Draft Order laid before Parliament under paragraphs 1, 2 and 3 of Schedule 7 to the Scotland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No.

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

SOCIAL SECURITY

The Social Security (Scotland) Act 2018 (Scottish Adult Disability Living Allowance) (Consequential Modifications) Order 2025

Made - - - -	*2025*
Coming into force - -	*21st March 2025*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(5) of the Scotland Act 1998(**a**).

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

PART 1

Introductory

Citation, commencement and extent

1.—(1) This Order may be cited as the Social Security (Scotland) Act 2018 (Scottish Adult Disability Living Allowance) (Consequential Modifications) Order 2025.

(2) This Order comes into force on 21st March 2025.

(3) Part 2 of this Order extends to England and Wales and Scotland only.

(4) Part 3 of this Order extends to England and Wales only.

(5) Part 4 of this Order extends to Northern Ireland only.

(6) This Part and Part 5 of this Order extend to England and Wales, Scotland and Northern Ireland.

(**a**) 1998 c. 46; section 104 was relevantly amended by section 12 of the Scotland Act 2012 (c. 11).

PART 2

England and Wales and Scotland

Amendment of the Social Security Contributions and Benefits Act 1992

2.—(1) The Social Security Contributions and Benefits Act 1992(**a**) is amended as follows.

(2) In section 64(1A) (attendance allowance), after paragraph (c), insert—

"(d) the care component of Scottish adult disability living allowance.".

(3) In section 71(7) (disability living allowance), after "adult disability payment", insert ", Scottish adult disability living allowance".

(4) In section 122(1) (interpretation of Parts 1 to 6 and supplementary provisions), after the definition of "relevant loss of faculty", insert—

""Scottish adult disability living allowance" means disability assistance given in accordance with the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025(**b**);".

(5) In section 150(2) (interpretation of Part 10), in the definition of "attendance allowance", after paragraph (h), insert—

"(i) Scottish adult disability living allowance given in accordance with the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025;".

Amendment of the Welfare Reform Act 2012

3.—(1) The Welfare Reform Act 2012(**c**) is amended as follows.

(2) In section 77(4) (personal independence payment), after "they are entitled to", insert "Scottish adult disability living allowance,".

(3) In section 95 (interpretation of Part 4), after the definition of "prescribed", insert—

";

"Scottish adult disability living allowance" means disability assistance given in accordance with the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025.".

PART 3

England and Wales

Amendment of the Social Security Contributions and Benefits Act 1992

4. In section 70(2) of the Social Security Contributions and Benefits Act 1992(**d**) (carer's allowance), after "middle or highest rate", insert "or Scottish adult disability living allowance by virtue of entitlement to the care component at the middle or highest rate".

(**a**) 1992 c. 4. Section 64(1A) was inserted by paragraph 5(3) of Schedule 9 to the Welfare Reform Act 2012 (c. 5) and relevantly amended by S.I. 2022/335 and S.I. 2024/1048. Section 71(7) was inserted by S.I. 2021/804 and relevantly amended by S.I. 2022/335 and S.I. 2024/1048. Section 150(2) was relevantly amended S.I. 2024/1048.

(**b**) S.S.I. 2025/XXX.

(**c**) 2012 c. 5; section 77(4) was inserted by S.I. 2021/804 and relevantly amended by S.I. 2022/335 and S.I. 2024/1048.

(**d**) Relevant amending instruments are S.I. 2021/1301, 2022/332 and 2024/1048.

PART 4

Northern Ireland

Amendment of the Social Security Contributions and Benefits (Northern Ireland) Act 1992

5.—(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) is amended as follows.

(2) In section 64(1A) (attendance allowance), after paragraph (c), insert—

"(d) the care component of Scottish adult disability living allowance.".

(3) In section 70(2) (carer's allowance), omit the "or" at the end of the paragraph (dc), and after that paragraph, insert—

"(dd) a Scottish adult disability living allowance by virtue of entitlement to the care component at the middle or highest rate by virtue of the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025 in circumstances where the person is resident in Northern Ireland and regulation 48(1) of those Regulations applies; or".

