

02-25 The Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Amendments) Order 2024

Contents	Paragraphs
Introduction	1
Background	2
Universal Credit	
Claimant disabled and over State Pension Credit age	3
When the benefit cap does not apply	4
Housing cost element	5-8
New Style Jobseekers Allowance	
Carers and remunerative work	9
New Style Employment and Support Allowance	
Definition of "person in hardship"	10
Revision and Supersession	
Definition of "Scottish Disability Benefit"	11
Revising decisions on linked benefits	12
Superseding decisions on linked relevant benefits	13-14
Social Fund Funeral Payments	
Arrears of benefit paid on or after date of death	15

INTRODUCTION

1. The purpose of this memo is to give guidance to decision makers (DM) on The Social Security

(Scotland) Act 2018 (Disability Assistance) (Consequential Amendments) Order 2024¹. The amendments came into force on 21.10.24.

1 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#); [SI 2024 No 919](#)

BACKGROUND

2. This order¹ makes changes to social security legislation to reflect the introduction by the Scottish Government (SG) of the Pension Age Disability Payment (PADP). This is to replace Attendance Allowance (AA) for pension age adult's resident in Scotland.

1 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#)

UNIVERSAL CREDIT

Claimant disabled and over State Pension Credit Age

3. [G3030](#) provides guidance on when a claimant is treated as having LCWRA where they have reached the qualifying age for State Pension Credit¹. From 21.10.23 Entitlement to PADP is included in the list of qualifying benefits.

1 [UC Regs, Sch 9, para 5](#)

When the benefit cap does not apply

4. [E5042](#) provides guidance on when the BC does not apply when (a) a person is in receipt of a specified benefit, or (b) the person, or child or qualifying young person for whom they are responsible, is entitled to a specified benefit but it is not being received because of residence in a care home or hospital¹. From 21.10.24 PADP is included in the list of specified benefits.

1 [UC Reg 83\(1\)\(ca\) and \(h\)](#)

Housing cost element

5. [F2182 et seq](#) provides guidance on the occupation condition when a claimant is required to move home to accommodate home adaptations. From 21.10.24, PADP¹ is added to the list of relevant benefits at F2183.

1 [UC Regs, Sch 4, para 12\(A1\) & 12\(3\)](#)

6. [F3132](#) gives guidance on when a renter in receipt of certain benefits satisfies the overnight care condition¹. From 21.10.24, PADP is added to the list of relevant benefits.

1 [UC regs, Sch 4, para 12\(1\)\(d\) and 12\(6A\)](#)

7. [F3136](#) explains when a renter will be entitled to an additional bedroom if they satisfy the disabled person condition¹. From 21.10.24 the disabled person condition is also satisfied where the renter is in receipt of PADP.

1 [UC regs, Sch 4, para 12\(6A\)\(a\)\(ia\)](#)

8. [F3150-51](#) gives guidance on when exemptions from HCC deductions apply¹. From 21.10.24 included in this exemption are renters and their non-dependants (members of the renters benefit unit) where PADP is in payment.

1 [UC regs, Sch 4, para 15\(2\)\(ca\); Sch 4, para 16\(2\)\(da\)](#)

NEW STYLE JOBSEEKERS ALLOWANCE

Carers and remunerative work

9. Recipients of NSJSA are not entitled to an award if they are engaged in a remunerative work. However, a claimant who is a carer¹ ([see R2252](#)) for a recipient of a qualifying benefit, including PADP (added to the list of qualifying benefits with effect from 21.10.24), shall be exempt from this provision. See [Chapter R2](#) (JSA conditions of entitlement) for further details.

1 [JSA Regs 13, reg 42\(3\)\(c\)\(iii\)](#); 2 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#)

NEW STYLE EMPLOYMENT AND SUPPORT ALLOWANCE

Definition of “person in Hardship”

10. A period of disqualification from receiving ESA due to misconduct does not apply if the claimant qualifies as a “person in hardship.” [U6038](#) provides guidance on the circumstances under which a claimant or their partner may be considered a person in hardship, specifically if they have been awarded a specified benefit.

From 21.10.24, PADP will be added to the list of specified benefits¹.

1 [ESA Regs 13, reg 94\(3\)](#)

REVISION AND SUPERSESSION

Definition of ‘Scottish disability benefit’

11. The definition of ‘Scottish Disability Benefit’ for revision and supersession purposes¹ has been amended so that it now includes PADP. The consequences of this change are explained below.

1 [UC, PIP, JSA & ESA \(D&A\) Regs, reg 2](#)

Revising decisions on linked benefits

12. Where

1. The claimant has been awarded ESA, JSA, PIP or UC **and**
2. The claimant or a member of the UC family is awarded PADP **and**
3. The first day of the award of PADP falls after the first day of the award of the ESA, JSA or UC

The award of ESA, JSA, PIP or UC can be revised¹

[1 reg 12](#)

Superseding decisions on linked relevant benefits

13. Where

1. The claimant has been awarded PIP or UC **and**
2. The claimant or a member of the UC family for benefit purposes becomes entitled to PADP or their PADP increases, decreases or ceases **and**
3. This award, alteration or cessation of PADP is a relevant change of circumstances for PAP or UC purposes

The supersession for the change of circumstances takes effect from the date in [the next paragraph]¹.

[1 sch 1, para 31\(1\)](#)

14. Where the superseding decision

1. Concerns UC, it takes effect from the first day of the AP in which

1.1 Entitlement to PADP begins **or**

1.2 Entitlement to PADP ends; **or**

1.3 Entitlement to a different rate of PADP begins¹

2. Concerns PIP, it takes effect from the date on which

2.1 Entitlement to PADP begins **or**

2.2 Entitlement to PADP ends **or**

2.3 Entitlement to a different rate of PADP begins².

SOCIAL FUND FUNERAL PAYMENTS

Arrears of benefit paid on or after date of death

15. [L3408](#) gives guidance on arrears of benefit payable to the deceased not being counted as assets of the deceased when considering deductions from the amount of award of funeral payment. From 21.10.24 arrears of PADP payable to the deceased as at the date of death are excluded from the assets of the deceased¹ and included in the list of benefits excluded as assets of the deceased in [Appendix 1 to ADM Chapter L3](#).

1 [SFMFE \(Gen\) Regs, reg 10\(1A\)\(gg\)](#)

ANNOTATIONS

The number of this memo should be annotated against the following ADM paragraphs; [F2183](#), [F3132](#), [F3136](#), [F3150](#), [F3151](#), [G3030](#), [R2252](#), [U6038](#), [A4354](#); [A4361](#), [Appendix 1 to ADM Chapter L3](#), [L3408](#)

CONTACTS

If you have any queries about this memo, contact Decision Making and Appeals (DMA) Leeds, 3rd floor South, zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, [Requesting case guidance from DMA Leeds for all benefits](#).

DMA Leeds: February 2025

The content of the examples in this document (including use of imagery) is for illustrative purposes only.

