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## SCHEDULE 1

(introduced by section 21)

### SCOTTISH COMMISSION ON SOCIAL SECURITY

#### PART 1

#### OPERATION AND COMPOSITION OF THE COMMISSION

##### CHAPTER 1

##### STATUS

###### *Independence*

- 1 (1) In performing its functions, the Scottish Commission on Social Security is not subject to the direction or control of any member of the Scottish Government.
- (2) This paragraph is subject to any contrary provision in this or any other enactment.

###### **Commencement Information**

- II** Sch. 1 para. 1 in force at 21.1.2019 by [S.S.I. 2018/393](#), **reg. 2** (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), **regs. 1, 3(2)**)

###### *Exclusion of Crown status*

- 2 The Commission—
  - (a) is not a servant or agent of the Crown, and
  - (b) does not enjoy any status, immunity or privilege of the Crown.

###### **Commencement Information**

- I2** Sch. 1 para. 2 in force at 21.1.2019 by [S.S.I. 2018/393](#), **reg. 2** (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), **regs. 1, 3(2)**)

##### CHAPTER 2

##### POWERS

###### *General powers*

- 3 The Commission may do anything which appears to it—
  - (a) to be necessary or expedient for the purposes of, or in connection with, the performance of its functions, or
  - (b) to be otherwise conducive to the performance of its functions.

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**Commencement Information**

**I3** Sch. 1 para. 3 in force at 21.1.2019 by [S.S.I. 2018/393](#), **reg. 2** (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), **regs. 1, 3(2)**)

*Access to information*

- 4 (1) The Commission—
- (a) has a right of access at reasonable times to any relevant information that it may reasonably require for the purpose of performing its functions, and
  - (b) may require any person who holds or is accountable for relevant information to provide at reasonable times any assistance or explanation that the Commission may reasonably require for the purpose of—
    - (i) performing its functions, or
    - (ii) exercising the right conferred by paragraph (a).
- (2) In sub-paragraph (1), “relevant information” means information in the possession or under the control of—
- (a) any member of the Scottish Government,
  - (b) a local authority,
  - (c) any person, or person of such description, as is specified by the Scottish Ministers in regulations.
- (3) Sub-paragraph (1) is subject to any enactment or rule of law that prohibits or restricts—
- (a) the disclosure of any information, or
  - (b) the giving of any assistance or explanation.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 21.1.2019 by [S.S.I. 2018/393](#), **reg. 2** (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), **regs. 1, 3(2)**)

**CHAPTER 3**

PROCEDURE

*Committees*

- 5 (1) The Commission may establish committees and sub-committees.
- (2) The membership of the Commission's committees and sub-committees may include (but may not consist entirely of) persons who are not members of the Commission but those persons are not entitled to vote at meetings.

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**Commencement Information**

- I5** Sch. 1 para. 5 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, regs. 1, **3(2)**)

*Regulation of procedure*

- 6 The Commission may regulate its own procedure (including quorum) and that of its committees and sub-committees.

**Commencement Information**

- I6** Sch. 1 para. 6 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, regs. 1, **3(2)**)

*Authority to perform functions*

- 7 (1) The Commission may authorise—  
(a) any of its members, or  
(b) any of its committees or sub-committees,  
to perform such of its functions (and to such extent) as it may determine.
- (2) The giving of authority under sub-paragraph (1) does not—  
(a) affect the Commission's responsibility for the performance of the function,  
or  
(b) prevent the Commission from performing the function itself.

**Commencement Information**

- I7** Sch. 1 para. 7 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, regs. 1, **3(2)**)

*Validity of things done*

- 8 The validity of anything done by the Commission, its committees or sub-committees is not affected by—  
(a) a vacancy in its membership,  
(b) a defect in the appointment of a member,  
(c) the disqualification of a person as a member after appointment.

**Commencement Information**

- I8** Sch. 1 para. 8 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, regs. 1, **3(2)**)

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## CHAPTER 4

### FINANCE

#### *Remuneration and expenses of members*

- 9 (1) The Commission's members are entitled to be paid by the Scottish Ministers such—
- (a) remuneration, and
  - (b) sums in respect of expenses incurred in performing their functions as members of the Commission,
- as the Ministers determine.
- (2) In sub-paragraph (1)—
- (a) the reference to the Commission's members includes a person who is not a member of the Commission but is a member of one of the Commission's committees or sub-committees, and
  - (b) the reference to performing functions as a member of the Commission, in the case of a person described in paragraph (a), is to be read as though it were a reference to performing the person's functions as a member of the committee or (as the case may be) sub-committee.

#### **Commencement Information**

- I9** Sch. 1 para. 9 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

#### *Expenses of non-members*

- 10 (1) A person who attends a meeting of the Commission at its request is entitled to be paid by the Scottish Ministers such travelling and other allowances (including compensation for loss of time) as the Ministers determine.
- (2) In sub-paragraph (1) the reference to the Commission includes any of its committees or sub-committees.

#### **Commencement Information**

- I10** Sch. 1 para. 10 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

#### *Resources*

- 11 The Scottish Ministers are to provide the Commission with such staff and other resources as it requires to carry out its functions.

#### **Commencement Information**

- I11** Sch. 1 para. 11 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

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### *Accounts and audit*

- 12 (1) The Commission must—
- (a) keep proper accounts and accounting records,
  - (b) prepare in respect of each financial year a statement of accounts, and
  - (c) send a copy of the statement to the Auditor General for Scotland for auditing.
- (2) The Commission must comply with any directions which the Scottish Ministers give it in relation to the matters mentioned in sub-paragraph (1)(a) and (b).

#### **Commencement Information**

**I12** Sch. 1 para. 12 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

## **CHAPTER 5**

### **MEMBERSHIP**

#### *Number of members*

- 13 (1) The Commission is to consist of—
- (a) a member to chair the Commission, and
  - (b) at least 2 but no more than 4 other members.
- (2) The Scottish Ministers may by regulations amend sub-paragraph (1)(b) by substituting a different number for any number for the time being specified there.

