
Changes to legislation: Social Security (Scotland) Act 2018, PART 1 is up to date with all changes known to be in force on or before 15 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 2 CARER'S ASSISTANCE REGULATIONS

PART 1

ELIGIBILITY

CHAPTER 1

ELIGIBILITY IS TO DEPEND ON BEING OR HAVING BEEN A CARER

- 1 (1) The regulations must be framed so that (subject to any provision of the kind described in paragraph 2) an individual's eligibility in respect of a given period depends on the individual having provided regular and substantial care during that period to another individual to whom a disability benefit is normally payable.
- (2) The regulations—
 - (a) are to set out the circumstances in which an individual is to be regarded as having provided regular and substantial care to another individual during a period, and
 - (b) may, in particular, do so by reference to whether or not the number of hours of care provided during the period exceeds (or is deemed to exceed) a threshold specified in the regulations.
- (3) In sub-paragraph (1), “disability benefit” has the meaning given in the interpretation provision in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998.

Commencement Information

II Sch. 2 para. 1 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

- 2 (1) The regulations may be framed so that, despite the criterion described in paragraph 1(1) not being fulfilled in relation to a given period, an individual may nevertheless be eligible in respect of that period.
- (2) Where the regulations allow an individual to be eligible in respect of a period in relation to which the criterion described in paragraph 1(1) is not fulfilled, they must be framed so that the individual's eligibility depends on the individual—
 - (a) having at some time provided care to another individual who has a disability, and
 - (b) as a result of doing so, having received—
 - (i) carer's assistance,
 - (ii) carer's allowance, or
 - (iii) invalid care allowance.
- (3) In sub-paragraph (2)(b), “carer's allowance” and “invalid care allowance” both mean an allowance payable under section 70 of the Social Security Contributions and Benefits Act 1992.

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Commencement Information

I2 Sch. 2 para. 2 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

CHAPTER 2

FURTHER CRITERIA

Carer's other activities

- 3 The regulations may make an individual's eligibility depend on—
- (a) whether or not the individual is in—
 - (i) employment, or
 - (ii) education,
 - (b) the length of time the individual spends over a given period in—
 - (i) employment, or
 - (ii) education.

Commencement Information

I3 Sch. 2 para. 3 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

Multiple carers

- 4 The regulations may make an individual's eligibility depend on being the individual (or one of the individuals) selected through a process set out in the regulations in a case where more than one individual would otherwise be eligible as a result of providing care to the same cared-for person during a given period.

Commencement Information

I4 Sch. 2 para. 4 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

Residence and presence

- 5 The regulations may make an individual's eligibility depend on either or both—
- (a) the individual, and
 - (b) the cared-for person,
- being resident and present in a particular place.

Commencement Information

I5 Sch. 2 para. 5 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

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Age

- 6 The regulations may make an individual's eligibility depend on the age of either or both—
- (a) the individual, and
 - (b) the cared-for person.

Commencement Information

I6 Sch. 2 para. 6 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

Financial circumstances

- 7 The regulations may make an individual's eligibility depend on the individual's financial circumstances.

Commencement Information

I7 Sch. 2 para. 7 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

Receipt of, or eligibility for, other types of State assistance

- 8 The regulations may make an individual's eligibility depend on the individual—
- (a) being, or not being, in receipt of another type of assistance (whether under this Act or another enactment),
 - (b) being, or not being, eligible or entitled to receive such assistance.

Commencement Information

I8 Sch. 2 para. 8 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

Application within specified period

- 9 The regulations may provide that an individual ceases to be eligible in respect of a given period unless, by a deadline specified in the regulations—
- (a) the individual has applied for carer's assistance in respect of the period, or
 - (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to carer's assistance in respect of the period by regulations under section 52.

Commencement Information

I9 Sch. 2 para. 9 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 81(4C) inserted by [2021 asp 20 s. 2\(a\)](#)
- s. 85D inserted by [2020 asp 18 s. 2\(6\)](#)