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Scottish Commission on Social Security
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8 October 2025

Dear Ed,

The Social Security (Residence and Presence Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2026

I am writing to provide SCoSS with a draft of the Social Security (Residence and Presence Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2026 (“the draft Regulations”), made under section 13 of the Social Security Act 1988, sections 64(1), 70(4), 71(6), 113(1)(a) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992, sections 77(3), 92(1) and 94(2) and (3)(a) of the Welfare Reform Act 2012 and sections 28(2), 31(2) and 32(2) of the Social Security (Scotland) Act 2018

I enclose a draft set of regulations, and I request that the Commission prepare and submit a report to the Scottish Ministers in accordance with their function under section 22(1)(a) and 97(4) of the Social Security (Scotland) Act 2018.

I am aware that we have not been able to provide a full scrutiny period for these regulations, and I am grateful for the Commission for agreeing to carry out their scrutiny in a shorter timetable.

The Department for Work and Pensions (DWP) laid general crisis response legislation in July 2025, and to ensure equal treatment between people arriving in Scotland and the rest of the UK, we consider it necessary to lay similar regulations.

These regulations provide a long-term solution for overseas crises to allow people who have had to flee emergencies abroad to access benefits quickly on arrival in Scotland, and to allow payments to continue to individuals who have been stranded abroad due to a crisis. This is intended to remove the need to lay further emergency regulations every time a crisis meeting the agreed criteria occurs.

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This legislation will exempt affected arriving individuals from both the habitual residence test and the past presence test for benefits where those tests are applied, in order that they can receive access to benefits and services immediately. The legislation is activated when the Foreign and Commonwealth Office (FCDO) changes their travel advice to advise UK Nationals to leave a country, where there are evacuation flights, or where a humanitarian visa route has been implemented.

These regulations will also amend benefit regulations to allow a longer period of temporary absence to enable people stranded overseas in certain situations to be considered temporarily absent from the Common Travel Area for up to 6 months across disability and carer benefits. The provisions apply to people stranded in a country that the UK Government has either advised people to leave or from which the UK Government have arranged the evacuation of UK nationals.

The regulations which require to be amended are those covering the following benefits:

- Child Disability Payment
- Adult Disability Payment
- Pension Age Disability Payment
- Scottish Adult Disability Living Allowance
- Best Start Grants
- Best Start Foods
- Young Carer Grant
- Carer Support Payment

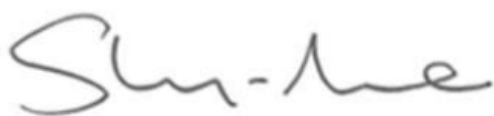
We are also amending the benefits delivered under Agency Agreements:

- Attendance Allowance
- Carer's Allowance
- Disability Living Allowance
- Personal Independence Payment

I would like to submit draft regulations to the Commission under section 97(2) of the Social Security (Scotland) Act 2018. Along with the draft regulations, I am also providing a draft policy note. The relevant impact assessments are still being drafted but we hope to share them in due course.

Finally, I want to extend my thanks to the Commission for considering these regulations and your cooperation in agreeing to work around these timeframes. I look forward to receiving your report in due course.

Yours sincerely,



SHIRLEY-ANNE SOMERVILLE

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