#### **Commencement Information**

**I13** Sch. 1 para. 13 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

#### *Appointment of members*

- 14 (1) The Scottish Ministers are to appoint the Commission's members.
- (2) The Scottish Ministers may not appoint a person who is disqualified from being a member (see paragraph 17).
- (3) When appointing members the Scottish Ministers must have regard to the desirability of—
- (a) securing that the Commission (taken as a whole) has experience in or knowledge of—
    - (i) the formulation, implementation and evaluation of social security policies in Scotland and elsewhere in the United Kingdom,
    - (ii) research in connection with social security, and
    - (iii) the effect of disability, arising from a physical or mental impairment, on daily life,

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- (b) having a member with personal experience of having a disability arising from a physical or mental impairment, and
- (c) having as members people who have not previously been members.

**Commencement Information**

**I14** Sch. 1 para. 14 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

*Tenure and other terms and conditions*

- 15 (1) A person's membership of the Commission continues until the end of the period of appointment (subject to paragraph 16(1) and (2)).
- (2) In sub-paragraph (1), “the period of appointment” means the period specified by the Scottish Ministers on appointing the person as a member.
- (3) The Scottish Ministers may not specify a period of appointment that is longer than 4 years, beginning with the day that the appointment takes effect.
- (4) Nothing in this paragraph prevents a person from being a member of the Commission for two or more consecutive periods of appointment.
- (5) The Scottish Ministers may determine other terms and conditions of membership, in relation to matters not covered by this schedule.

**Commencement Information**

**I15** Sch. 1 para. 15 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

*Early termination*

- 16 (1) A member of the Commission may resign by giving notice in writing to the Scottish Ministers.
- (2) A person's membership of the Commission ends if—
- (a) the person becomes disqualified from being a member (see paragraph 17), or
  - (b) the Scottish Ministers give the person written notice that the person is removed from the Commission.
- (3) The Scottish Ministers may remove a member of the Commission by virtue of sub-paragraph (2)(b) only if they consider that the member is—
- (a) unfit to continue to be a member, or
  - (b) unable to perform the member's functions.

**Commencement Information**

**I16** Sch. 1 para. 16 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

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### *Disqualification grounds*

- 17 (1) A person is disqualified from being a member of the Commission if sub-paragraph (2) or (3) applies to the person.
- (2) This sub-paragraph applies to a person who is—
- (a) a member of the—
    - (i) Scottish Parliament,
    - (ii) House of Commons,
    - (iii) House of Lords,
    - (iv) National Assembly for Wales,
    - (v) Northern Ireland Assembly, or
    - (vi) European Parliament,
  - (b) a councillor of any local authority,
  - (c) a member of the Scottish Government,
  - (d) a Minister of the Crown,
  - (e) an office-holder of the Crown in right of Her Majesty's Government in the United Kingdom,
  - (f) an office-holder in the Scottish Administration,
  - (g) a civil servant,
  - (h) one of the members of the Scottish Tribunals, as defined in section 13(3) of the Tribunals (Scotland) Act 2014,
  - (i) a judge, or other member, of the Upper Tribunal or First-tier Tribunal established by section 3 of the Tribunals, Courts and Enforcement Act 2007.
- (3) This sub-paragraph applies to a person (subject to sub-paragraph (4)) who is or has been—
- (a) disqualified as a company director under the Company Directors Disqualification Act 1986,
  - (b) disqualified as a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005,
  - (c) the subject of a disqualification under a disqualification provision analogous to either of those mentioned in paragraph (a) or (b) anywhere in the world.
- (4) Sub-paragraph (3) does not apply to a person who is or has been disqualified as mentioned in that sub-paragraph only by—
- (a) section 11 of the Company Directors Disqualification Act 1986 (undischarged bankrupts),
  - (b) section 69(2)(b) of the Charities and Trustee Investment (Scotland) Act 2005 (which disqualifies undischarged bankrupts from being charity trustees), or
  - (c) a provision analogous to either of those mentioned in paragraph (a) or (b) anywhere in the world.

#### **Commencement Information**

**I17** Sch. 1 para. 17 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

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## PART 2

### APPLICATION OF LEGISLATION RELATING TO PUBLIC BODIES

#### *Ethical Standards in Public Life etc. (Scotland) Act 2000*

- 18 In schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, after the entry relating to the Scottish Children's Reporter Administration insert— “ The Scottish Commission on Social Security ”.

#### **Commencement Information**

- I18** Sch. 1 para. 18 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

#### *Freedom of Information (Scotland) Act 2002*

- 19 In schedule 1 of the Freedom of Information (Scotland) Act 2002, after paragraph 80B insert—  
 “80C The Scottish Commission on Social Security.”.

#### **Commencement Information**

- I19** Sch. 1 para. 19 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

#### *Public Appointments and Public Bodies etc. (Scotland) Act 2003*

- 20 In schedule 2 of the Public Appointments and Public Bodies etc. (Scotland) Act 2003, under the heading “Other Public Bodies”, in the appropriate place alphabetically, insert— “ Scottish Commission on Social Security ”.

#### **Commencement Information**

- I20** Sch. 1 para. 20 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

#### *Public Services Reform (Scotland) Act 2010*

- 21 In schedule 5 of the Public Services Reform (Scotland) Act 2010, after the entry relating to the Scottish Commission for Human Rights insert— “ The Scottish Commission on Social Security ”.

#### **Commencement Information**

- I21** Sch. 1 para. 21 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))



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## SCHEDULE 2

(introduced by section 28)

### 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

**I22** 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**

**I23** 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**

**I24** 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**

**I25** 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**

**I26** 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**

**I27** 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**

**I28** 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**

**I29** 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**

**I30** Sch. 2 para. 9 in force at 14.10.2019 by [S.S.I. 2019/269](#), **reg. 3**

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## PART 2

### ASSISTANCE TO BE GIVEN

#### *Meeting liabilities*

- 10 The regulations may provide for the carer's assistance that is to be given to an individual to be given (in whole or in part) by way of—
- (a) payment to another person in order to meet, or contribute towards meeting, any liability the individual has to that person,
  - (b) deduction from any liability the individual has to the Scottish Ministers under section 63.

