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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2021 No.**

**The Disability Assistance for Children and  
Young People (Scotland) Regulations 2021**

**PART 3**

Eligibility

**Persons residing in the United Kingdom to whom a relevant EU regulation applies**

**8.** The past presence condition set out in regulation 5(1)(e) does not apply where on any day the individual is—

- (a) ordinarily resident in Scotland,
- (b) habitually resident in the United Kingdom,
- (c) an individual—
  - (i) to whom the rules set out in a relevant EU regulation applies by virtue of—
    - (aa) Title III of Part 2 of the EU withdrawal agreement,
    - (bb) Part 3 or Article 23(4) of the Swiss citizens' rights agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020 ("the 2020 Act"))<sup>(1)</sup>,
    - (cc) Title III of the EEA EFTA separation agreement (as defined in section 39(1) of the 2020 Act), or
    - (dd) the agreement constituted by the exchange of letters set out in the schedule of the Family Allowances, National Insurance and Industrial Injuries (Gibraltar) Order 1974<sup>(2)</sup>,
  - (ii) in respect of whom the United Kingdom is, as a result, competent for payment of sickness benefits in cash.

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<sup>(1)</sup> 2020 c.1.

<sup>(2)</sup> S.I. 1974/555.