

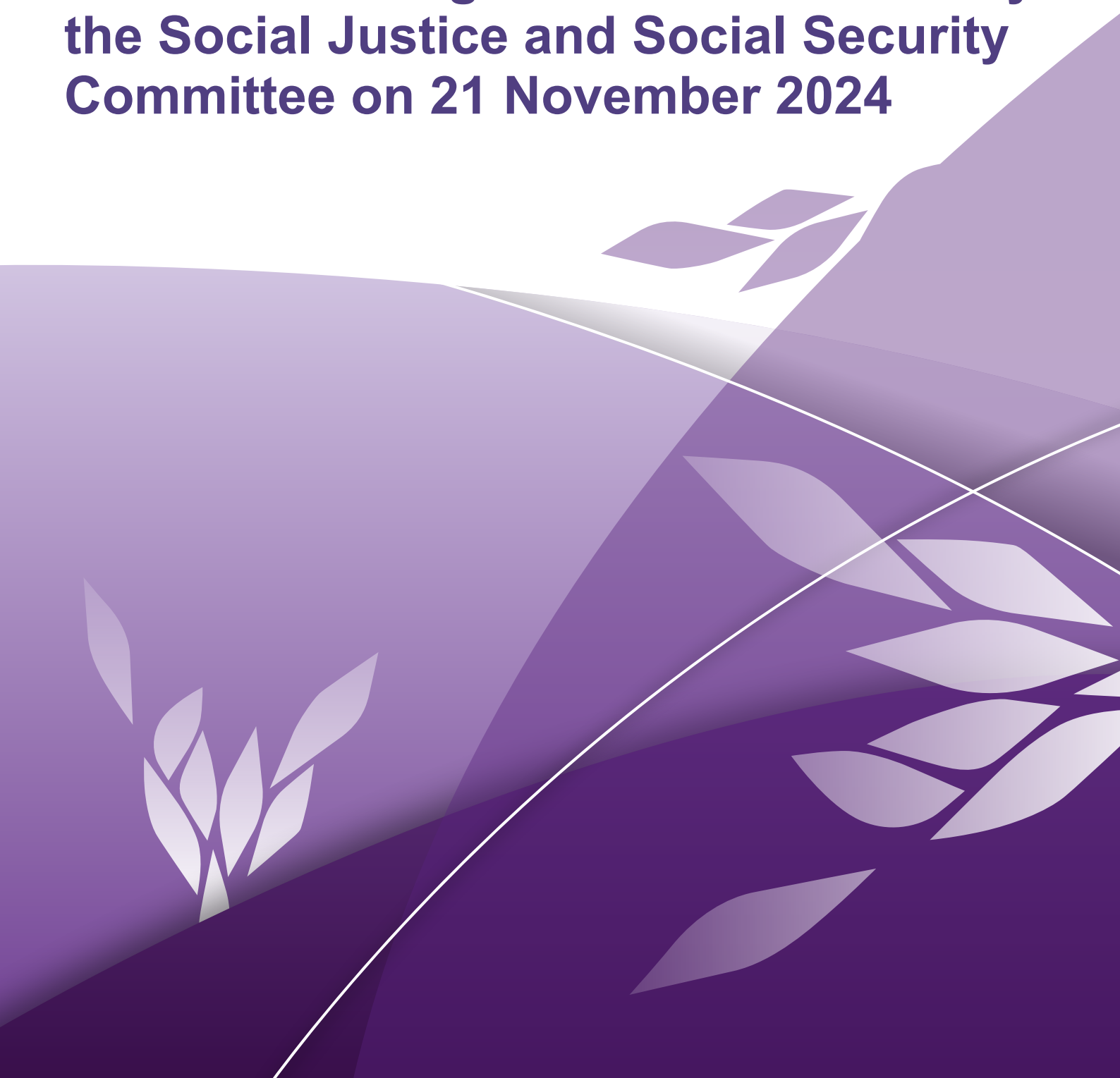


The Scottish Parliament  
Pàrlamaid na h-Alba

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## **Social Justice and Social Security Committee**

# **Subordinate Legislation considered by the Social Justice and Social Security Committee on 21 November 2024**



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# Social Justice and Social Security Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice excluding matters relating to housing and tenants' rights.



[SJSS.committee@parliament.scot](mailto:SJSS.committee@parliament.scot)



0131 348 5986

# Committee Membership



**Convener**  
**Collette Stevenson**  
Scottish National Party



**Deputy Convener**  
**Bob Doris**  
Scottish National Party



**Jeremy Balfour**  
Scottish Conservative  
and Unionist Party



**Katy Clark**  
Scottish Labour



**Marie McNair**  
Scottish National Party



**Paul O'Kane**  
Scottish Labour



**Liz Smith**  
Scottish Conservative  
and Unionist Party



**Kevin Stewart**  
Scottish National Party

# Introduction

1. This report concerns the [Disability Assistance \(Scottish Adult Disability Living Allowance\) Regulations 2025](#), laid before the Parliament by the Scottish Government on 1 November 2024. The instrument, which was laid in draft, is subject to the affirmative procedure – which means it cannot be made unless it has been approved by a resolution of the Parliament.
2. It is for the Social Justice and Social Security Committee, as lead committee, to decide whether or not to recommend approval.