#### **Commencement Information**

**I31** Sch. 2 para. 10 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

#### *Restriction on giving assistance in a form other than money*

- 11 (1) The regulations may allow carer's assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given carer's assistance in a form other than money at any time.
- (3) Despite sub-paragraph (1), the regulations may provide for carer's assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 63 if the individual has unreasonably refused to agree to the assistance being given in that form.
- (4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

#### **Commencement Information**

**I32** Sch. 2 para. 11 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

*[<sup>F1</sup>Power to set value of assistance as nil]*

#### **Textual Amendments**

**F1** Sch. 2 para. 11A inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), [ss. 13\(2\)\(a\)](#), [18\(2\)\(3\)](#); [S.S.I. 2021/232](#), [reg. 2\(g\)](#)

- [<sup>F1</sup>11A(1) Provision may be made in the regulations for the value of the carer's assistance that is to be given to an individual in respect of a period to be £0, but—
- (a) such provision must be framed so as to apply by reference to at least one of the following matters—

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- (i) the individual being resident and present in a particular place during the period,
  - (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
- (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to carer's assistance with a value of £0 in respect of a period rather than not being entitled to carer's assistance at all.
- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.]

### PART 3

#### FINAL PROVISIONS

##### *Generality of enabling power unaffected*

- 12 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
  - (b) [F2 paragraphs 11 and 11A] in Part 2.

##### **Textual Amendments**

- F2** Words in [sch. 2 para. 12\(b\)](#) substituted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), [ss. 13\(2\)\(b\)](#), [18\(2\)\(3\)](#); [S.S.I. 2021/232](#), [reg. 2\(g\)](#)

##### **Commencement Information**

- I33** Sch. 2 para. 12 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

##### *Interpretation*

- 13 In this schedule—
- “cared-for person” means the individual by providing care to whom the individual whose eligibility is in question has fulfilled the criterion described in paragraph 1(1) or 2(2),
  - “eligibility” means eligibility for carer's assistance and “eligible” means eligible for carer's assistance,
  - “the regulations” means regulations under section 28(2).

##### **Commencement Information**

- I34** Sch. 2 para. 13 in force at 14.10.2019 by [S.S.I. 2019/269](#), [reg. 3](#)

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

PROSPECTIVE

## SCHEDULE 3

*(introduced by section 29)*

### COLD-SPELL HEATING ASSISTANCE REGULATIONS

#### PART 1

#### ELIGIBILITY

#### CHAPTER 1

#### ELIGIBILITY IS TO DEPEND ON LIVING IN AN AREA DURING A COLD SPELL

- 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 area in which the individual's home is situated experiencing a cold spell during that period.
- 2           (1) The regulations may be framed so that, despite the criterion described in paragraph 1 not being fulfilled (or its being uncertain whether it will be 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 is not fulfilled (or may not be fulfilled), they must be framed so that the individual's eligibility depends on the area in which the individual's home is situated being, or having been, forecast to experience a cold spell during the period.
- 3           The regulations are to set out, for the purpose of determining entitlement to cold-spell heating assistance—
- (a) a definition of “home”,
- (b) the circumstances in which an area is to be regarded as experiencing a cold spell,
- (c) if provision of the kind described in paragraph 2 is made, the circumstances in which an area is to be regarded as being, or having been, forecast to experience a cold spell.

#### CHAPTER 2

#### FURTHER CRITERIA

##### *Age*

- 4           The regulations may make an individual's eligibility depend on the age of either or both—
- (a) the individual, and

*Status: Point in time view as at 24/01/2022.*

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- (b) anyone else who lives in the individual's home.

*Financial circumstances*

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

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

- 6 The regulations may make an individual's eligibility depend on either or both the individual and anyone else who lives in the individual's home—
- (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.

*Application within specified period*

- 7 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 cold-spell heating assistance in respect of the period, or
- (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to cold-spell heating assistance in respect of the period by regulations under section 52.

**PART 2**

**ASSISTANCE TO BE GIVEN**

*Domestic circumstances and age*

- 8 The regulations may make the value of the cold-spell heating assistance that is to be given to an individual depend on—
- (a) whether or not other people live in the individual's home,
- (b) the age of either or both—
- (i) the individual, and
- (ii) anyone else who lives in the individual's home.

*Restriction on giving assistance in a form other than money*

- 9 (1) The regulations may allow cold-spell heating assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given cold-spell heating assistance in a form other than money at any time.

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

### PART 3

#### FINAL PROVISIONS

##### *Generality of enabling power unaffected*

- 10 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
  - (b) paragraph 9 in Part 2.

##### *Interpretation*

- 11 In this schedule—
- “eligibility” means eligibility for cold-spell heating assistance and “eligible” means eligible for cold-spell heating assistance,
  - “the regulations” means regulations under section 29(2).

## SCHEDULE 4

*(introduced by section 30)*

### WINTER HEATING ASSISTANCE REGULATIONS

#### PART 1

#### ELIGIBILITY

##### *Residence and presence*

- 1 The regulations may make an individual's eligibility depend on the individual being resident and present in a particular place.

##### **Commencement Information**

**I35** Sch. 4 para. 1 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)

##### *Age*

- 2 The regulations may make an individual's eligibility depend on the age of either or both—
- (a) the individual, and
  - (b) anyone who lives with the individual.

##### **Commencement Information**

**I36** Sch. 4 para. 2 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)



*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

### *Financial circumstances*

- 3 Subject to paragraph 4, the regulations may not make an individual's eligibility depend on the financial circumstances of either or both—
- (a) the individual, and
  - (b) anyone who lives with the individual.

#### **Commencement Information**

**I37** Sch. 4 para. 3 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)

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

- 4 The regulations may make an individual's eligibility depend on either or both the individual and anyone who lives with 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**

**I38** Sch. 4 para. 4 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)

### *Application within specified period*

- 5 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 winter heating assistance in respect of the period, or
  - (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to winter heating assistance in respect of the period by regulations under section 52.

