

*Status: Point in time view as at 16/11/2021.*

*Changes to legislation: Social Security (Scotland) Act 2018, PART 1 is up to date with all changes known to be in force on or before 05 August 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)*

## SCHEDULE 2 CARER'S ASSISTANCE REGULATIONS

### PART 1

#### ELIGIBILITY

#### CHAPTER 1

##### ELIGIBILITY IS TO DEPEND ON BEING OR HAVING BEEN A CARER

- 1 (1) The regulations must be framed so that (subject to any provision of the kind described in paragraph 2) an individual's eligibility in respect of a given period depends on the individual having provided regular and substantial care during that period to another individual to whom a disability benefit is normally payable.
- (2) The regulations—
- (a) are to set out the circumstances in which an individual is to be regarded as having provided regular and substantial care to another individual during a period, and
  - (b) may, in particular, do so by reference to whether or not the number of hours of care provided during the period exceeds (or is deemed to exceed) a threshold specified in the regulations.
- (3) In sub-paragraph (1), “disability benefit” has the meaning given in the interpretation provision in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998.

#### Commencement Information

**II** Sch. 2 para. 1 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

- 2 (1) The regulations may be framed so that, despite the criterion described in paragraph 1(1) not being fulfilled in relation to a given period, an individual may nevertheless be eligible in respect of that period.
- (2) Where the regulations allow an individual to be eligible in respect of a period in relation to which the criterion described in paragraph 1(1) is not fulfilled, they must be framed so that the individual's eligibility depends on the individual—
- (a) having at some time provided care to another individual who has a disability, and
  - (b) as a result of doing so, having received—
    - (i) carer's assistance,
    - (ii) carer's allowance, or
    - (iii) invalid care allowance.
- (3) In sub-paragraph (2)(b), “carer's allowance” and “invalid care allowance” both mean an allowance payable under section 70 of the Social Security Contributions and Benefits Act 1992.

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**Commencement Information**

**I2** Sch. 2 para. 2 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

## CHAPTER 2

### FURTHER CRITERIA

#### *Carer's other activities*

- 3 The regulations may make an individual's eligibility depend on—
- (a) whether or not the individual is in—
    - (i) employment, or
    - (ii) education,
  - (b) the length of time the individual spends over a given period in—
    - (i) employment, or
    - (ii) education.

**Commencement Information**

**I3** Sch. 2 para. 3 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

#### *Multiple carers*

- 4 The regulations may make an individual's eligibility depend on being the individual (or one of the individuals) selected through a process set out in the regulations in a case where more than one individual would otherwise be eligible as a result of providing care to the same cared-for person during a given period.

**Commencement Information**

**I4** Sch. 2 para. 4 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

#### *Residence and presence*

- 5 The regulations may make an individual's eligibility depend on either or both—
- (a) the individual, and
  - (b) the cared-for person,
- being resident and present in a particular place.

**Commencement Information**

**I5** Sch. 2 para. 5 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

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### *Age*

- 6 The regulations may make an individual's eligibility depend on the age of either or both—
- (a) the individual, and
  - (b) the cared-for person.

#### **Commencement Information**

**I6** Sch. 2 para. 6 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

### *Financial circumstances*

- 7 The regulations may make an individual's eligibility depend on the individual's financial circumstances.

#### **Commencement Information**

**I7** Sch. 2 para. 7 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

### *Receipt of, or eligibility for, other types of State assistance*

- 8 The regulations may make an individual's eligibility depend on the individual—
- (a) being, or not being, in receipt of another type of assistance (whether under this Act or another enactment),
  - (b) being, or not being, eligible or entitled to receive such assistance.

#### **Commencement Information**

**I8** Sch. 2 para. 8 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

### *Application within specified period*

- 9 The regulations may provide that an individual ceases to be eligible in respect of a given period unless, by a deadline specified in the regulations—
- (a) the individual has applied for carer's assistance in respect of the period, or
  - (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to carer's assistance in respect of the period by regulations under section 52.

#### **Commencement Information**

**I9** Sch. 2 para. 9 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

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