? Would extra capacity at DWP be required to handle such claims? Would there be another application form or type of assessment required to make a determination for such applicants? These are legitimate questions about how the two systems

will match, so I would be grateful if the Minister could deal with them. I welcome the order and am happy to confirm the Conservative party’s support for it.

9.33 am

Christine Jardine (Edinburgh West) (LD): I welcome the remarks of the Secretary of State and the shadow Secretary of State, the hon. Member for Berwickshire, Roxburgh and Selkirk, and I confirm that the Liberal Democrats also welcome the order. The changes should ensure that the pension age disability payment is recognised in UK law, so that no one loses out and no new loopholes are created. It is critical to ensure that the new system is a success, given the long delays that we have seen for many people in Scotland. Although there have been improvements for many in recent years, people have had to wait for months in some cases for adult disability benefit claims to be processed—last year, the figures were depressing.

With today’s order, we hope that we can move forward and that there will be improvements in the system. With the pilots forthcoming, we hope that we can have a successful system in Scotland and the co-operation that the Secretary of State mentioned.

9.34 am

Ian Murray: I thank the shadow Secretary of State for his contribution. He is right to praise the officials for bringing the order forward—they are always the heroes in these processes, as he well knows. I hope that he is not passing the blame on to the officials as well.

The shadow Secretary of State poses an important question about divergence. It will be a matter for the Government to decide what would happen in that case. It is obvious that, at the moment, the pension age disability payment is broadly on the same terms as the attendance allowance, which is why the order has come forward. Should there be a significant divergence in future, it will be up to the UK Government to consider a way to identify those clients in Scotland and to decide what would need to happen on that basis. We will keep the arrangement under review, as we keep all social security arrangements under such orders under review.

I welcome the hon. Member for Edinburgh West back to her place in the House of Commons. All the transfers happened under the Scotland Act 2016, which was eight years ago, so it is a hugely complicated process. We want to ensure that this transfer happens as smoothly as possible; we have seen mistakes and errors in the past, which is why we will keep the order under constant review. My plea to the Scottish Government and to Social Security Scotland is to work with the DWP and the UK Government in partnership to ensure that the transition is as smooth as possible and that nobody loses out or cannot access the system. A major part of the Joseph Rowntree Foundation’s “Poverty in Scotland 2024” review this week was about it being as easy as possible for people to access the system.

I thank hon. Members for their contributions and for being here to debate the order. It demonstrates the continued commitment of the UK Government to work with the Scottish Government to deliver for the people of Scotland.

Question put and agreed to.

9.37 am

Committee rose.