#### **Commencement Information**

**I39** Sch. 4 para. 5 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)

## **PART 2**

### **ASSISTANCE TO BE GIVEN**

#### *Domestic circumstances and age*

- 6 The regulations may make the value of the winter heating assistance that is to be given to an individual depend on—
- (a) whether or not other people live with the individual,
  - (b) the age of either or both—
    - (i) the individual, and

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

(ii) anyone who lives with the individual.

**Commencement Information**

**I40** Sch. 4 para. 6 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)

*Financial circumstances*

- 7 Subject to paragraph 8, the regulations may not make the value of the winter heating assistance that is to be given to an individual depend on the financial circumstances of either or both—
- (a) the individual, and
  - (b) anyone who lives with the individual.

**Commencement Information**

**I41** Sch. 4 para. 7 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)

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

- 8 The regulations may make the value of assistance depend on either or both the individual and anyone who lives with 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 to receive such assistance.

**Commencement Information**

**I42** Sch. 4 para. 8 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)

*Restriction on giving assistance in a form other than money*

- 9 (1) The regulations may allow winter heating assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given winter heating assistance in a form other than money at any time.

**Commencement Information**

**I43** Sch. 4 para. 9 in force at 1.9.2020 by [S.S.I. 2020/127](#), [reg. 2\(2\)\(b\)](#)

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

### PART 3

#### FINAL PROVISIONS

##### *Generality of enabling power unaffected*

10 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—

- (a) paragraph 3 in Part 1,
- (b) paragraphs 7 and 9 in Part 2.

##### **Commencement Information**

**I44** Sch. 4 para. 10 in force at 1.9.2020 by [S.S.I. 2020/127](#), **reg. 2(2)(b)**

##### *Interpretation*

11 In this schedule—

- “eligibility” means eligibility for winter heating assistance and “eligible” means eligible for winter heating assistance,
- “the regulations” means regulations under section 30(2).

##### **Commencement Information**

**I45** Sch. 4 para. 11 in force at 1.9.2020 by [S.S.I. 2020/127](#), **reg. 2(2)(b)**

## SCHEDULE 5

*(introduced by section 31)*

### DISABILITY ASSISTANCE REGULATIONS

#### PART 1

#### ELIGIBILITY

#### CHAPTER 1

##### ELIGIBILITY IS TO DEPEND ON HAVING, OR HAVING HAD, A DISABILITY

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, during that period—

- (a) a physical or mental impairment that—
  - (i) has a significant and not short-term adverse effect on the individual's ability to carry out normal day-to-day activities, or
  - (ii) otherwise gives rise to a significant and not short-term need, or
- (b) a terminal illness.

*Status: Point in time view as at 24/01/2022.*

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- (2) The regulations must provide that an individual is to be regarded as having a terminal illness for the purpose of determining entitlement to disability assistance if, having had regard to the guidance mentioned in sub-paragraph (3), it is the clinical judgement of [<sup>F3</sup>an appropriate healthcare professional] that the individual has a progressive disease that can reasonably be expected to cause the individual's death.
- [<sup>F4</sup>(2A) The regulations may provide that, in the situation mentioned in sub-paragraph (2B), an individual who is not resident in the United Kingdom is to be regarded as having a terminal illness despite the clinical judgement described in sub-paragraph (2) not having been formed with regard to the guidance mentioned in sub-paragraph (3).
- (2B) The situation referred to in sub-paragraph (2A) is that it would not be reasonable in the circumstances to insist on a clinical judgement being provided that has been formed with regard to the guidance.
- (2C) The regulations are to define “appropriate healthcare professional” for the purpose of determining entitlement to disability assistance on the basis of an individual having a terminal illness.
- (2D) In defining “appropriate healthcare professional” the regulations—
- (a) must provide that being a registered medical practitioner or registered nurse is a requirement for being an appropriate healthcare professional,
  - (b) may provide that being a registered member of a healthcare profession otherwise than as mentioned in paragraph (a) is a requirement for being an appropriate healthcare professional,
  - (c) may include additional requirements that a person must satisfy in order to be an appropriate healthcare professional, including by reference to a person's—
    - (i) skills, training, qualifications and experience,
    - (ii) professional relationship to the individual in question,
    - (iii) being authorised to act as an appropriate healthcare professional in relation to the individual in question by—
      - (A) a Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
      - (B) a Special Health Board constituted under section 2(1)(b) of that Act,
      - (C) the Scottish Ministers.
  - (d) may make different provision about the requirements for being an appropriate healthcare professional for the purposes of determining the entitlement to disability assistance of individuals who are resident in the United Kingdom and those who are not.]
- [<sup>F5</sup>(3) The Chief Medical Officer of the Scottish Administration is—
- (a) to prepare and from time to time revise, and
  - (b) to make publicly available by such means as the Chief Medical Officer considers appropriate,
- guidance that sets out when a progressive disease can reasonably be expected to cause an individual's death for the purpose of determining entitlement to disability assistance.
- (4) Before preparing or revising guidance under sub-paragraph (3), the Chief Medical Officer must consult appropriate healthcare professionals (as defined in sub-

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paragraph (2C)) who are registered in the United Kingdom as members of a healthcare profession.]

#### Textual Amendments

- F3** Words in sch. 5 para. 1(2) substituted (26.7.2021) by Social Security Administration and Tribunal Membership (Scotland) Act 2020 (asp 18), ss. 11(2)(a)(i), 18(2)(3); S.S.I. 2021/232, reg. 2(e)
- F4** Sch. 5 para. 1(2A)-(2D) inserted (26.7.2021) by Social Security Administration and Tribunal Membership (Scotland) Act 2020 (asp 18), ss. 11(2)(a)(ii), 18(2)(3); S.S.I. 2021/232, reg. 2(e)
- F5** Sch. 5 para. 1(3)(4) substituted for sch. 5 para. 1(3) (26.7.2021) by Social Security Administration and Tribunal Membership (Scotland) Act 2020 (asp 18), ss. 11(2)(a)(iii), 18(2)(3); S.S.I. 2021/232, reg. 2(e)

#### Commencement Information

- I46** Sch. 5 para. 1 in force at 8.10.2020 by S.S.I. 2020/295, reg. 2(c)

- 2 (1) The regulations may be framed so that, despite the criterion described in paragraph 1(1) not being fulfilled in respect of 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 having had, during some other period, a physical or mental impairment of the kind described in paragraph 1(1)(a).

