

Draft Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023

Draft Island Communities Impact Assessment

February 2023

Island Communities Impact Assessment (ICIA): Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023

Introduction

1. The importance of island-proofing was recognised in the "Empowering Scotland's Island Communities prospectus" published in June 2014. The principle of island-proofing is one of building a broad-based islands awareness into the decision making process of all parts of the public sector.
2. The Islands (Scotland) Act 2018¹ places a duty on the Scottish Ministers and other relevant authorities, including a number of public authorities, to have regard to island communities in exercising their functions, and for the Scottish Ministers this will also include the development of legislation. This duty is often referred to as 'island-proofing'.
3. The Scottish Government recognises the importance of island-proofing and committed to island-proofing it's Social Security (Scotland) Act 2018² (the 2018 Act), in advance of the Islands Act placing a formal requirement. The Scottish Government is also committed to island-proofing the legislation required in support of the devolution of social security powers to Scotland.
4. If the Scottish Ministers are of the opinion that any piece of proposed legislation is likely to have an effect on an island community which is significantly different from its effect on other communities, then the duty to island-proof legislation requires the Scottish Ministers to:
 - describe the likely significantly different effect of the legislation;
 - assess the extent to which the Scottish Ministers consider that the legislation can be developed in such a manner as to improve or mitigate, for island communities, the outcomes resulting from the legislation; and
 - set out the financial implications of steps taken under this subsection to mitigate, for island communities, the outcomes resulting from the legislation.

Executive Summary

5. This ICIA has considered the potential effects of the Disability Assistance (Miscellaneous Amendments) (Scotland) Regulations 2023 and how they impact on people living in island communities. The findings here are based on desk research, engagement with and feedback from disabled people with lived experience of the current social security system³, and the Consultation on Disability Assistance. This ran between 5 March and 28 May 2019 and received 262 replies, of which 74 were from stakeholder organisations and 188 were from individuals.⁴

¹ <http://www.legislation.gov.uk/asp/2018/12/enacted>

² <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

³ <https://www.gov.scot/collections/social-security-experience-panels-publications/>

⁴ [A Consultation on Improving Disability Assistance in Scotland - Scottish Government - Citizen Space](#)

6. This in turn led to targeted consultation with stakeholders representing people with protected characteristics which was undertaken during the consultation period in 2019, including disabled people from island and remote communities. This has helped to inform our understanding of the impact of these regulations on disabled individuals in these communities.
7. We have concluded that there will not be any new unique impacts on remote and islands communities as a result of the provisions in these Regulations, nor will there be a specific financial impact for island communities in isolation resulting from the provisions. Positive impacts on disabled children and young people identified are expected to have a similar impact on remote and island communities as the rest of Scotland.

Policy Background

8. The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of social security in Scotland. Child Disability Payment was the first of three types of disability assistance to be introduced by the Scottish Government and launched nationally on 22 November 2021. It is available to children and young people from the ages of 3 months to 18 years old who have care and/or mobility needs as a result of a disability.
9. Adult Disability Payment was also introduced by the Scottish Government on 29 August 2022. This form of assistance provides disabled individuals with support for extra costs incurred as a result of disability. Both Child Disability Payment and Adult Disability Payment have been co-designed with stakeholders and disabled people to ensure that the values of dignity, fairness and respect are embedded throughout.
10. In addition to supporting new applications, Scottish Ministers have made provision for the transfer of responsibility for delivering disability benefits for individuals who receive Personal Independence Payment and Disability Living Allowance for Children from the Department for Work and Pensions to Social Security Scotland. They are also responsible for changing the disability benefits for these individuals from Personal Independence to Adult Disability Payment and Disability Living Allowance for Children to Child Disability Payment. We refer to this process as “case transfer”.
11. The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 make amendments to the following sets of principal Regulations for Child Disability Payment and Adult Disability Payment: the Disability Assistance for Children and Young People (Scotland) Regulations 2021; the Disability Assistance for Working Age People (Scotland) Regulations 2022; and the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022. These changes to the principal regulations are intended to smooth the transition for individuals moving between these benefits. In addition they include some minor technical amendments. They also make a small adjustment to the Social Security (Invalid Care Allowance) Regulations 1976 to clarify eligibility criteria for Carer’s Allowance.

