EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (SCOTLAND) ACT 2018 (DISABILITY AND CARER BENEFITS) (CONSEQUENTIAL AMENDMENTS) ORDER 2026

2026 No. 679

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Andrew Western, Minister for Transformation at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Andrew Latto, Deputy Director for Devolution, Pensioner Benefits and Carer's Allowance Policy at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Matthew Ransley at the Department for Work and Pensions, email: devolution.scotlandact2016policy@dwp.gov.uk and David Tarr at the Department for Communities, email: david.tarr@communities-ni.co.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes miscellaneous amendments to social security legislation across Great Britain and Northern Ireland as a consequence of Scottish devolution. It ensures that all aspects of various Scottish disability[1] and carer benefits[2] interact correctly with UK Government and Northern Ireland social security benefits.

4.2 This instrument also corrects the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216)[3] by removing the duplicated use of 'a person' inserted incorrectly by the Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022[4] and the Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Amendments) Order 2025.[5]

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[1] Child Disability Payment, Adult Disability Payment, Pension Age Disability Payment and Scottish Adult Disability Living Allowance - https://www.mygov.scot/browse/benefits/disability-benefits

[2] Carer Support Payment, Carer's Allowance Supplement, Young Carer Grant, - https://www.mygov.scot/browse/benefits/carers, https://www.mygov.scot/carers-allowance-supplement

[3] All Northern Ireland legislation referred to in this EM can be found here - https://www.communities-ni.gov.uk/services/law-relating-social-security-northern-ireland-blue-volumes

[4] https://www.legislation.gov.uk/uksi/2022/177/contents/made

[5] https://www.legislation.gov.uk/uksi/2025/227/contents/made

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is as follows: Part 1 of the instrument extends to England and Wales, Scotland and Northern Ireland; Part 2 of the instrument extends to England and Wales, and Scotland; Part 3 extends to Northern Ireland only.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is as follows: Part 1 of the instrument extends to England and Wales, Scotland and Northern Ireland; Part 2 of the instrument extends to England and Wales, and Scotland; Part 3 extends to Northern Ireland only.

5. Policy Context

What is being done and why?

5.1 The Scotland Act 2016[6] devolved responsibility for certain social security benefits to the Scottish Parliament. This instrument makes changes to social security legislation in Great Britain and Northern Ireland to correct omissions in earlier Scotland Act Orders to ensure equal treatment across the UK.

What was the previous policy, how is this different?

5.2 This instrument makes technical changes to ensure existing policy is applied correctly. It does not make new policy.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument makes minor changes to UK Government and Northern Ireland social security legislation to supplement existing provisions to ensure that the Scottish Government's Carer Support Payment, Child Disability Payment, Adult Disability Payment, Pension Age Disability Payment and Scottish Adult Disability Living Allowance are treated in the same way as the benefits they have replaced in the reserved benefit system. It also adds the Scottish Government's Carer's Allowance Supplement and Young Carer Grant to existing provisions which set out when benefit arrears are not to be treated as a deceased person's assets for the purposes of a Social Fund Funeral Expenses Payment.

6.2 As the Department for Communities does not have any Scotland Act 1998[7] powers, the Department for Work and Pensions is making the corresponding changes to Northern Ireland legislation on its behalf in order to maintain parity.

Provisions

6.3 The effect of the provisions in this instrument is as follows:

Article 2

6.4 Amends the Social Security (Claims and Payments) Regulations 1987[8] so that Carer Support Payment is treated as a relevant qualifying benefit for the purpose of backdating Pension Credit awards.

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[6] https://www.legislation.gov.uk/ukpga/2016/11/contents
[7] https://www.legislation.gov.uk/ukpga/1998/46/section/104
[8] https://www.legislation.gov.uk/uksi/1987/1968/contents

Articles 3 and 10

6.5 Amend the Social Security and Child Support (Decision and Appeals) Regulations 1999[9] and the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 162) to include Carer Support Payment in the list of Scottish disability and carer benefits. This allows earlier decisions on UK Government or Northern Ireland social security benefits to be revised or superseded (that is, changed) as appropriate when Carer Support Payment is subsequently awarded. For example, when Carer Support Payment is awarded, an additional amount for caring would be payable in Pension Credit.

