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Scottish Commission on Social Security
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Date 09 February 2026

Dear Ed,

The Social Security (Cross-border Provision, Case Transfer and Miscellaneous Amendments) (Scotland) Regulations 2025

Thank you for your letter of 28 March 2025 and the accompanying report under section 97 of the Social Security (Scotland) Act 2018 on the draft 'Social Security (Cross-border Provision, Case Transfer and Miscellaneous Amendments) (Scotland) Regulations 2025'.

I have reviewed the recommendations and responded to each in turn in **Annex A** and have accepted all of the recommendations as far as I am able.

As a result of the Commission's Recommendation 2, the regulations have been amended to include a 'good reason' clause for submitting the 'required data' after the 26 week deadline, rather than limiting this to the receipt of the full application.

We also appreciate the Commission pointing out the drafting error in Recommendation 7 and have updated the regulations accordingly.

Since receiving the Commission's report, the regulations have been further amended in to include provision for LEAP cases where the client has already applied for, and is in receipt of, Scottish benefits. In these cases, provision for determination without application is made so that the client can be awarded a backdated entitlement without a further application on their part.

The cross border application timeframes have also been amended slightly. For disability benefits, all individuals must submit their name and date of birth within 26 weeks of the date of move and complete the full application within 32 or 34 weeks of the date of move. The additional 6 weeks for CDP and 8 weeks for other disability benefits reflect the time period allowed to complete part two of an application for disability benefits, and aligns with the time provided for new applications. For CSP, which does not have a two part application process, individuals must submit a full application within 26 weeks of a move. This change does not affect the 'good reason' provision covered in Recommendation 2.

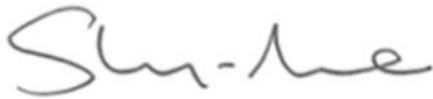
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Lastly, the transitional provisions for individuals who move before the coming into force date but notify after are not required and have been removed from the regulations as they are provided for by the missed case transfer provisions. For CDP, due to case transfer having already completed, transitional provisions are still required, and align with the missed case transfer provisions.

I am very grateful to you and your team for responding so promptly and thoroughly.

Please accept my sincere thanks for your support for helping to ensure that the regulations could be laid in the Scottish Parliament with sufficient time for them to come into force from 6 November 2025.

Yours sincerely,



SHIRLEY-ANNE SOMERVILLE

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Scottish Commission on Social Security Recommendations	Scottish Government Response
<p>Recommendation 1: To reduce the additional administrative burden being placed on disabled people and carers as a result of the change in approach to data sharing, the Scottish Government should continue to work with the Department for Work and Pensions to reach an agreement that allows the sharing of limited data when they become aware that someone in receipt of disability benefits has moved to Scotland.</p>	<p>Accept in principle, but unable to implement</p> <p>We agree that an arrangement between the Scottish Government and the DWP to share limited data on cross border clients would be the preferred option. This cannot be achieved without agreement and co-operation with the DWP. Throughout the development of both the policy and the processes for cross border individuals, we have continually raised this with the DWP and tried to negotiate various levels and types of data sharing that it might find acceptable and that would improve our service.</p> <p>Some of the options we have asked for have been:</p> <ul style="list-style-type: none"> • a continuation of case transfer data sharing (manual and automated); • an automated trigger (to provide limited client data ahead of application); and • multiple SPOC (single point of contact) designs to provide client data manually on limited cases. <p>Latterly we also tried to agree a SADLA specific data sharing provision to reduce the need to create a new process for this small and closed benefit population.</p> <p>The DWP has been unable to agree to any of these options and has shared with us that they want to remove data sharing in its entirety for cross border clients due to resource concerns. They have stated that they need to remove all digital interfaces to reduce their costs as well as removing any interdependencies remaining after the completion of case transfer and that their operational colleagues cannot accept the additional workload that comes with the manual sharing of data.</p>

