

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 1A. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 1A

Section 38

MEANING OF “DISABLED PERSON”

Textual Amendments

F1 Sch. 1A inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 19](#)

“Disabled person”

- 1 “Disabled person” means—
- (a) a person who by reason of mental disorder within the meaning of the Mental Health Act 1983 is incapable of administering his or her property or managing his or her affairs,
 - (b) a person in receipt of attendance allowance,
 - [^{F2}(c) a person in receipt of a disability living allowance by virtue of entitlement to—
 - (i) the care component at the highest or middle rate, or
 - (ii) the mobility component at the higher rate,]
 - [^{F3}(ca) a person in receipt of disability assistance for children and young people by virtue of entitlement to—
 - (i) the care component at the highest or middle rate in accordance with regulations made under section 31 of the SS(S)A 2018, or
 - (ii) the mobility component at the higher rate in accordance with regulations made under section 31 of the SS(S)A 2018,]
 - (d) a person in receipt of personal independence payment ^{F4}...,
 - [^{F5}(da) a person in receipt of disability assistance for working age people by virtue of entitlement to—
 - (i) the daily living component at the standard or enhanced rate in accordance with regulations made under section 31 of the SS(S)A 2018, or
 - (ii) the mobility component in accordance with regulations made under section 31 of the SS(S)A 2018,]
 - (e) a person in receipt of an increased disablement pension,
 - (f) a person in receipt of constant attendance allowance, or
 - (g) a person in receipt of armed forces independence payment.

Textual Amendments

F2 Sch. 1A para. 1(c) substituted (with effect in accordance with s. 291(5) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 291\(2\)\(a\)](#)

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- F3** Sch. 1A para. 1(ca) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **6(2)(a)**
- F4** Words in Sch. 1A para. 1(d) omitted (with effect in accordance with s. 291(5) of the amending Act) by virtue of Finance Act 2014 (c. 26), s. **291(2)(b)**
- F5** Sch. 1A para. 1(da) inserted (21.3.2022) by The Social Security (Scotland) Act 2018 (Disability Assistance and Information-Sharing) (Consequential Provision and Modifications) Order 2022 (S.I. 2022/332), arts. 1(2), **4(2)(a)**

Attendance allowance

- 2 A person is to be treated as a disabled person under paragraph 1(b) if he or she satisfies HMRC that he or she would be entitled to receive attendance allowance but for—
- (a) the conditions as to residence and presence prescribed under section 64(1) of SSCBA 1992 or section 64(1) of SSCB(NI)A 1992,
 - (b) provision made by regulations under section 67(1) or (2) of SSCBA 1992 or section 67(1) or (2) of SSCB(NI)A 1992 (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in hospital or is provided with certain accommodation), or
 - (c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

Disability living allowance

- 3 A person is to be treated as a disabled person under paragraph 1(c) if he or she satisfies HMRC that he or she would be entitled to receive a disability living allowance by virtue of entitlement to the care component at the highest or middle rate [^{F6}, or to the mobility component at the higher rate,] but for—
- (a) the conditions as to residence and presence prescribed under section 71(6) of SSCBA 1992 or section 71(6) of SSCB(NI)A 1992,
 - (b) provision made by regulations under section 72(8) of SSCBA 1992 or section 72(8) of SSCB(NI)A 1992 (no payment of disability allowance for persons for whom certain accommodation is provided), or
 - (c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

Textual Amendments

- F6** Words in Sch. 1A para. 3 inserted (with effect in accordance with s. 291(5) of the amending Act) by Finance Act 2014 (c. 26), s. **291(3)**

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^{F7}Disability assistance for children and young people

Textual Amendments

F7 Sch. 1A para. 3A and cross-heading inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **6(2)(b)**

- 3A. A person (“A”) is to be treated as a disabled person under paragraph 1(ca) if A satisfies HMRC that A would be entitled to receive disability assistance for children and young people by virtue of entitlement to the care component at the highest or middle rate, or to the mobility component at the higher rate, but for provision made by regulations under section 31 of the SS(S)A 2018 for—
- (a) the cessation of entitlement to disability assistance during periods when a person does not meet the conditions as to residence and presence prescribed by regulations made under that section, or
 - (b) the reduction of the value of a payment of disability assistance to £0 when a person is—
 - (i) resident in a care home,
 - (ii) resident in an educational establishment, or
 - (iii) undergoing detention in legal custody.]