Articles 4 and 11

6.6 Amend the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001[10] and the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 (S.R. 2001 No. 213) to include Carer Support Payment, Pension Age Disability Payment and Scottish Adult Disability Living Allowance as qualifying benefits for Housing Benefit. This allows Housing Benefit decisions to be revised or superseded (that is changed) as appropriate where one of these benefits is later awarded, reinstated or increased. For example, this change means that an additional amount for caring or disability could be payable in Housing Benefit.

Articles 5 and 12

6.7 Amend the Social Fund Maternity and Funeral Expenses (General) Regulations 2005[11] and the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 506) which set out when benefit arrears are not treated as a deceased person's assets for Social Fund Funeral Expenses Payment. These amendments add the Scottish Government's Carer's Allowance Supplement and Young Carer Grant to existing provisions which set out when benefit arrears are not to be treated as a deceased person's assets for the purposes of a Social Fund Funeral Expenses Payment.

Articles 6 and 13

6.8 Amend the Housing Benefit Regulations 2006[12] and the Housing Benefit Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405) to ensure that certain working-age couples receiving Housing Benefit[13] continue to qualify for the childcare disregard in Housing Benefit where Adult Disability Payment stops because the recipient is in hospital. It also adds Pension Age Disability Payment to the list of qualifying benefits for the severe disability premium in Housing Benefit.

Articles 7 and 14

6.9 Amend the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006[14] and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland)

[9] https://www.legislation.gov.uk/uksi/1999/991/contents
[10] https://www.legislation.gov.uk/uksi/2001/1002/contents
[11] https://www.legislation.gov.uk/uksi/2005/3061/contents
[12] https://www.legislation.gov.uk/uksi/2006/213/contents
[13] Couples where one member is engaged in paid work and the other receives a disability benefit.
[14] https://www.legislation.gov.uk/uksi/2006/214/contents

2006 (S.R. 2006 No. 406) to ensure that certain couples receiving Housing Benefit[15] continue to qualify for the childcare disregard in Housing Benefit where Adult Disability Payment stops because the recipient is in hospital. It also adds Child Disability Payment to the list of qualifying benefits for the severe disability premium in Housing Benefit and Adult Disability Payment to the list of qualifying benefits for the £20 earnings disregard in Housing Benefit.

Articles 8 and 15

6.10 Amend the Employment and Support Allowance Regulations 2008[16] and the Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008 No. 280) with respect to non-dependents who are living in a household with someone in receipt of Employment and Support Allowance (ESA) where the housing costs are paid not by them but by the ESA recipient. The amendment means that when calculating a non-dependant's gross income in order to determine what contribution they should make to those housing costs, no account is taken of any Child Disability Payment the non-dependant is receiving.

Articles 9 and 18

6.11 Amend the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013[17] and the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 221) to include Carer Support Payment in the list of Scottish disability and carer benefits. This allows earlier decisions on UK Government or Northern Ireland social security benefits to be revised or superseded (that is, changed) as appropriate when Carer Support Payment is subsequently awarded. For example, when Carer Support Payment is awarded, it may indicate that there could also have been entitlement to an additional amount for caring in Universal Credit from an earlier date.

Article 16

6.12 Amends the State Pension Regulations (Northern Ireland) 2015 (S.R. 2015 No. 315) to mirror an earlier change to the Social Security (Credits) Regulations (Northern Ireland) 1975 (S.R. 1975 No. 113) made by the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 Consequential Amendments) Order.[18] The change adds Carer Support Payment to the list of benefits that can provide entitlement to National Insurance credits for the new State Pension. It also ensures people do not receive duplicate National Insurance credits where they qualify in more than one way, for example because they are also a spouse or civil partner of a member of the armed forces. It also allows someone to apply for a Class 3 National Insurance credit[19] for any week they provide at least 20 hours of care to a person who receives Pension Age Disability Payment.