## About the instrument


3. These Regulations, laid under the [Social Security \(Scotland\) Act 2018](#), set out the rules and eligibility criteria for Scottish Adult Disability Living Allowance (Scottish Adult DLA), a form of assistance to provide financial support to disabled individuals to mitigate the additional costs of living with a disability or health condition. This new form of social security assistance will replace Disability Living Allowance (DLA) for those remaining adults in Scotland on that benefit. It will not be open to new applications.
4. The Regulations include the Scottish definition of terminal illness as part of Scottish Adult DLA, and provisions in relation to individuals who move from Scotland to reside in another part of the United Kingdom, or who move to Scotland. They further include provisions for when short-term assistance is to be given to those who have been in receipt of Scottish Adult DLA.
5. The instrument also makes provision to transfer the awards of the remaining adults in Scotland in receipt of DLA (which is being administered by the Department for Work and Pensions (DWP) on behalf of Scottish Ministers), to Scottish Adult DLA, which will be administered by Social Security Scotland.

## Consideration by the DPLR Committee

6. The Delegated Powers and Law Reform (DPLR) Committee is required to consider every instrument laid before the Parliament and decide whether to draw it to the attention of the Parliament on any of the “reporting grounds” set out in Rule 10.3 of the Parliament's Standing Orders.
7. The DPLR Committee considered the instrument on [12 November 2024](#) and reported on it in its [65th Report, 2024](#). The Committee raised no points in relation to the instrument.



# Consideration by the Social Justice and Social Security Committee

8. At its meeting on [21 November 2024](#), the Social Justice and Social Security Committee took evidence on the instrument from the Cabinet Secretary for Social Justice and Scottish Government officials.
9. The Cabinet Secretary explained that "the Regulations, and the associated consequential amendments, will introduce the Scottish Adult DLA from March 2025 and provide a like-for-like case transfer for all remaining adults in Scotland who are in receipt of DLA." <sup>1</sup>
10. Members asked what the Scottish Government is doing to ensure that all those who are transferring will be properly supported and communicated with.
11. The Cabinet Secretary explained that the transfer process is designed to be safe and secure and that people will transfer automatically—  
 As part of the case transfer process, people will receive letters that clearly explain why the DLA award has been selected for case transfer, what they can expect and who they can contact for further information. We will communicate with individuals in the stakeholder organisations through the usual range of channels to ensure that they are aware of what is going on, should they be required to support anyone who is going through the case transfer process. <sup>2</sup>
12. The Cabinet Secretary reassured the Committee that lessons had been learned from the case transfer process. She added that processing times "have improved markedly, and I thank the DWP for its work in speeding up the movement of cases to Social Security Scotland." <sup>3</sup>
13. On whether Social Security Scotland has sufficient resources to move 66,000 people from the DWP over a nine month period, the Cabinet Secretary said "we are keen to ensure that Social Security Scotland is staffed, and that those staff are trained specifically on Scottish Adult DLA." <sup>4</sup>
14. Members sought clarification on whether a person's change of circumstances would automatically require a move from Scottish Adult DLA to the Scottish system, i.e. Adult Disability Payment.
15. In response, the Cabinet Secretary said "claimants will be assessed in the Scottish Adult DLA system and will not be required to change over to the new system. They may wish to do so, but that is for them to decide". <sup>5</sup>
16. Further to this, Members questioned who would provide advice to claimants to make an informed choice about moving from Scottish Adult DLA.
17. The Cabinet Secretary confirmed that it was not Social Security Scotland's role to provide advice but that they could provide "information that there is the option to move over to the Adult Disability Payment". She added that they would "signpost people to those who can give advice". <sup>6</sup>

18. Members asked why the Scottish Government decided against providing any flexibility in the 12 month deadline for a Scottish Adult DLA award to be re-instated, which the Scottish Commission on Social Security had recommended would be more in keeping with the [social security principles](#).
19. The Cabinet Secretary advised that a 'bright-line rule' provides clarity and consistency for both individuals and support organisations and added—
  - ” We believe that the provisions in the Regulations have been drafted in a way that maintains Scottish Adult DLA as a closed benefit, which means that it is available only for individuals who already have a DLA award when the Scottish Adult DLA award is launched. We also believe that it is appropriate to limit to 12 months the length of time in which two awards can be linked, given that the awards must be underpinned by the same condition or conditions. Of course, if someone whose award ended more than 12 months ago has experienced a change in their condition, they may be entitled to disability assistance, but they would make a new application through the Adult Disability Payment system.<sup>7</sup>
20. Following the oral evidence, the Cabinet Secretary moved motion [S6M-15260](#) — That the Social Justice and Social Security Committee recommends that the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025 [draft] be approved.
21. The motion was agreed to.

# Recommendation

22. Accordingly, the Committee recommends to the Parliament that the draft Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025 be approved.

**Social Justice and Social Security Committee**

Subordinate Legislation considered by the Social Justice and Social Security Committee on 21 November 2024, 14th Report, 2024 (Session 6)

- 1 The Social Justice and Social Security Committee. *Official Report*, 21 November 2024, Cols 24-25
- 2 The Social Justice and Social Security Committee. *Official Report*, 21 November 2024, Col 26
- 3 The Social Justice and Social Security Committee. *Official Report*, 21 November 2024, Col 26
- 4 The Social Justice and Social Security Committee. *Official Report*, 21 November 2024, Col 27
- 5 The Social Justice and Social Security Committee. *Official Report*, 21 November 2024, Col 28
- 6 The Social Justice and Social Security Committee. *Official Report*, 21 November 2024, Col 28
- 7 The Social Justice and Social Security Committee. *Official Report*, 21 November 2024, Col 28