#### Commencement Information

- I47** Sch. 5 para. 2 in force at 8.10.2020 by S.S.I. 2020/295, reg. 2(c)

## CHAPTER 2

### FURTHER CRITERIA

#### *Nature and extent of disability and needs*

- 3 The regulations may make an individual's eligibility depend on the nature and extent of—
- (a) the individual's impairment,
- (b) the needs of the individual in consequence of the impairment.

#### Commencement Information

- I48** Sch. 5 para. 3 in force at 8.10.2020 by S.S.I. 2020/295, reg. 2(c)

#### *Residence and presence*

- 4 The regulations may make an individual's eligibility depend on the individual being resident and present in a particular place.

*Status: Point in time view as at 24/01/2022.*

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**Commencement Information**

**I49** Sch. 5 para. 4 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

*Age*

5 The regulations may make an individual's eligibility depend on the individual's age.

**Commencement Information**

**I50** Sch. 5 para. 5 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

*Financial circumstances*

6 Subject to paragraph 7, the regulations may not make an individual's eligibility depend on the financial circumstances of either or both—

- (a) the individual, and
- (b) anyone who lives with the individual.

**Commencement Information**

**I51** Sch. 5 para. 6 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

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

7 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**

**I52** Sch. 5 para. 7 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

*Application within specified period*

8 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 disability assistance in respect of the period, or
- (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to disability assistance in respect of the period by regulations under section 52.

**Commencement Information**

**I53** Sch. 5 para. 8 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

*Status: Point in time view as at 24/01/2022.*

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### CHAPTER 3

#### SPECIAL RULES FOR TERMINAL ILLNESS CASES

##### *No minimum period*

- 9 The regulations may not make the eligibility of an individual who has a terminal illness depend on the individual having had the illness for any length of time.

##### **Commencement Information**

**I54** Sch. 5 para. 9 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

##### *No requirement for assessment*

- 10 The regulations may not make the eligibility of an individual who has a terminal illness depend on the individual producing any evidence of that fact beyond a diagnosis by [<sup>F6</sup>an appropriate healthcare professional (see paragraph 1(2C))].

##### **Textual Amendments**

**F6** Words in [sch. 5 para. 10](#) substituted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), [ss. 11\(2\)\(b\)](#), [18\(2\)\(3\)](#); [S.S.I. 2021/232](#), [reg. 2\(e\)](#)

##### **Commencement Information**

**I55** Sch. 5 para. 10 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

##### *Eligibility from date of application*

- 11 The regulations must be framed so that an individual who applies for disability assistance on the basis of having a terminal illness, and does have a terminal illness, is eligible, at the latest, from the day the application is made.

##### **Commencement Information**

**I56** Sch. 5 para. 11 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

##### *Entitlement to maximum amount*

- 12 The regulations must be framed so that an individual who is eligible by reason of having a terminal illness is entitled to the maximum amount of the assistance that the individual is eligible for.

##### **Commencement Information**

**I57** Sch. 5 para. 12 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

## PART 2

### ASSISTANCE TO BE GIVEN

#### CHAPTER 1

##### VALUE

###### *Nature and extent of disability*

- 13 The regulations may make the value of the disability assistance that is to be given to an individual depend on the nature and extent of—
- (a) the individual's impairment,
  - (b) the needs of the individual in consequence of the impairment.

###### **Commencement Information**

**I58** Sch. 5 para. 13 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

###### *Age*

- 14 The regulations may make the value of the disability assistance that is to be given to an individual depend on the individual's age.

###### **Commencement Information**

**I59** Sch. 5 para. 14 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

###### *<sup>F7</sup>Power to set value of assistance as nil*

###### **Textual Amendments**

**F7** Sch. 5 para. 14A inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), **ss. 13(3)(a)**, 18(2)(3); [S.S.I. 2021/232](#), **reg. 2(g)**

- 14A (1) Provision may be made in the regulations for the value of the disability assistance that is to be given to an individual in respect of a period to be £0, but—
- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
    - (i) the individual being resident and present in a particular place during the period,
    - (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
  - (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to disability assistance with a value of £0 in respect of a period rather than not being entitled to disability assistance at all.



*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.]

## CHAPTER 2

### FORM

#### *Meeting liabilities*

- 15 The regulations may provide for the disability assistance that is to be given to an individual to be given (in whole or in part) by way of—
- (a) payment to another person in order to meet, or contribute towards meeting, any liability the individual has to that person,
  - (b) deduction from any liability the individual has to the Scottish Ministers under section 63.

#### **Commencement Information**

**I60** Sch. 5 para. 15 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

#### *Payment to someone else*

- 16 The regulations may provide that, if the Scottish Ministers consider it appropriate in the circumstances, the disability assistance that is to be given to an individual may be given (in whole or in part) by way of payment to another person who is to use the payment to benefit the individual entitled to the assistance.

#### **Commencement Information**

**I61** Sch. 5 para. 16 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(c\)](#)

#### *Restriction on giving assistance in a form other than money*

- 17 (1) The regulations may allow disability assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given disability assistance in a form other than money at any time.
- (3) Despite sub-paragraph (1), the regulations may provide for disability assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 63 if the individual has unreasonably refused to agree to the assistance being given in that form.
- (4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

**Commencement Information**

**I62** Sch. 5 para. 17 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

*Restriction on lump sums*

- 18 The regulations may not provide for the disability assistance that is to be given to an individual to be given by way of a lump-sum payment where the individual's entitlement arises on account of the individual having, or having had—
- (a) pneumoconiosis,
  - (b) byssinosis,
  - (c) diffuse mesothelioma,
  - (d) bilateral diffuse pleural thickening, or
  - (e) primary carcinoma of the lung where there is accompanying evidence of—
    - (i) asbestosis,
    - (ii) bilateral diffuse pleural thickening, or
    - (iii) both.