12. As of 31 December 2022, it is estimated that 54,375 children and young people were in receipt of Child Disability Payment. Of this total, 13,005 were new applicants and 41,370 were people who had their award transferred to Child Disability Payment.⁵
13. As of the 31 October 2022, 3,470 people were in receipt of Adult Disability Payment. Of this total, 3,135 people were new applicants and 335 were people who had their award transferred from the Department for Work and Pensions' Personal Independence Payment.⁶
14. Scottish Ministers set out a number of case transfer principles which were used to guide the development of the approach to case transfer. One of the main principles set out by Scottish Ministers is:
- **Correct payment at the correct time** – ensuring that the case transfer process is designed so that individuals will receive the same amount for the Scottish benefit as they received for the corresponding UK benefit to include checks at the point of transfer
 - **No re-applications** – we will not require individuals to reapply for their benefit as part of the case transfer. We will work with DWP to move individuals automatically to Social Security Scotland and the corresponding new Scottish benefit.
 - **No face to face DWP re-assessments** – we will ensure that no-one will be subject to a face to face re-assessment by DWP when new applications for Adult Disability Payment open. DWP do not conduct face to face assessments for Disability Living Allowance for Children renewals, so this is not a consideration for Disability Living Allowance for Children case transfer.
 - **Complete as soon as possible** – whilst the previously set out timetable will no longer be possible due to the impacts of Covid-19, Scottish Ministers have been clear that they want to complete the transfer of cases as as soon as is possible in a way that will not create unacceptable risks for individuals.
 - **Clear communication with individuals** – we will inform our individuals the date their case will be transferred and will keep them informed at the various stages of the case transfer process.

⁵ [Child Disability Payment: high level statistics to 31 December 2022 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/child-disability-payment-high-level-statistics-to-31-december-2022/)

⁶ <https://www.gov.scot/publications/adult-disability-payment-high-level-statistics-to-31-october-2022/>

15. To achieve this we are doing the following:

Amendments relating to the Child Disability Payment to Adult Disability Payment journey

- Providing individuals moving from Child Disability Payment to Adult Disability Payment with financial continuity by allowing their payment cycles to be maintained
- Bringing Child Disability Payment entitlement to an end when someone has received a determination that they will be entitled to Adult Disability Payment to enable payment cycles to be maintained
- Ensuring that all young people who turn 18 after 31 December 2023 are subject to the same rules regarding receipt of Child Disability Payment after 18 while continuing to protect the cohort of case transferees turning 18 on or before that date

Other amendments to the CDP, ADP and ADP transitional provisions Regulations

- Clarifying the residence and presence criteria of Child Disability Payment and Adult Disability Payment by making explicit that the care/daily living component is restricted to individuals for whom the United Kingdom is the correct state for paying these components
- For cases where a Determination Without Application is made on an individual's entitlement to Adult Disability Payment when Scottish Ministers become aware that the person has died, bring entitlement to an end on the day the individual dies
- Clarify Regulation 34 of the Child Disability Payment regulations by inserting the word 'Payment' after 'Child Disability' as this is currently missing
- The Adult Disability Payment and Adult Disability Payment transitional provisions Regulations are being amended to clarify who changes are reported to before the transfer determination.
- Further amendments to the Adult Disability Payment transitional provisions Regulations clarify when and how changes that occur after the point of transfer should affect a person's award.

Amendment to the Social Security (Invalid Care Allowance) Regulations 1976

- Ensure that Carers who are caring for an individual in receipt of Child Disability Payment or Adult Disability Payment while abroad continue to receive Carer's Allowance

16. This policy is closely aligned with the Healthier, Wealthier and Fairer Strategic Objectives, and contributes to the following National Outcomes:

- We respect, protect and fulfil human rights and live free from discrimination;

- We tackle poverty by sharing opportunities, wealth, and power more equally;
- We live in communities that are inclusive, empowered, resilient and safe; and
- We grow up loved, safe and respected so that we realise our full potential.

