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Dr Sally Witcher
Chair of the Scottish Commission on Social Security
c/o Scottish Government
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25 June 2021

Dear Dr Witcher

I enclose the draft Disability Assistance for Working Age People (Scotland) Regulations for Adult Disability Payment, to be made under sections 30(2), 31(2), 36(2), 41(4) (a), 43(5) and 52 of the Social Security (Scotland) Act 2018. I am pleased to provide the Scottish Commission on Social Security with a formal request for scrutiny of these draft regulations.

These regulations set out the detail of how this devolved form of Disability Assistance will function when it commences in spring 2022. A further draft of these regulations will be laid in Parliament in time for implementation of an initial roll-out in spring 2022, before a national roll-out in autumn 2022.

As you will be aware, the Scottish Government undertook a public consultation on its proposals for the delivery of Adult Disability Payment between 21 December 2020 and 15 March 2021. The consultation received 127 responses from individuals and stakeholder organisations and we have now published an analysis of consultation responses. In response to the feedback we received, we have made some changes to the regulations and our approach to the delivery of Adult Disability Payment. Further changes have also been made to the regulations since the public consultation was launched, as a result of policy development. Changes include:

- The addition of definitions, including of 'Adult Disability Payment', and a more consistent use of key terminology to provide greater clarity throughout the regulations.
- The extension of the cumulative minimum experience required from Social Security Scotland practitioners (referred to in the Regulations as "assessors") to 2 years' post qualification experience meaning, in many cases practitioners will have three years of experience while completing their qualification in addition to the two years required after that.
- A change to the residency criteria to reduce the 'past presence test' to 26 out of 52 weeks from 52 out of 104 weeks.

- Further improvements to the application form to include clear guidance on how the eligibility criteria is applied. This will ensure that a client is supported in providing relevant information, guided by the reliability criteria, about how they feel after completing an activity and how long the impact lasts for.
- In response to concerns expressed around a 4 week timeframe to report a change of circumstance, individuals who report a change of circumstance after a month, but less than 13 months after the change occurred, will now receive payment backdated to when they first satisfied the eligibility criteria for a higher rate of Adult Disability Payment, provided they have good reason for the delay in reporting a change of circumstance.

Along with the regulations, I also provide a policy note drafted to assist SCoSS with their scrutiny, as well as drafts of the Equalities Impact Assessment, the Business and Regulatory Impact Assessment, the Island Communities Impact Assessment, the Fairer Scotland Duty Summary and the Children's Rights and Wellbeing Impact Assessment. Earlier drafts of these impact assessments were published in December last year as part of our public consultation on the draft regulations for Adult Disability Payment. A number of changes have been made to the impact assessments in response to the consultation, including:

- The undertaking of further analysis of the impact of our approach to the application of the eligibility criteria, specifically looking at potential impacts on women, on individuals with one or more mental health condition, individuals with a learning disability and/ or learning difficulty, and on individuals with varying health conditions.
- The introduction of additional measures to ensure that Social Security Scotland practitioners gain a full understanding of the needs and experiences of a client where a consultation takes place.
- Actions to further ensure that the application of the reliability criteria mitigates the negative impacts of how the PIP eligibility criteria is currently applied by the Department for Work and Pensions including the provision of additional guidance as part of the application form.

It may be helpful to note that these draft regulations will be published today (25 June) and I have sent a copy to the Social Justice and Social Security Committee with the associated draft papers and documents.

I am pleased to mark this significant milestone in the process of delivering devolved social security. As you know, the introduction of Adult Disability Payment is central to building a system that better meets the needs of disabled people in Scotland. I recognise SCoSS's vital role in scrutinising our proposals thus far and I thank you for your continued co-operation. It continues to be key in ensuring that we achieve our aim of delivering a social security system in Scotland that meets our values of treating people with dignity, fairness and respect.

Kind regards

A handwritten signature in black ink that reads "Ben Macpherson". The signature is written in a cursive, flowing style with a long horizontal tail stroke.

BEN MACPHERSON