**Commencement Information**

**I63** Sch. 5 para. 18 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

**PART 3**

FINAL PROVISIONS

*Generality of enabling power unaffected*

- 19 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
  - (b) paragraph 6 in Chapter 2 of Part 1,
  - (c) Chapter 3 of Part 1,
  - [<sup>F8</sup>(ca) paragraph 14A in Chapter 1 of Part 2,]
  - (d) paragraphs 17 and 18 in Chapter 2 of Part 2.

**Textual Amendments**

**F8** Sch. 5 para. 19(ca) inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), **ss. 13(3)(b)**, 18(2)(3); [S.S.I. 2021/232](#), **reg. 2(g)**

**Commencement Information**

**I64** Sch. 5 para. 19 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

*Interpretation*

- 20 In this schedule—

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

“eligibility” means eligibility for disability assistance and “eligible” means eligible for disability assistance,

“the regulations” means regulations under section 31(2).

**Commencement Information**

**I65** Sch. 5 para. 20 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(c)**

**SCHEDULE 6**

*(introduced by section 32)*

**EARLY YEARS ASSISTANCE REGULATIONS**

**PART 1**

**ELIGIBILITY**

**CHAPTER 1**

**ELIGIBILITY IS TO DEPEND ON HAVING, OR  
EXPECTING TO HAVE, RESPONSIBILITY FOR A CHILD**

- 1 (1) The regulations must be framed so that an individual's eligibility depends on the individual satisfying one of the primary eligibility criteria.
- (2) The primary eligibility criteria are that the individual—
- (a) is, or has been, more than a specified number of weeks pregnant,
  - (b) has a relationship of a specified kind to another individual who is, or has been, more than a specified number of weeks pregnant,
  - (c) is to, or has, become responsible for a child within a specified period of the child's birth,
  - (d) is responsible for a child when a specified event in the child's life occurs or has become responsible for the child within a specified period of the event.
- (3) The regulations are to define what being responsible for a child means for the purpose of determining entitlement to early years assistance.

**Commencement Information**

**I66** Sch. 6 para. 1 in force at 10.12.2018 by [S.S.I. 2018/357](#), **reg. 2**

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

## CHAPTER 2

### FURTHER CRITERIA

#### *Limit to number of people entitled*

- 2 The regulations may provide that an individual is not eligible, despite satisfying one of the primary eligibility criteria, on account of one of those criteria being satisfied in respect of the same child by someone else.

**Commencement Information**

**I67** Sch. 6 para. 2 in force at 10.12.2018 by [S.S.I. 2018/357](#), **reg. 2**

#### *Residence and presence*

- 3 The regulations may make an individual's eligibility depend on the individual being resident and present in a particular place.

**Commencement Information**

**I68** Sch. 6 para. 3 in force at 10.12.2018 by [S.S.I. 2018/357](#), **reg. 2**

#### *Financial circumstances*

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

**Commencement Information**

**I69** Sch. 6 para. 4 in force at 10.12.2018 by [S.S.I. 2018/357](#), **reg. 2**

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

- 5 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**

**I70** Sch. 6 para. 5 in force at 10.12.2018 by [S.S.I. 2018/357](#), **reg. 2**

#### *Application within specified period*

- 6 The regulations may provide that an individual ceases to be eligible on account of satisfying a primary eligibility criteria unless, by a deadline specified in the regulations—
- (a) the individual has applied for early years assistance, or

*Status: Point in time view as at 24/01/2022.*

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- (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to early years assistance by regulations under section 52.

**Commencement Information**

I71 Sch. 6 para. 6 in force at 10.12.2018 by S.S.I. 2018/357, reg. 2

**PART 2**

ASSISTANCE TO BE GIVEN

*Restriction on giving assistance in a form other than money*

- 7 (1) The regulations may allow early years assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given early years assistance in a form other than money at any time.

**Commencement Information**

I72 Sch. 6 para. 7 in force at 10.12.2018 by S.S.I. 2018/357, reg. 2

**PART 3**

FINAL PROVISIONS

*Generality of enabling power unaffected*

- 8 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
- (b) Part 2.

**Commencement Information**

I73 Sch. 6 para. 8 in force at 10.12.2018 by S.S.I. 2018/357, reg. 2

*Interpretation*

- 9 In this schedule—
- “eligibility” means eligibility for early years assistance and “eligible” means eligible for early years assistance,
- “the regulations” means regulations under section 32(2),

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

“specified” means specified in the regulations.

**Commencement Information**

**I74** Sch. 6 para. 9 in force at 10.12.2018 by [S.S.I. 2018/357](#), **reg. 2**

**SCHEDULE 7**

*(introduced by section 33)*

**EMPLOYMENT-INJURY ASSISTANCE REGULATIONS**

PROSPECTIVE

**PART 1**

**ELIGIBILITY**

**CHAPTER 1**

**ELIGIBILITY IS TO DEPEND ON BEING INJURED  
OR CONTRACTING A DISEASE AT WORK**

- 1 The regulations must be framed so that (subject to any provision of the kind described in paragraph 2) an individual's eligibility depends on the individual—
  - (a) having suffered a relevant personal injury caused by an accident arising out of and in the course of the individual's employment, or
  - (b) developing a relevant disease, or suffering a relevant personal injury, due to the nature of the individual's employment.
- 2 (1) The regulations may be framed so that, despite the criterion described in paragraph 1 not being fulfilled, an individual may nevertheless be eligible.
  - (2) Where the regulations allow an individual to be eligible despite the criterion described in paragraph 1 not being fulfilled, they must be framed so that the individual's eligibility depends on the individual having, or having had, a relationship of a kind specified in the regulations to an individual who suffered a personal injury, or developed a disease, in the circumstances mentioned in paragraph 1.
- 3 (1) The regulations are to define the following terms for the purpose of determining entitlement to employment-injury assistance—
  - (a) employment,
  - (b) relevant personal injury,
  - (c) relevant disease.
  - (2) The regulations may not define “employment” so as to include employment, or training for employment, that is not “relevant employment” as defined in the interpretation provision of Section F1 of Part 2 of schedule 5 of the Scotland Act 1998.