17. This impact assessment is one of a package to accompany the regulations. The others are: Business and Regulatory Impact Assessment (BRIA); Equality Impact Assessment (EQIA); Children’s Rights and Wellbeing Impact Assessment (CRWIA); and the Fairer Scotland Duty Assessment.

Scope of the Island Communities Impact Assessment (ICIA)

18. This ICIA gives consideration to the impact of the introduction of these amendments on disabled people who live in remote and island communities.

19. A variety of sources were used in compiling this ICIA, including:

- Scottish Health Survey 2021⁷
- Social Security Experience Panel findings⁸
- Responses to our Consultation on Disability Assistance in Scotland⁹
- Scotland’s Census 2011¹⁰
- Child Disability Payment Statistics – February 2023¹¹
- Adult Disability Payment Statistics – December 2022¹²

Key Findings

20. This section provides an overview of issues for Scottish rural/remote and island communities that are relevant for these amendment regulations.

21. Island stakeholders have emphasised the importance of understanding the island experience. Each island has its own specific considerations and constraints.

22. Rural Scotland accounts for 98% of the land mass of Scotland and 17% of the population are resident there.

23. At the time of the 2011 Census, Scotland had 93 inhabited islands with a total population of 103,700 (which was 2% of Scotland’s population). Of these islands, only five are connected to the Scottish mainland by bridge or causeway¹³.

⁷ [Scottish Health Survey 2021: supplementary tables - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/supplementary-tables-social-security-experience-panels-disability-living-allowance-dla-children-visual-summary/)

⁸ <https://www.gov.scot/publications/social-security-experience-panels-disability-living-allowance-dla-children-visual-summary/>

⁹ <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/pages/3/>

¹⁰ <https://www.nrscotland.gov.uk/statistics-and-data/census>

¹¹ [Child Disability Payment: high level statistics to 31 December 2022 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/child-disability-payment-high-level-statistics-to-31-december-2022/)

¹² [Adult Disability Payment Official Statistics \(socialsecurity.gov.scot\)](https://socialsecurity.gov.scot/publications/adult-disability-payment-official-statistics/)

¹³ [Inhabited islands analytical report | Scotland's Census \(scotlandscensus.gov.uk\)](https://scotlandscensus.gov.uk/inhabited-islands-analytical-report/)

24. The Islands Act identifies six local authorities representing island communities in Part 4 of the Act (Section 20 (2)), which are Argyll and Bute Council; Comhairle nan Eilean Siar/Western Isles; Highland Council; North Ayrshire Council; Orkney Islands Council; and Shetland Islands Council. Amongst them, Orkney, Shetland and Western Isles are entirely island authorities, while Highland, Argyll and Bute and North Ayrshire local authorities cover island regions as well as mainland regions.