(4) In section 71(7) (disability living allowance)—

(a) at the end of paragraph (b) omit the "or";

(b) at the end of paragraph (c) insert ", or"; and

(c) after paragraph (c) insert—

"(d) Scottish adult disability living allowance.".

(5) In section 121(1) (interpretation of Parts 1 to 6 and supplementary provisions), after the definition of "relevant loss of faculty", insert—

""Scottish adult disability living allowance" means disability assistance given in accordance with the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025;".

Amendment of the Welfare Reform (Northern Ireland) Order 2015

6.—(1) The Welfare Reform (Northern Ireland) Order 2015(**b**) is amended as follows.

(2) In Article 82(4) (personal independence payment)—

(a) at the end of sub-paragraph (b) omit the "or";

(b) at the end of sub-paragraph (c) insert ", or"; and

(c) after sub-paragraph (c) insert—

"(d) Scottish adult disability living allowance.".

(3) In Article 100 (interpretation), after "pension age disability payment" insert—

""Scottish adult disability living allowance" means disability assistance given in accordance with the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025.".

(**a**) 1992 c. 7; relevant amending enactments are the Pensions (Northern Ireland) Act 2008 (c. 1 (N.I.)), the Welfare Reform (Northern Ireland) Order (S.I. 2015/2006 (N.I. 1)), S.R. 2016 No. 228, S.I. 2021/1301, S.I. 2022/332 and S.I. 2024/1048.

(**b**) S.I. 2015/2006 (N.I. 1); Article 82 was relevantly amended by S.I. 2024/1048.

PART 5

England and Wales, Scotland and Northern Ireland

Amendment of the Inheritance Tax Act 1984

7.—(1) The Inheritance Tax Act 1984(**a**) is amended as follows.

(2) In section 74(4) (pre-1981 trusts for disabled persons), at the end of paragraph (d), insert—

", or

(e) is in receipt of Scottish adult disability living allowance, which is a category of disability assistance specifically for adults which takes the form of a living allowance given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018(**b**) by virtue of entitlement to the care component at the highest or middle rate.".

(3) In section 89A (self-settlement by person expected to fall within the definition of "disabled person")—

(a) in subsection (5)(e), after "pension age disability payment", insert "or Scottish adult disability living allowance"; and

(b) in subsection (8), after the definition of "pension age disability payment", insert—

""Scottish adult disability living allowance" means a category of disability assistance specifically for adults which takes the form of a living allowance,".

Amendment of the Vehicle Excise and Registration Act 1994

8. In Schedule 2 to the Vehicle Excise and Registration Act 1994(**c**) (exempt vehicles), in paragraph 19(2) (vehicles for disabled people), after paragraph (aab), insert—

"(aac) that person, in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018, is in receipt of Scottish adult disability living allowance by virtue of entitlement to the mobility component at the higher rate,".

Amendment of the Finance Act 2005

9.—(1) Schedule 1A to the Finance Act 2005(**d**) (meaning of "disabled person") is amended as follows.

(2) In paragraph 1 ("disabled person"), after sub-paragraph (ca), insert—

"(cb) a person in receipt of Scottish adult disability living allowance by virtue of entitlement to—

(i) the care component at the highest or middle rate in accordance with regulations made under section 31 of the SS(S)A 2018, or

(ii) the mobility component at the higher rate in accordance with regulations made under section 31 of the SS(S)A 2018,".

(3) After paragraph 3A (disability assistance for children and young people), insert—

(**a**) 1984 c. 51; section 74(4) was relevantly amended by S.I. 2024/1048. Section 89A was added by paragraph 6(1) of Schedule 20 to the Finance Act 2006 (c. 25), and relevantly amended by paragraph 7 of Schedule 44 to the Finance Act 2013 (c. 29), S.I. 2021/886 and S.I. 2024/1048.

(**b**) 2018 asp 9.

(**c**) 1994 c 22.

(**d**) 2005 c. 7; Schedule 1A was added by paragraph 19 of Schedule 44 to the Finance Act 2013 (c. 29), and relevantly amended by section 291(2) of the Finance Act 2014 (c. 26), S.I. 2021/886 and S.I. 2024/1048.