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

- (3) The regulations may define “relevant personal injury” and “relevant disease” by reference to the circumstances in which an injury is suffered or a disease is developed as well as by reference to its kind and severity.

## CHAPTER 2

### FURTHER CRITERIA

#### *Place where injury suffered or disease contracted*

- 4 The regulations may make an individual's eligibility depend on where, geographically, the injury was suffered or the disease developed (or is deemed to have been suffered or developed).

#### *Residence and presence*

- 5 The regulations may make an individual's eligibility depend on the individual being resident and present in a particular place.

#### *Age*

- 6 The regulations may make an individual's eligibility depend on the individual's age.

#### *Financial circumstances*

- 7 Subject to paragraph 8, the regulations may not make an individual's eligibility depend on the financial circumstances of either or both—  
(a) the individual, and  
(b) anyone who lives with the individual.

#### *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.

#### *Application within specified period*

- 9 The regulations may provide that an individual ceases to be eligible on account of an injury being suffered or a disease developed unless, by a deadline specified in the regulations—  
(a) the individual has applied for employment-injury assistance, or  
(b) the Scottish Ministers have become required to make a determination of the individual's entitlement to employment-injury assistance by regulations under section 52.

*Status: Point in time view as at 24/01/2022.*

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## PART 2

### ASSISTANCE TO BE GIVEN

#### CHAPTER 1

##### VALUE

PROSPECTIVE

##### *Nature of injury or disease*

- 10 The regulations may make the value of the employment-injury assistance that is to be given to an individual depend on the—
- (a) kind, and
  - (b) severity,
- of the injury or disease in respect of which the assistance is to be given.

PROSPECTIVE

##### *Age*

- 11 The regulations may make the value of the employment-injury assistance that is to be given to an individual depend on the individual's age.

##### *<sup>F9</sup>Power to set value of assistance as nil*

#### Textual Amendments

- F9** Sch. 7 para. 11A inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), ss. **13(4)(a)**, 18(2)(3); S.S.I. 2021/232, reg. 2(g)

- 11A (1) Provision may be made in the regulations for the value of the employment-injury assistance that is to be given to an individual in respect of a period to be £0, but—
- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
    - (i) the individual being resident and present in a particular place during the period,
    - (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
  - (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to employment-injury assistance with a value of £0 in respect of a period rather than not being entitled to employment-injury assistance at all.
- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.]



*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

PROSPECTIVE

## CHAPTER 2

### FORM

#### *Meeting liabilities*

- 12 The regulations may provide for the employment-injury assistance that is to be given to an individual to be given (in whole or in part) by way of—
- (a) payment to another person in order to meet, or contribute towards meeting, any liability the individual has to that person,
  - (b) deduction from any liability the individual has to the Scottish Ministers under section 63.

#### *Restriction on giving assistance in a form other than money*

- 13 (1) The regulations may allow employment-injury assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given employment-injury assistance in a form other than money at any time.
- (3) Despite sub-paragraph (1), the regulations may provide for employment-injury assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 63 if the individual has unreasonably refused to agree to the assistance being given in that form.
- (4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

#### *Restriction on lump sums*

- 14 The regulations may not provide for the employment-injury assistance that is to be given to an individual to be given by way of a lump-sum payment where the individual's entitlement arises on account of someone having, or having had—
- (a) pneumoconiosis,
  - (b) byssinosis,
  - (c) diffuse mesothelioma,
  - (d) bilateral diffuse pleural thickening, or
  - (e) primary carcinoma of the lung where there is accompanying evidence of—
    - (i) asbestosis,
    - (ii) bilateral diffuse pleural thickening, or
    - (iii) both.

*Status: Point in time view as at 24/01/2022.*

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PROSPECTIVE

### PART 3

#### FINAL PROVISIONS

##### *Generality of enabling power unaffected*

- 15 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
  - (b) paragraph 7 in Chapter 2 of Part 1,
  - [<sup>F10</sup>(ba) paragraph 11A in Chapter 1 of Part 2,]
  - (c) paragraphs 13 and 14 in Chapter 2 of Part 2.

#### **Textual Amendments**

**F10** Sch. 7 para. 15(ba) inserted (26.7.2021) by Social Security Administration and Tribunal Membership (Scotland) Act 2020 (asp 18), ss. 13(4)(b), 18(2)(3); S.S.I. 2021/232, reg. 2(g)

##### *Interpretation*

- 16 In this schedule—
- “eligibility” means eligibility for employment-injury assistance, and
  - “eligible” means eligible for employment-injury assistance,
  - “the regulations” means regulations under section 33(2).

## SCHEDULE 8

*(introduced by section 34)*

### FUNERAL EXPENSE ASSISTANCE REGULATIONS

#### PART 1

#### ELIGIBILITY

#### CHAPTER 1

##### ELIGIBILITY IS TO DEPEND ON BEING RESPONSIBLE FOR FUNERAL EXPENSES

- 1 (1) The regulations must be framed so that an individual's eligibility for funeral expense assistance depends on the individual having met, or being responsible for meeting, the expenses of a funeral.
- (2) The regulations are to define “funeral” for the purpose of determining entitlement to funeral expense assistance.

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

**Commencement Information**

**I75** Sch. 8 para. 1 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

## CHAPTER 2

### FURTHER CRITERIA

#### *Location of the funeral*

- 2 The regulations may make an individual's eligibility depend on where the funeral takes place.

**Commencement Information**

**I76** Sch. 8 para. 2 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

#### *Relationship with the deceased*

- 3 The regulations may make an individual's eligibility depend on the individual—
- (a) being related to the deceased person, or
  - (b) having a relationship of a kind described in the regulations with the deceased person immediately before the death.

