

## 10-21: Consequential Amendments to Social Security Legislation due to the introduction of Child Disability Payment (CDP)

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### INTRODUCTION

1. This memo gives guidance on the application of The Scotland Act 2016 (Social Security) (Consequential Provision) (Miscellaneous Amendment) Regulations 2021, [Scotland Act 2016 (SS)(CP) (Misc Amdts) Regs 2021], SI 2021 No 804. The Regulations come into force on 26.7.21<sup>1</sup>.

1 [Scotland Act 2016 \(SS\)\(CP\) \(Misc Amdts\) Regs 2021](#)

### BACKGROUND

2. The Scottish Government (SG) is due to introduce Child Disability Payment (CDP), its replacement benefit for DLA for children, from 26<sup>th</sup> July 2021.

The purpose of these amendments is to ensure they will-

1. Prevent payment of DLA if CDP is in payment.
2. In cases of cross-border movement from Scotland to another part of the UK, DLA will start where entitlement is assessed and confirmed, after the 13-week CDP run-on payment from the SG has ended.
3. Allow claimants who have been granted an appointee in Scotland to be granted the same appointee in England and Wales without fresh application.

### PREVENTING PAYMENT OF DLA

3. Legislation<sup>1</sup> provides that a person shall not be entitled to DLA while they are entitled to CDP in order

to prevent duplicate payment of the two benefits. As a result, CDP will also be listed as an incompatible benefit with DLA under appendix 1 of DMG paragraph [17005](#).

1 SS (C&B) Act 1992 s 71(7)

## **CROSS BORDER MOVEMENT FROM SCOTLAND TO UK**

4. A claimant who is a recipient of CDP and who subsequently moves from Scotland to another part of the UK, retains entitlement to CDP for a period of 13 weeks beginning with the date of the move from Scotland<sup>1</sup>. In that circumstance they are to be treated as ordinarily resident in Scotland for that period of 13 weeks and not habitually resident in the United Kingdom, the Republic of Ireland, the Isle of Man or the Channel Islands<sup>2</sup>.

1 Disability Assistance for Children and Young People (Scotland) Regs 2021, reg36(1)

2 SS (DLA) Regs, reg2(1ZA)

## **CLAIMANTS GRANTED APPOINTEE IN SCOTLAND**

5. Where in Scotland a person over the age of 18 has been appointed by Social Security Scotland under a qualifying appointment<sup>1</sup> to act for a claimant who cannot manage their own affairs because they are mentally and/or physically disabled, the DM can accept the same appointee without a fresh application, if the person agrees<sup>2</sup>.

1 SS (C&P) Regs, reg 33(1C); 2 reg (1B)

## **APPOINTEE GRANTED FOR A CHILD IN SCOTLAND**

6. Where an appointee is in place for a child in Scotland, the same person can be accepted without a fresh application if the person agrees, subject to satisfying the following conditions<sup>1</sup> –

1. be a person with whom the child is living; **and**
2. be over the age of 18; **and**
3. be either the father or mother of the child, or, if the child is not living with either parent, be such other person as the Secretary of State may determine; **and**
4. have given such undertaking as may be required by the Secretary of State as to the use, for the child's benefit, of any allowance paid <sup>2</sup>.

## **ANNOTATIONS**

This memo should be annotated against the following DMG paragraph: [08250](#) & [Appendix 1 of DMG 17005](#)

## **CONTACTS**

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo [4/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: August 2021

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