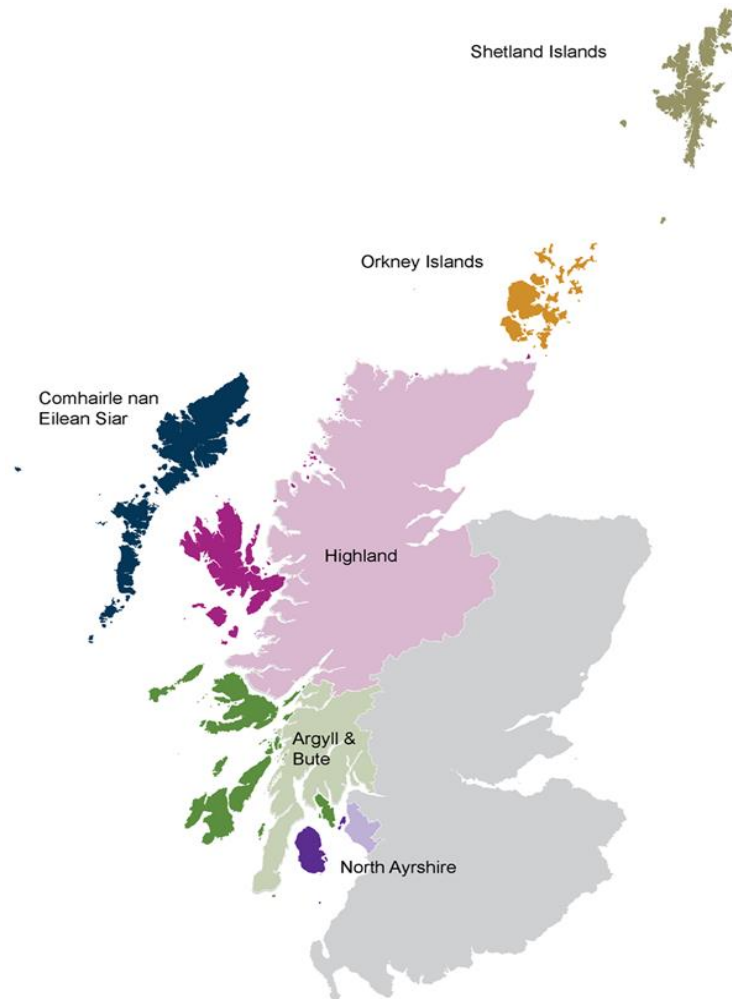


Figure 1: Map highlighting all 6 local authorities representing Island Communities (islands in darker shades where islands are part of mainland Local Authorities)¹⁴

¹⁴ <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2017/9/4/Islands--Scotland--Bill-1>

Demography and Health

25. According to the 2011 Census, 83% of island residents reported their health as being 'Very good' or 'Good' compared with 82% for Scotland as a whole.¹⁵ The proportion of island residents with a long-term (lasting 12 months or more) health problem or disability that limited their day-to-day activities was just under 20%, including 9% who reported their daily activities were limited a lot.¹⁶ The corresponding proportions for Scotland as a whole were very similar.
26. 17% of island residents are under age 16, which is the same proportion as per Scotland as a whole.¹⁷
27. 62% of island residents are aged between 16-65 with the median age being 45 which is higher than the average across Scotland as a whole (41).¹⁸
28. The proportion of people in relative poverty after housing costs with someone disabled is 23% and with no one disabled is 17%.¹⁹ Further, children in households with a disabled person were more likely to be in poverty than other households.²⁰ UK wide, disabled people have higher poverty rates than the general population. Disabled people make up 28% of people in poverty. A further 20% of people who are in poverty live in a household with a disabled child.
29. It is estimated that 24% of children (240,000 children each year) were living in relative poverty after housing costs in 2017-2020. Before housing costs, it is estimated that 21% of children (210,000 children each year) were in relative poverty.²¹
30. Around 4.2% of children in island communities are in receipt of Disability Living Allowance for Children.²²
31. Nearly 9.5% of people in receipt of Personal Independence Payment in Scotland live in remote and island communities across the six local authority areas as of July 2020. This accounts for 25,959 people.²³
32. Research undertaken by the Scottish Government²⁴ and by stakeholders in 2020 have found that a lack of connectivity in rural or remote communities has been compounded by the impacts of the Covid19 pandemic. An absence of good quality internet connection can significantly impact on an individual's ability to socialise and partake in cultural activities, particularly where people already have mobility restrictions as a result of a disability or health condition.

¹⁵ NRS (2015) [Scotland's Census 2011: Inhabited islands report](#)

¹⁶ NRS (2015) [Scotland's Census 2011: Inhabited islands report](#)

¹⁷ https://www.scotlandscensus.gov.uk/documents/analytical_reports/Inhabited_islands_report.pdf

¹⁸ https://www.scotlandscensus.gov.uk/documents/analytical_reports/Inhabited_islands_report.pdf

¹⁹ [Poverty and Income Inequality in Scotland 2018-21 - analytical report \(data.gov.scot\)](#)

²⁰ Included - Child and adolescent health and wellbeing: evidence review - gov.scot (www.gov.scot)

²¹ [Poverty and Income Inequality in Scotland 2018-21 - analytical report \(data.gov.scot\)](#)

²² [Stat-Xplore - Table View \(dwp.gov.uk\)](#)

²³ Department for Work and Pensions Stat Xplore

²⁴ Covid+and+Inequalities+Final+Report+For+Publication+-+PDF.pdf (www.gov.scot)

33. These amendments intend to improve outcomes for disabled people by making the journey for individuals moving from Child Disability Payment to Adult Disability Payment as smooth as possible. One way we are doing this is by maintaining the payment cycles of individuals moving between these forms of assistance, providing them with financial continuity.

Cost of Living

34. The cost of many amenities and activities are higher for people living in island communities than those living on the mainland. A lack of choice and accessibility means that shopping, mobile phone services and broadband can be more expensive for young people living in island communities compared to those on the mainland. The greater distances and remoteness means that day to day travel, postage, fuel, day-trips and holidays are also more expensive for young people in remote communities.

35. Citizens Advice Scotland²⁵ have identified issues of grid, utilities, digital and travel as key barriers for people in accessible rural, remote rural and remote small towns. Furthermore, a typical food basket can cost as much as 50% more on island communities in Scotland, while transport can be up to £30 a week more expensive due to longer distances for commuting and a higher price for petrol.²⁶

36. According to Highlands and Islands Enterprise (HIE), household budgets in remote rural Scotland are typically 10-35% higher than elsewhere in the UK.²⁷ For households in the most remote parts of Scotland, additional costs can be greater than 40%. HIE attribute these extra costs to three principal sources:

- the higher prices that households must pay for food, clothes and household goods;
- much higher household fuel bills, influenced by climate and fuel sources;
- the longer distances that people have to routinely travel, particularly to work.

37. According to the Joseph Rowntree Foundation, levels of poverty among disabled people are generally underestimated.²⁸ Because disabled people's needs are often greater than for those without a disability, the cost of living for disabled people is frequently higher. These costs are higher in island and remote communities due to an environment that is less accessible, with higher costs for reasonable adjustments to technology, housing and transport.

38. The Scottish Government recognises that both being disabled and living in a remote rural area make it more expensive to meet material need and participate in society.

²⁵ Sutherland, F (2015) Remotely excluded: barriers facing Scotland's rural consumers CAS, Edinburgh, 36 pp

²⁶ Microsoft Word - A Minimum Income Standard for Remote Rural Scotland - A Policy Update (A2662515).doc (hie.co.uk)

²⁷ [Microsoft Word - A Minimum Income Standard for Remote Rural Scotland - A Policy Update \(A2662515\).doc \(hie.co.uk\)](#)

²⁸ https://www.npi.org.uk/files/7814/0490/1005/Disability_long_term_conditions_and_poverty.pdf

39. While both Child and Adult Disability Payment are not intended to be an income replacement benefit, they are intended to provide support with helping to meet the extra costs associated with having a disability, such as paying for care and mobility needs. For some disabled people, it will bring additional entitlement to other benefits.

Connectivity and accessibility

40. Citizens Advice Scotland have identified issues of grid, utilities, digital and travel as key barriers for people in accessible rural, remote rural and remote small towns²⁹.

41. According to the research briefings³⁰ from 2017 about the Islands (Scotland) Bill, residents of islands rely on ferry crossings and air travel to reach the mainland and larger islands, and key services such as secondary and higher education, care, and medical services.

42. In 2011, the proportion of island households with at least one car or van available was 79%, compared with just over two-thirds (69%) nationally.³¹

43. In rural remote areas and island communities, young disabled people face a lack of access to opportunities that are more readily and frequently available to those on the mainland or in urban areas. Furthermore, a lack of accessibility to employment, education and leisure opportunities can be made more difficult for someone with mobility issues, especially when transport options are limited.

44. Bus services in remote and island communities can be unreliable and are often community run. Even where buses are available, they often run rarely and timetables do not meet the needs of young people living in the community. Furthermore, if there is already someone with a wheelchair or pram on the bus it is not always possible for a wheelchair user to board.

45. Not all islands are served by buses and there are not always taxis available. We heard how disabled young people on islands rely heavily on neighbours, friends and families driving them as a primary means of transport.

