



Social Justice and Social Security Committee
Thursday 18 September 2025
23rd Meeting, 2025 (Session 6)

Cross Border Regulations

The [draft Social Security \(Cross-border Provision, Case Transfer and Miscellaneous Amendments\) Regulation 2025](#) were laid on 24 June.

The Committee will hear from:

- Shirley-Anne Somerville, Cabinet Secretary, Social Justice
- Scottish Government officials

Background

What the regulations do

Abolishing automatic case transfer

These regulations abolish automatic case transfer of carer and disability benefits for people moving between Scotland and the rest of the UK.

Instead, people in receipt of carer and disability benefits in England, Wales or Northern Ireland who move to Scotland will need to apply to Social Security Scotland for the equivalent benefit. Similarly, people moving from Scotland to England and Wales will need to make an application to DWP (Department of Communities in Northern Ireland).

This replaces the current system of automatic case transfer which was put in place to facilitate the bulk moving of people's benefits from DWP to Social Security Scotland. Once that process is complete, and everyone in Scotland gets their carer and/or disability benefits from Social Security Scotland, the facility for automatic case transfer when someone moves between UK countries will also end.

In their response to the SCoSS report the Scottish Government states that although their preferred policy would be to maintain limited exchange of data on cross-border clients, the DWP has not agreed to this due to resource concerns.

Suspension

The regulations make a minor clarification to the rules on suspension. Benefits can be suspended and then ended in certain circumstances – such as when someone doesn't provide required information. These regulations provide that when a

decision is taken to end a benefit, following a suspension, the effective end date is the date of the suspension.

EU withdrawal and related provisions

These regulations make minor changes to the residence and presence condition for various devolved benefits to bring them into line with the UK agreement with Gibraltar and with the UK Withdrawal Agreement on EU.

Gibraltar Agreement

The UK has various reciprocal agreements with other countries which exempt citizens of those countries from the normal residency requirements for certain types of social security benefits. This includes an agreement with Gibraltar in 1974. These regulations update social security rules to add reference to a [new 2024 agreement between the UK and Gibraltar](#).

Withdrawal Agreement

The regulations also update Best Start Foods and Best Start Grant eligibility criteria after the [Independent Monitoring Authority](#) (which oversees compliance with the terms of the UK's withdrawal from the EU) found that the existing regulations did not reflect the UK Withdrawal Agreement.

The regulations clarify that applicants to the EU settlement scheme and joining family members in the first three months of residence are entitled to apply for Best Start Foods and Best Start Grant. The Independent Monitoring Authority have [considered the changes](#) and reported that:

“The IMA welcomes the amendments to clarify entitlement to Best Start Foods and Best Start Grant for applicants to the EUSS and joining family members and raises no issues of concern.”

The Scottish Government had agreed to make the changes by 31 January 2025. The IMA are monitoring compliance with this issue with a [proposed end date of 31 October 2025](#).

Scottish Commission on Social Security

SCoSS reported on these regulations on [28 March 2025](#), making seven recommendations and two observations. The Scottish Government replied when the draft regulations were laid on 24 June, accepting six recommendation and accepting the seventh ‘in principle’.

Data sharing:

SCoSS recommended continuing to allow some data sharing, to reduce the burden on disabled people and carers of having to make new applications (recommendation

1). In response, the Scottish Government said that, although this would be their preference, the DWP does not agree due to resource concerns.

Delay in providing information

If someone moves from the rUK to Scotland and provides key information to Social Security Scotland within 26 weeks, their Scottish benefit will be backdated to the date their DWP benefit ended.

SCoSS recommended that information provided after the deadline be accepted where there is 'good reason' for the delay (recommendation 2). The Scottish Government accepted and included this in the regulations.

Communications with clients

When someone moves to Scotland, the DWP should signpost them to Social Security Scotland. SCoSS recommended that Social Security Scotland monitor how effective this is (recommendation 3). The Scottish Government accepted this, noting there will be a 'hypercare' period to monitor implementation following the September launch. Feedback will be provided to the DWP.

Similarly, SCoSS recommended more training and guidance for Social Security Scotland staff on cross-border moves (Recommendation 4). The Scottish Government accepted, stating that training and updated guidance was being prepared. Information for clients will be provided on mygov.scot.

SCoSS recommended publishing full details of the 'client journey' for adults on DLA who move to Scottish Adult DLA (SADLA). There is no application process for SADLA as it is closed to new claimants. The DWP will not share data on such clients with Social Security Scotland, requiring anyone who moves to Scotland to submit new information to Social Security Scotland. The Scottish Government stated that they have developed a 'Scottish Adult DLA Cross Border Form' and will provide 'clear information through our usual channels including mygov.scot, media releases and communications with stakeholders'.

Technical issues

The Scottish Government accepted the two other recommendations on:

- Ensuring client data is not deleted within the timescale for a cross-border move.
- Ensuring correct terminology is used.

SCoSS also made two observations welcoming Scottish Government's ongoing efforts to access evidence of terminal illness diagnosis held by the DWP, and clarifying the rules around suspension of benefits and ending of awards.

Suggested themes for discussion

The DWP will no longer share data with Social Security Scotland on 'cross-border' moves. The Scottish Government told SCOSS that:

"Different options were explored with the Department of Work and Pensions such as limited data sharing without forms and evidences, and receiving a notification of clients who have moved to Scotland, but these options were ruled out by the Department for Work and Pensions." (SCOSS report p.6)

This includes adults moving from DLA to Scottish Adult DLA. This is a small group of elderly clients who would receive SADLA rather than being moved onto ADP. It is closed to new claimants so there is no application form. However, because the DWP will not share data, Social Security Scotland will need to gather detailed information on entitlement from any DLA client who moves to Scotland.

On the specific issue of data sharing in cases of terminal illness the SCoSS report stated that:

"The Scottish Government has told us that it is continuing to explore options with the DWP on the specific issue of access to supporting evidence the DWP holds from cross-border movers with terminal illnesses. It is important [...] to ensure that these transfers are being appropriately handled and that any administrative burden on individuals and their families are reduced and, therefore, these efforts are particularly welcome."

Members may wish to discuss:

- 1. In its reply to SCOSS, the Scottish Government said it would prefer DWP and Social Security Scotland share data about clients moving between Scotland and the rest of the UK. Can the Cabinet Secretary explain why this has not been possible and what the impact will be on disabled people and carers?**
- 2. Can the Cabinet Secretary explain what adults who get DLA will need to do if they move to Scotland to make sure they get Scottish Adult DLA?**
- 3. The SCoSS report referred to ongoing efforts to agree data-sharing with DWP in cases of terminal illness. Can the Cabinet Secretary update the Committee on those discussions?**

Camilla Kidner, Senior Researcher, SPICe, Date: 30 July 2025

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The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot