

POLICY NOTE

THE WINTER HEATING ASSISTANCE FOR CHILDREN AND YOUNG PEOPLE (SCOTLAND) AMENDMENT REGULATIONS 2021

SSI 2021/XXX

The above instrument was made in exercise of the powers conferred by sections 30(2) and 52 of the Social Security (Scotland) Act 2018 (“the 2018 Act”). For the purposes of this policy note, “the principal regulations” means the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020¹. The instrument is subject to affirmative procedure. As required by section 97(2) of the 2018 Act, the Scottish Ministers have consulted the Scottish Commission on Social Security (SCoSS) and a response to the Commission’s report on the proposals is published along with the draft instrument.

This instrument amends “the principal regulations” which set out the rules and eligibility criteria for Child Winter Heating Assistance (CWA).

This instrument extends eligibility for CWA to young people who are entitled to be paid the enhanced rate of the daily living component of Personal Independence Payment (PIP) during the qualifying week (beginning with the third Monday in September of each year). The eligibility criteria are also amended with retrospective effect.

The Regulations further amend regulation 8 to enable the Scottish Ministers to make a determination of an individual’s entitlement to CWA following a backdated award of the enhanced rate of the daily living component of PIP, as a result of an appeal.

The Regulations also amend regulation 11 of the principal regulations to permit Scottish Ministers to pay CWA to a person to be used for the benefit of a child.

Policy Objectives

The Scottish Government introduced Child Winter Heating Assistance in November 2020 for children and young people who receive the highest rate of the care component of Disability Living Allowance (DLA) or Child Disability Payment (CDP) for at least one day of the qualifying week in September. The assistance consists of an annual £200 payment for each eligible child or young person.

The rationale for providing for eligibility to CWA for this group of children and young people is to provide some mitigation for the increased costs these individuals incur including as a result of needing to heat their homes through the night, or periods of the night, because, as a result of their disability or condition, they require another person to provide care and support throughout the night.

Prior to 1 September 2020, a child who was entitled to DLA immediately prior to age 16 was required to apply for Personal Independence Payment (PIP) on or after reaching age 16. The Scottish Ministers amended the eligibility criteria for DLA to allow a young person to remain

¹ SSI 2020/352 <https://www.legislation.gov.uk/ssi/2020/352/contents>

entitled to that benefit, before being required to apply for PIP at age 18 instead. However, young people (aged 16 and over) who apply for a disability benefit for the first time, must continue to apply for PIP. A young person who is terminally ill (within the meaning given in the Welfare Reform Act 2012) and makes an application for PIP will also be automatically awarded the enhanced rate of the daily living component.

The Scottish Government has carefully considered feedback from stakeholders and individuals about the extension of the eligibility criteria to include young people aged 16 to 18 who are entitled to the enhanced rate of the daily living component of PIP. Unlike the highest rate of the care component of DLA or CDP, daily living component of PIP does not explicitly require needs to be met throughout the night.

Nevertheless, a young person who is entitled to receive payment of the enhanced rate of the daily living component is likely to more generally have higher disability-related costs, in the same way that a young person who remains entitled to the highest rate of the care component of DLA does.

It is also considered necessary to amend regulation 11 of the principal regulations to ensure that Scottish Ministers may, where they consider it necessary, pay CWA to another person to be used on behalf of the child. This ensures consistency with the existing provision with regulation 11 in respect of young people, and the original policy intention.

Consultation

There has been no specific consultation with stakeholders on these amendment regulations.

However, as part of the policy development work for Child Winter Heating Assistance, the Scottish Government consulted and engaged a range of stakeholders. This included a public consultation between 5 March to 28 May 2019 on the *Consultation on Disability Assistance*, as part of the wider consultation on the policy and proposed delivery models for disability assistance, including Child Winter Heating Assistance.

Impact Assessments

The following impact assessments were completed on the draft regulations and accompany this policy note:

- Equality Impact Assessment,
- Child Rights and Wellbeing Impact Assessment,
- Fairer Scotland Duty Assessment, and
- Island Communities Impact Assessment.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) was completed as part of drafting of the amended regulations.

It is anticipated the young people who meet the eligibility criteria and their families will be directly affected. Any impact on welfare rights and income maximisation services due to young people seeking advice will be strictly limited. Through this widening of financial

support to young people, the Scottish Government expects to invest around an extra £1.5 million into the Scottish economy this year as CWHA is expected to be used to meet ease the financial pressures of winter fuel bills. This sum represents a retrospective extension of the eligibility criteria.

There may be some impact on businesses and third sector organisations operating in Scotland in relation to the way the new Social Security Scotland agency delivers the devolved benefits compared to DWP.

The Scottish Government does not believe that CWHA will have an adverse impact on the competitiveness of businesses or the third sector in Scotland, the UK, Europe or the rest of the world. In addition, no adverse impact is expected on either eligible young people or any other consumer either within Scotland, the UK, or elsewhere in Europe or the rest of the world.

The right to appeal to a First-tier Tribunal is provided for in the Social Security (Scotland) Act 2018. Legal Assistance will continue to be available to individuals to appeal an entitlement decision to the Upper Tribunal, Court of Appeal or Supreme Court.

The Scottish Government does not expect any adverse impact to the Legal Aid budget as a result of the introduction of CWHA.

Scottish Government
Social Security Directorate

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