46. The needs of wheelchair users can be different in island and rural communities than the needs of wheelchair users in an urban environment due to more challenging terrain.

47. We appreciate the challenges faced by young disabled people in relation to connectivity and accessibility. Our priority through these amendments is to ensure that the transition between Child Disability Payment and Adult Disability Payment is as smooth as possible. We will do this by maintaining the payment

²⁹ Sutherland, F (2015) Remotely excluded: barriers facing Scotland's rural consumers CAS, Edinburgh, 36pp

³⁰ <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2017/9/4/Islands--Scotland--Bill-1>

³¹ [Official - sensitive – pre release statistics until June 2015 \(scotlandscensus.gov.uk\)](http://www.scotlandscensus.gov.uk)

cycles of individuals moving from Child Disability Payment to Adult Disability Payment to ensure that individuals receive their Adult Disability Payment on the same date their Child Disability Payment was previously paid. This will provide certainty to young disabled individuals in rural or island communities that there will be no interruption in them receiving the financial assistance they are entitled which can support them to access mobility and travel options.

Culture

48. Stakeholders have identified potential cultural barriers to applying for Child Disability Payment or Adult Disability Payment . This is because of the close-knit nature of island communities. Although there is plenty of research that evidences the positive impact of the support provided by close-knit communities, certain barriers may also be present.
49. It is possible that stigma attached to identifying as disabled could act as a barrier to young people applying to Child Disability Payment. The need for privacy and dignity is emphasised by disabled children and young people in remote and island communities.
50. We hope that by making the transition between Child Disability Payment and Adult Disability payment as smooth as possible we will ease some of the stress and anxieties that can be experienced by young people when moving between benefits.

Choice and representation

51. We heard how there are limited options for young people living in island and remote communities with regard to leisure activities, support services and support groups with the importance of choice being a key theme in both consultations. However such choices are often diminished or non-existent in rural areas.
52. Individuals can apply and maintain their Child Disability Payment and Adult Disability Payment applications by phone, online, by post or in person. This ensures that people can interact with Social Security Scotland in a way that best meets their needs.
53. These amendments aim to make the transition between Child Disability Payment and Adult Disability Payment as smooth as possible for young people, particularly by maintaining their payment cycles as they move between these forms of assistance.

Monitoring and Review

54. The Social Security (Scotland) Act 2018 places a duty on the Scottish Ministers to report annually to the Scottish Parliament on the performance of the Scottish social

security system during the previous financial year. The report is to describe what the Scottish Ministers have done in that year to meet the expectations on them set out in the charter and will include information on the impact of island-proofing.

55. We will continue to engage with relevant stakeholders and key organisations which will provide the Scottish Government with an opportunity to monitor the impact of the policy. We will also be sharing these amendments with SCoSS for their scrutiny on 24 February 2023.
56. The Scottish Ministers have also committed to engaging with, and reporting regular progress to, the Islands Strategic Group to ensure that those representing the interests of island communities and others with experience of the current system, are fairly represented in the development and delivery of the Scottish social security system.
57. The Communities Analysis Division within the Scottish Government will also run a comprehensive evaluation programme to consider the impact of the changes to disability assistance in Scotland including considering the transition for those moving from Child Disability Payment to Adult Disability Payment which we have further improved by these amendments.

Conclusion

58. Scottish Ministers are aware of the duty to consult island communities before making a material change to any policy, strategy or service which, in the Scottish Ministers' opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities.
59. This impact assessment has highlighted that living in island and remote communities present unique challenges for disabled people.
60. We have not identified any evidence that the introduction of these amendment regulations will directly or indirectly discriminate against remote and island communities.
61. The introduction of these amendments is expected to have a positive impact on disabled people across Scotland, particularly on those young people moving from Child Disability Payment to Adult Disability Payment, by making this transition as smooth as possible.
62. The Scottish Government is committed to designing the devolved social security system with people in Scotland, and on-going engagement with disabled people, external stakeholders and advisory groups will ensure that the impact of the regulations remain under continuous review.

Authorisation

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