

Social Justice and Social Security Committee

SSI cover note

3rd Meeting, (Session 6), 27 January 2022

Title of Instrument:	The Social Security (Period for Re-determination Requests) (Miscellaneous Amendments) (Scotland) Regulations 2021
Laid Date:	13 December 2021
Reporting deadline:	7 February 2022
Type of instrument:	Negative
Parliamentary procedure:	

Under [Rule 10.4](#) of Standing Orders, the Parliament has 40 days to consider a motion to annul a negative instrument from the date the instrument was laid. No motion to annul has been laid, so the Committee is asked to agree on whether it has concluded its consideration of this instrument. Further information on the negative procedure can be found on the [Parliament's website](#). The Committee is asked to consider and agree on whether it has concluded its consideration of this instrument.

Background and Purpose

1. The instrument amends regulations made under the 2018 Act to clarify the timescales which Social Security Scotland has to complete a re-determination in the situation where the First-tier Tribunal decide that a request for a re-determination previously rejected by Social Security Scotland has been validly made. The instrument will involve amending the following regulations:
 - The Funeral Expense Assistance (Scotland) Regulations 2019
 - The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018
 - The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020
 - The Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019
2. Further information is contained in the [Policy Note](#) (annexe A).

Delegated Powers and Law Reform Committee consideration

3. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its meeting on [21 December 2021](#) and made no recommendations in relation to this instrument.

For decision

4. The Committee is invited to consider any issues it wishes to raise regarding this instrument.

Annexe A**POLICY NOTE****The Social Security (Period for Re-determination Requests) (Miscellaneous Amendments) (Scotland) Regulations 2021****SSI 2021/469**

The above instrument will, if approved by the Scottish Parliament, be made in exercise of the powers conferred by sections 43(5) of the Social Security (Scotland) Act 2018 (“the 2018 Act”). The instrument is subject to negative procedure.

Summary Box

The instrument amends regulations made under the 2018 Act to confirm when the period for re-determination begins in a case where the First-tier Tribunal has decided that a request for re-determination has been validly made. The instrument will involve amending the following regulations:

- The Funeral Expense Assistance (Scotland) Regulations 2019 (FSP)
- The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 (BSG)
- The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 (CHWA)
- The Carer’s Assistance (Young Carer Grants)(Scotland) Regulations 2019 (YCG)

Policy Objectives

These regulations amend FSP, BSG, CHWA and YCG, and will clarify the timescales which Social Security Scotland has to complete a re-determination in the situation where the First-tier Tribunal decide that a request for a re-determination previously rejected by Social Security Scotland has been validly made.

The same clarification was provided for in the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021 and the amendments implemented through this instrument ensure the same provision exists in respect of the re-determination process for types of assistance referenced above.

Consultation**Scottish Commission on Social Security (SCoSS)**

The changes to periods in respect of a re-determination have been made under sections 43(5) of the Social Security (Scotland) Act 2018, which is subject to negative procedure. As such, they do not need to be referred to SCoSS for formal scrutiny.

Whilst scrutinising the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021, SCoSS noted the inclusion of a provision confirming when

the time limit for re-determination started in the situation where the First-tier Tribunal decided a request for a re-determination was made validly.

As part of their feedback on the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021, SCoSS recommended the Scottish Government improve consistency and coherence by including the same provision across all regulations.

This instrument will ensure that consistency and coherence is achieved.

Stakeholder engagement

The changes made through this instrument follow recommendations made by SCoSS after scrutiny of the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021 to improve consistency and coherence across regulations with regard to time limits for re-determination.

These regulations do not introduce new policy. They provide clarity and remove any ambiguity around the time Social Security Scotland has to make a re-determination where the First-tier Tribunal decide that a request for a re-determination has been made validly. As such, no further stakeholder engagement is unnecessary.

Impact Assessments

An Equalities Impact Assessment, Island Communities Impact Assessment, Business and Regulatory Impact Assessment, Child Rights and Wellbeing Impact Assessment, and a Fairer Scotland Duty Assessment were completed for the principle regulations relating to Disability Assistance and were updated for the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021. Those regulations include the same amendment made in this instrument.

As such additional Impact Assessments are not required.

Financial Effects

The Order does not impose any costs on business, charities or the voluntary sector. Accordingly, no Business and Regulatory Impact Assessment will be required.

Scottish Government
Social Security Directorate

1 December 2021