
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

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

PART 3

Eligibility

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

9.—(1) The residence and presence conditions set out in regulation 5(1) do not apply in relation to the care component where on any day the individual satisfies the conditions in paragraph (2).

(2) The conditions referred to in paragraph (1) are that the individual must—

(a) be an individual—

(i) to whom the rules set out in a relevant EU regulation apply 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")),

(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, and

(ii) in respect of whom the United Kingdom is, as a result, competent for payment of sickness benefits in cash,

(b) be habitually resident in—

(i) Switzerland,

(ii) an EEA state, or

(iii) Gibraltar, and

(c) have a genuine and sufficient link to Scotland.

(3) The reference in paragraph (2)(c) to an individual's link to Scotland being sufficient is to it being sufficiently close that if the individual were not entitled to Child Disability Payment, paragraph (2) would be incompatible with the applicable agreement mentioned in sub-paragraph (a) (i) of that paragraph.