

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

**The Disability Assistance for Working
Age People (Scotland) Regulations 2022**

PART 8

Effect of time spent in care homes, hospital and legal detention

Calculation of periods of time spent in a care home, hospital or legal detention

31.—(1) Subject to paragraphs (3) to (6), a period during which an individual is—

- (a) resident in a care home for the purpose of regulation 27,
- (b) an in-patient in hospital or similar institution for the purpose of regulation 28,
- (c) in legal detention for the purpose of regulation 30, or
- (d) resident in a care home, an in-patient in a hospital or similar institution, or in legal detention for the purposes of regulation 32,

is to be determined in accordance with this regulation.

(2) Such a period is to be taken to—

- (a) begin on the day after the day on which the individual enters the place, and
- (b) end on the day before the day on which the individual leaves the place.

(3) Where an individual takes a period of leave from a place mentioned in paragraph (1), the days on which the individual begins and returns from leave are not to be counted as days of residence in that place.

(4) Days constituting a period of leave are not to be counted as days of residence in a place.

(5) Where an individual enters a place (“the second place”) under paragraph (1) as a result of transfer from another place (“the first place”) under that paragraph—

- (a) the day of transfer is to be counted as a day of residence in the second place, and
- (b) for the purposes of calculating when the individual has been in the second place for 28 days for the purposes of regulations 27(2), 28(2) and 30(3)—
 - (i) the days that they were resident in the first place are to be treated as days of residence in the second place,
 - (ii) if they were resident in the first place for more than 28 days, the individual is to be treated as though they have been resident in the second place for 28 days on the day before the day of transfer, and
- (c) the period of residence in the first place is deemed to end on the day on which the period of residence in the second place ends.

(6) For the purposes of this regulation, ‘days of residence’ means—

- (a) days resident in a care home in terms of regulation 27 or 32,
- (b) days as an in-patient in hospital or similar institution in terms of regulation 28 or 32, and

(c) days in legal detention in terms of regulation 30 or 32.