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<p>Recommendation 2: To ensure fairness in the system and reporting is effectively incentivised, Scottish Government should amend the draft regulations to include a good reason clause for a delay in telling Social Security Scotland that an individual in receipt of a UK disability benefit has moved to Scotland.</p>	<p>Accept</p> <p>We note that the Commission recommends extending the ‘good reason’ clause to the 26 week period for submitting the ‘required data’, and not limiting this to the receipt of the full application.</p> <p>While the Scottish Government considers 26 weeks to be a very generous window in which to submit the required data and protect the date of entitlement, we understand the considerations set out by the Commission. We accept this recommendation and will update the regulations to ensure that if a client has a good reason why they did not submit the required data within 26 weeks, Scottish Ministers can still decide to apply the cross-border rules to them, and backdate payment to the day after their DWP/DfC entitlement ended when a person is entitled to the equivalent Scottish payment.</p> <p>Following this recommendation, we have also decided not to limit this to cross border clients who move after the coming into force (CIF) date of the regulations, and will extend the same provision to any potential missed case transfer cases, LEAP cases and to clients who moved before the CIF date but informed Scottish ministers after.</p>
<p>Recommendation 3: Social Security Scotland should monitor how helpful cross-border movers find the information they receive from the Department for Work and Pensions and the Department for Communities, and pass on feedback if it identifies areas where this can be improved.</p>	<p>Accept</p> <p>A “hypercare” period is planned after the new cross border process is in place, where clients passing through the cross border journey will be monitored following the September launch. If recurring challenges are uncovered through client feedback, we will work to alter the design and accommodate changes where possible.</p> <p>Any relevant feedback from hypercare that relates to the DWP’s or the DfC’s cross border process will be passed on, but it must be noted that it will be up to</p>

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	the DWP to update any of its processes, guidance or notifications in respect of cross border movers.
<p>Recommendation 4: To ensure clear and accurate information is given to cross-border movers affected by various backdating rules, Social Security Scotland should provide more training and guidance for staff on provisions that are less commonly encountered.</p>	<p>Accept</p> <p>The cross border Programme team is working closely with Social Security Scotland’s Learning & Leadership team as they develop the cross border training for client advisers. This training will provide a comprehensive overview of the cross border process and its complexities, and will be rolled out to all operational staff, as there will be no separate cross border team to handle these cases. Due to the low volumes of cases anticipated, the training will be light touch, while still providing the relevant information.</p> <p>The training modules will be further supported by both operational guidance and a new chapter in the decision making guide for disability and carers’ benefits. Clients will also be able to find detailed information on MyGov.scot to support their cross border journey.</p>
<p>Recommendation 5: To avoid administrative error and additional burden on clients, Social Security Scotland’s processes should be amended in order to ensure a client’s information is not deleted within the timescale for a cross-border move.</p>	<p>Accept</p> <p>A client’s ‘relevant data’ will not be deleted if they fail to submit their full application within the agreed timeframes for cross border. The data will be retained and the case will remain open to allow time for a client to submit their full application after the deadline, and any reason for the late return will be assessed.</p> <p>To align with BAU processes for data retention, the data from a part 1 application will be deleted after a 13 month period. Declined applications are retained for 24 months.</p>

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<p>Recommendation 6: To provide greater clarity about the process for transferring Adult DLA claimants to Scottish Adult DLA after they move to Scotland, the Scottish Government should publish full details of the likely client journey as soon as possible. This should include what evidence is likely to be required in support of a transfer request.</p>	<p>Accept</p> <p>We have been in ongoing discussion with the DWP about adults with a DLA award who move to Scotland from the rest of the UK. Given the small volume of people that will be involved in this process and because there are no applications for Scottish Adult DLA, we hoped we could reach agreement that DWP would share the relevant information they hold so we could utilise a case transfer like process. Unfortunately, DWP have now confirmed they will not provide any data on individuals moving to Scotland, meaning information must be gathered directly from individuals.</p> <p>We have therefore developed a ‘Scottish Adult DLA cross border form’, which will allow people to give Social Security Scotland the information they need to establish a Scottish Adult DLA award. This will only be available to people with an ongoing DLA award who have moved to Scotland. It will be similar to a ‘part 2’ form used in applications for other disability benefits, so clients can provide detailed information about their condition(s) and how it affects them.</p> <p>Individuals will be signposted by DWP to contact Social Security Scotland if they have moved to Scotland while receiving a DWP benefit. To ensure people understand the process of accessing Scottish Adult DLA, we will provide clear information on this through our usual channels, including benefit specific guidance on the mygov.scot website, media releases and social media posts, and external communications directly with relevant stakeholders. This will include an explanation of the steps involved in this journey and the types of information people will be asked to provide in order to access Scottish Adult DLA.</p>
<p>Recommendation 7: The Scottish Government should amend draft Regulation 9(9) and 9(10) to ensure the correct terminology is used to describe the rates of the Adult Disability Payment mobility component.</p>	<p>Accept</p> <p>The draft regulations have been updated to reflect this.</p>

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Observation 1: We welcome the Scottish Government's ongoing efforts to access evidence of terminal illness diagnoses held by the Department for Work and Pensions.	Noted We note that the Commission welcomes Scottish Government's ongoing attempts to agree a data sharing option for terminally ill clients and we will continue our efforts in this regard.
Observation 2: We welcome attempts to ensure rules around suspension are clarified.	Noted The Scottish Government is pleased that the Commission welcomes this proposal to clarify the end of award/suspension regulations, and thanks the Commission members for their engagement.

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