Personal independence payment

- 4 A person is to be treated as a disabled person under paragraph 1(d) if he or she satisfies HMRC that he or she would be entitled to receive personal independence payment ^{F8}... but for—
- (a) the conditions as to residence and presence prescribed under section 77(3) of WRA 2012 or the corresponding provision having effect in Northern Ireland,
 - (b) provision made by regulations under section 85 of WRA 2012 (exclusion of certain care home residents) or the corresponding provision having effect in Northern Ireland,
 - (c) provision made by regulations under section 86 of WRA 2012 (exclusion of certain hospital in-patients) or the corresponding provision having effect in Northern Ireland, or
 - (d) section 87 of WRA 2012 (exclusion of prisoners and detainees) or the corresponding provision having effect in Northern Ireland.

Textual Amendments

F8 Words in Sch. 1A para. 4 omitted (with effect in accordance with s. 291(5) of the amending Act) by virtue of Finance Act 2014 (c. 26), s. **291(4)**

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f⁹ Disability assistance for working age people

Textual Amendments

F9 Sch. 1A para. 4A and cross-heading inserted (21.3.2022) by The Social Security (Scotland) Act 2018 (Disability Assistance and Information-Sharing) (Consequential Provision and Modifications) Order 2022 (S.I. 2022/332), arts. 1(2), 4(2)(b)

- 4A. A person (“A”) is to be treated as a disabled person under paragraph 1(da) if A satisfies HMRC that A would be entitled to receive disability assistance for working age people but for provision made by regulations under section 31 of the SS(S)A 2018 for—
- (a) the cessation of entitlement to disability assistance during periods when a person does not meet the conditions as to residence and presence prescribed by regulations made under that section, or
 - (b) the reduction of the value of a payment of disability assistance to £0 when a person is—
 - (i) resident in a care home,
 - (ii) undergoing detention in legal custody, or
 - (iii) in a hospital or similar institution.]

Increased disablement pension

- 5 A person is to be treated as a disabled person under paragraph 1(e) if he or she satisfies HMRC that he or she would be entitled to receive an increased disablement pension but for—
- (a) conditions as to residence and presence that have effect in relation to increased disablement pension by virtue of regulations under section 104(3) of SSCBA 1992 or section 104(3) of SSCB(NI)A 1992 (application of attendance allowance provisions),
 - (b) provision made under section 67(1) or (2) of SSCBA 1992 or section 67(1) or (2) of SSCB(NI)A 1992 (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in hospital or is provided with certain accommodation) that has effect in relation to increased disablement pension by virtue of such regulations, or
 - (c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

Constant attendance allowance

- 6 A person is to be treated as a disabled person under paragraph 1(f) if he or she satisfies HMRC that he or she would be entitled to receive constant attendance allowance but for—
- (a) article 61 (residence outside United Kingdom) or article 64 (maintenance in hospital or institution) of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686), or
 - (b) article 53 (maintenance in hospital or institution) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606).

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Armed forces independence payment

- 7 A person is to be treated as a disabled person under paragraph 1(g) if he or she satisfies HMRC that he or she would be entitled to receive armed forces independence payment but for article 42 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517) (cessation of payment on admission to Royal Hospital, Chelsea).

Interpretation

- 8 In this Schedule—
- “armed forces independence payment” means armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004,
 - “attendance allowance” means an allowance under section 64 of SSCBA 1992 or section 64 of SSCB(NI)A 1992,
 - “constant attendance allowance” means an allowance under—
 - (a) article 14 of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686), or
 - (b) article 8 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606),
 - [^{F10}“disability assistance” means disability assistance given in accordance with regulations made under section 31 of the SS(S)A 2018,
 - “disability assistance for children and young people” means a category of disability assistance specifically for children and young people,]
 - [^{F11}“disability assistance for working age people” means a category of disability assistance specifically for working age people,]
 - “disability living allowance” means a disability living allowance under section 71 of SSCBA 1992 or section 71 of SSCB(NI)A 1992,
 - “HMRC” means Her Majesty's Revenue and Customs,
 - “increased disablement pension” means an increase of disablement pension under—
 - (a) section 104 of SSCBA 1992, or
 - (b) section 104 of SSCB(NI)A 1992,
 - “personal independence payment” means personal independence payment under—
 - (a) WRA 2012, or
 - (b) the corresponding provision having effect in Northern Ireland,
 - “SSCBA 1992” means the Social Security Contributions and Benefits Act 1992,
 - “SSCB(NI)A 1992” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992,
 - [^{F12}“SS(S)A 2018” means the Social Security (Scotland) Act 2018,]
 - “WRA 2012” means the Welfare Reform Act 2012.]

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Textual Amendments

- F10** Words in Sch. 1A para. 8 inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), **6(2)(c)(i)**
- F11** Words in Sch. 1A para. 8 inserted (21.3.2022) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance and Information-Sharing\) \(Consequential Provision and Modifications\) Order 2022 \(S.I. 2022/332\)](#), arts. 1(2), **4(2)(c)**
- F12** Words in Sch. 1A para. 8 inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), **6(2)(c)(ii)**

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