

Changes to legislation: Social Security (Scotland) Act 2018, PART 2 is up to date with all changes known to be in force on or before 14 March 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 5 DISABILITY ASSISTANCE REGULATIONS

PART 2

ASSISTANCE TO BE GIVEN

CHAPTER 1

VALUE

Nature and extent of disability

- 13 The regulations may make the value of the disability assistance that is to be given to an individual depend on the nature and extent of—
- (a) the individual's impairment,
 - (b) the needs of the individual in consequence of the impairment.

Commencement Information

- I1** Sch. 5 para. 13 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

Age

- 14 The regulations may make the value of the disability assistance that is to be given to an individual depend on the individual's age.

Commencement Information

- I2** Sch. 5 para. 14 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

f¹Power to set value of assistance as nil

Textual Amendments

- F1** Sch. 5 para. 14A inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), **ss. 13(3)(a)**, 18(2)(3); [S.S.I. 2021/232](#), **reg. 2(g)**

- 14A (1) Provision may be made in the regulations for the value of the disability assistance that is to be given to an individual in respect of a period to be £0, but—
- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
 - (i) the individual being resident and present in a particular place during the period,
 - (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and

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- (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to disability assistance with a value of £0 in respect of a period rather than not being entitled to disability assistance at all.
- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.]

CHAPTER 2

FORM

Meeting liabilities

- 15 The regulations may provide for the disability assistance that is to be given to an individual to be given (in whole or in part) by way of—
- (a) payment to another person in order to meet, or contribute towards meeting, any liability the individual has to that person,
 - (b) deduction from any liability the individual has to the Scottish Ministers under section 63.

Commencement Information

I3 Sch. 5 para. 15 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

Payment to someone else

- 16 The regulations may provide that, if the Scottish Ministers consider it appropriate in the circumstances, the disability assistance that is to be given to an individual may be given (in whole or in part) by way of payment to another person who is to use the payment to benefit the individual entitled to the assistance.

Commencement Information

I4 Sch. 5 para. 16 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

Restriction on giving assistance in a form other than money

- 17
- (1) The regulations may allow disability assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
 - (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given disability assistance in a form other than money at any time.
 - (3) Despite sub-paragraph (1), the regulations may provide for disability assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 63 if the individual has unreasonably refused to agree to the assistance being given in that form.

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- (4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

Commencement Information

I5 Sch. 5 para. 17 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

Restriction on lump sums

- 18 The regulations may not provide for the disability assistance that is to be given to an individual to be given by way of a lump-sum payment where the individual's entitlement arises on account of the individual having, or having had—
- (a) pneumoconiosis,
 - (b) byssinosis,
 - (c) diffuse mesothelioma,
 - (d) bilateral diffuse pleural thickening, or
 - (e) primary carcinoma of the lung where there is accompanying evidence of—
 - (i) asbestosis,
 - (ii) bilateral diffuse pleural thickening, or
 - (iii) both.

Commencement Information

I6 Sch. 5 para. 18 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

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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\(6\)](#)