Article 17

[15] Couples where one member is engaged in paid work and the other receives a disability benefit.
[16] https://www.legislation.gov.uk/uksi/2008/794/contents
[17] https://www.legislation.gov.uk/uksi/2013/381/contents
[18] https://www.legislation.gov.uk/uksi/2023/1218/made
[19] Class 3 National Insurance credits are awarded to protect entitlement to the State Pension.

6.13 This Article corrects the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) by removing the duplicated use of 'a person' inserted incorrectly by the Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022[20] and the Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Amendments) Order 2025.[21]

Why was this approach taken to change the law?

6.14 Section 104 of the Scotland Act 1998[22] allows consequential changes to be made to United Kingdom legislation where necessary or expedient in consequence of any provisions made by or under an Act of the Scottish Parliament.

6.15 These amendments are in direct consequence of devolution and the introduction of Scottish disability and carer benefits.

7. Consultation

Summary of consultation outcome and methodology

7.1 There is no requirement to submit Orders made under the Scotland Act 1998 to the Social Security Advisory Committee or Local Authority Associations for scrutiny, although a copy has been shared with both for information.

7.2 There has been no consultation on this Order, as the amendments are a consequence of devolution.

8. Applicable Guidance

8.1 Operational guidance for the Department for Work and Pensions (the Decision Makers' Guide and Advice for Decision Makers on Gov.UK)[23] and the Department for Communities staff (Advice for Decision Makers on communities-ni.gov.uk)[24] will be updated and in place when the legislation comes into force on 16 July 2026. Guidance about the changes to Housing Benefit will be available on the 'Housing Benefit for local authorities' section of Gov.UK.[25]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

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

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

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[20] https://www.legislation.gov.uk/uksi/2022/177/contents/made
[21] https://www.legislation.gov.uk/uksi/2025/227/contents/made
[22] https://www.legislation.gov.uk/ukpga/1998/46/contents
[23] https://www.gov.uk/government/collections/decision-makers-guide-staff-guide
[24] https://www.communities-ni.gov.uk/articles/decision-makers-guide
[25] https://www.gov.uk/government/collections/housing-benefit-for-local-authorities-circulars

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to interactions between the devolved and reserved social security systems is kept under review as each evolves over time.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument contains changes that were omitted from previous Orders. Following consultation with the Statutory Instrument Registrar the procedure for free issue has been applied and the instrument will be issued free of charge to all known hard copy recipients of the following Statutory Instruments:

- The Social Security (Scotland) Act 2018 (Consequential Modifications) Order 2018[26]
- The Social Security (Scotland) Act 2018 (Young Carer Grants, Short-Term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2020[27]
- The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021[28]
- The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022[29]
- The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023[30]
- The Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Amendments) Order 2024[31]

11.2 This instrument also deletes from paragraph 14(2)(bb) of Schedule 4 of the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) words that should not have been inserted. Therefore, the instrument will also be issued free of charge to all known hard copy recipients of the Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Amendments) Order 2025[32] and the Social Security (Income-related Benefits) (Amendment) Regulations (Northern Ireland) 2019 (S.R. 2019 No. 23).

[26] https://www.legislation.gov.uk/uksi/2018/872/contents/made
[27] https://www.legislation.gov.uk/uksi/2020/989/contents/made
[28] https://www.legislation.gov.uk/uksi/2021/786/contents/made
[29] https://www.legislation.gov.uk/uksi/2022/177/contents/made
[30] https://www.legislation.gov.uk/uksi/2023/1218/made
[31] https://www.legislation.gov.uk/uksi/2024/919/contents/made
[32] https://www.legislation.gov.uk/uksi/2025/227/contents/made

12. European Convention on Human Rights

12.1 As this instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").