"Scottish adult disability living allowance

3B. A person is to be treated as a disabled person under paragraph 1(cb) if they satisfy HMRC that they would be entitled to receive Scottish adult disability living allowance by virtue of entitlement to the care component at the highest or middle rate, or the mobility component at the higher rate, but for provision made by regulations under section 31 of the SS(S)A 2018 for—

(a) the cessation of entitlement to Scottish adult disability living allowance during periods when that person does not meet the conditions as to residence and presence prescribed by regulations made under that section,

(b) the non-satisfaction of eligibility criteria for Scottish adult disability living allowance prescribed by regulations made under that section where a person is undergoing treatment for renal failure in hospital, or

(c) the reduction of the value of a payment of Scottish adult disability living allowance prescribed by regulations made under that section to £0 when a person is—

(i) resident in a care home,

(ii) undergoing detention in legal custody, or

(iii) in a hospital or similar institution.".

(4) In paragraph 8 (interpretation), after the definition of "personal independence payment", insert—

""Scottish adult disability living allowance" means a category of disability assistance specifically for adults which takes the form of a living allowance,".

Amendment of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011

10. In article 2(1) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(**a**) (interpretation), in the definition of "extra-costs disability benefit", after "2024,", insert "Scottish Adult Disability Living Allowance given by virtue of the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025,".

Name
Secretary of State
Office of the Secretary of State for Scotland

Date

(**a**) S.I. 2011/517; relevant amending instruments are S.I. 2013/436, 2021/804, 2022/335 and 2024/1048.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments in consequence of regulations made under section 31 (disability assistance) of the Social Security (Scotland) Act 2018 (asp 9).

This Order makes amendments to social security legislation governing entitlement to certain benefits as well as tax legislation in the United Kingdom in consequence of the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025 (S.S.I. 2025/XXX). These Regulations introduce arrangements for the payment of Scottish Adult Disability Living Allowance, which will replace Disability Living Allowance for adults (recipients aged 18 and over) in Scotland.

Article 2 amends the Social Security Contributions and Benefits Act 1992 (c. 4) to prevent dual entitlement to Scottish Adult Disability Living Allowance and Attendance Allowance or Disability Living Allowance. Article 2 also provides that individuals entitled to Scottish Adult Disability Living Allowance are entitled to a Christmas Bonus.

Article 3 amends the Welfare Reform Act 2012 (c. 5) to prevent dual entitlement to Scottish Adult Disability Living Allowance and Personal Independence Payment.

Article 4 amends the Social Security Contributions and Benefits Act 1992 to provide that receipt of the care component of Scottish Adult Disability Living Allowance at the specified rates is among the qualifying benefits for Carer's Allowance in England and Wales.

Article 5 amends the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) to prevent dual entitlement to Attendance Allowance and the care component of Scottish Adult Disability Living Allowance in Northern Ireland.

Article 5 also amends the same Act to ensure that Scottish Adult Disability Living Allowance is treated as a qualifying benefit for Carer's Allowance in Northern Ireland.

Article 6 amends the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)) to prevent dual entitlement to Personal Independence Payment and Scottish Adult Disability Living Allowance.

Article 7 amends the Inheritance Act 1984 (c. 51) so that the provisions on pre-1981 trusts for disabled persons cover certain individuals who are in receipt of Scottish Adult Disability Living Allowance. The same Act is also amended in relation to self-settlements by those expected to meet the definition of a "disabled person" in the future, where such a person is receiving treatment for renal failure in a hospital or similar institution, other than as an in-patient.

Article 8 amends the Vehicle Excise and Registration Act 1994 (c. 22) to provide that in specified circumstances, a vehicle is exempt from vehicle excise duty when it is being used, or kept for use, by or for the purposes of a person who is in receipt of Scottish Adult Disability Living Allowance.

Article 9 amends the Finance Act 2005 (c. 7) to ensure that individuals in receipt of Scottish Adult Disability Living Allowance receive the same treatment as those in receipt of Disability Living Allowance.

Article 10 amends the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517) to ensure that Scottish Adult Disability Living Allowance is treated the same way as other forms of disability assistance given under section 31 of the Social Security (Scotland) Act 2018 for the purposes of entitlement to Armed Forces Independence Payment.

A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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£8.14

http://www.legislation.gov.uk/id/ukdsi/2025/9780348267778

ISBN 978-0-34-826777-8

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