**Commencement Information**

**I77** Sch. 8 para. 3 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

#### *Value of deceased's estate*

- 4 The regulations may make an individual's eligibility depend on the value of the deceased person's estate being below a level specified in the regulations.

**Commencement Information**

**I78** Sch. 8 para. 4 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

#### *Residence and presence*

- 5 The regulations may make an individual's eligibility depend on either or both—
- (a) the individual being resident and present in a particular place,
  - (b) the deceased person having been resident and present in a particular place at the date of death.

**Commencement Information**

**I79** Sch. 8 para. 5 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

*Status: Point in time view as at 24/01/2022.*

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### *Financial circumstances*

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

#### **Commencement Information**

**I80** Sch. 8 para. 6 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

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

- 7 The regulations may make an individual's eligibility depend on either or both the individual and, immediately before dying, the deceased person—
- (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**

**I81** Sch. 8 para. 7 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

### *Application within specified period*

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

#### **Commencement Information**

**I82** Sch. 8 para. 8 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

## PART 2

### ASSISTANCE TO BE GIVEN

- 9 The regulations may specify items of expense in relation to which funeral expense assistance will, or will not, be given.

#### **Commencement Information**

**I83** Sch. 8 para. 9 in force at 11.9.2019 by [S.S.I. 2019/269](#), **reg. 2(c)**

- 10 The regulations may set a limit on the value of the funeral expense assistance that will be given in relation to items of expense.

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

**Commencement Information**

**I84** Sch. 8 para. 10 in force at 11.9.2019 by [S.S.I. 2019/269](#), [reg. 2\(c\)](#)

- 11 The regulations may set a limit on the total value of the funeral expense assistance that will be given.

**Commencement Information**

**I85** Sch. 8 para. 11 in force at 11.9.2019 by [S.S.I. 2019/269](#), [reg. 2\(c\)](#)

- 12 The regulations may provide for the amount of funeral expense assistance that will be given to be reduced to reflect the availability of other funds that may be used to meet, or help to meet, any of the expenses.

**Commencement Information**

**I86** Sch. 8 para. 12 in force at 11.9.2019 by [S.S.I. 2019/269](#), [reg. 2\(c\)](#)

*Restriction on giving assistance in a form other than money*

- 13 (1) The regulations may allow funeral expense assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given funeral expense assistance in a form other than money at any time.

**Commencement Information**

**I87** Sch. 8 para. 13 in force at 11.9.2019 by [S.S.I. 2019/269](#), [reg. 2\(c\)](#)

**PART 3**

**FINAL PROVISIONS**

*Generality of enabling power unaffected*

- 14 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
  - (b) paragraph 13 in Part 2.

**Commencement Information**

**I88** Sch. 8 para. 14 in force at 11.9.2019 by [S.S.I. 2019/269](#), [reg. 2\(c\)](#)

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

### *Interpretation*

- 15 In this schedule—
- “deceased person” means the person in respect of whose funeral assistance is sought,
  - “eligibility” means eligibility for funeral expense assistance and “eligible” means eligible for funeral expense assistance,
  - “the regulations” means regulations under section 34(2).

#### **Commencement Information**

**I89** Sch. 8 para. 15 in force at 11.9.2019 by [S.S.I. 2019/269](#), [reg. 2\(c\)](#)

## SCHEDULE 9

*(introduced by section 35)*

### HOUSING ASSISTANCE REGULATIONS

PROSPECTIVE

#### PART 1

#### ELIGIBILITY

#### CHAPTER 1

ELIGIBILITY IS TO DEPEND ON BEING TREATED IN CERTAIN  
 WAYS UNDER THE WELFARE REFORM ACT 2012 OR  
 OTHERWISE NEEDING ASSISTANCE WITH HOUSING COSTS

- 1 (1) Subject to sub-paragraph (2) and paragraph 2, the regulations must be framed so that an individual's eligibility in respect of a given period depends on meeting the conditions described in either—
- (a) sub-paragraph (3), or
  - (b) sub-paragraph (4).
- (2) The regulations need not be framed so that eligibility depends on meeting the conditions described in sub-paragraph (3) or (4) if it is not (or is no longer) possible for circumstances to arise enabling the conditions described in the sub-paragraph to be met.
- (3) The conditions referred to in sub-paragraph (1)(a) are—
- (a) the individual is entitled to an award of universal credit in respect of the period in question,
  - (b) an amount under section 11 of the Welfare Reform Act 2012 (housing costs) is to be included in the calculation of that award,

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

- (c) the amount relates to the individual's liability to make payments in respect of accommodation in the social rented sector other than temporary accommodation,
  - (d) were it not for regulations made by the Scottish Ministers by virtue of section 29(2) of the Scotland Act 2016, the amount would be lower on account of its being reduced due to the number of bedrooms in the property that the individual lives in,
  - (e) as a result of being entitled to more than would otherwise be the case because of the regulations referred to in paragraph (d), the value of the assistance to which the individual is entitled under an enactment is reduced in accordance with regulations under section 96 of the Welfare Reform Act 2012 (benefit cap).
- (4) The conditions referred to in sub-paragraph (1)(b) are—
- (a) the individual is entitled to an award of universal credit in respect of the period in question,
  - (b) during that period, the individual is—
    - (i) 18 years of age or over, but
    - (ii) not more than 21 years of age,
  - (c) no amount under section 11 of the Welfare Reform Act 2012 is to be included in the calculation of the award, and
  - (d) an amount under that section would fall to be included in the calculation, in respect of accommodation in Scotland, if the individual were older.
- (5) The regulations are to define “accommodation in the social rented sector” and “temporary accommodation” for the purpose of determining entitlement to housing assistance under provision made in accordance with paragraph 1(3).
- 2 (1) The regulations may be framed so that, despite the conditions described in paragraph 1 not being met 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 conditions described in paragraph 1 are not met, they must be framed so that the individual's eligibility depends on the individual needing assistance to meet housing costs in a connection with a property that is not owned (wholly or partly) by the individual.
- (3) For the purpose of sub-paragraph (2), an individual is not an owner of property if, in relation to the property, the individual is party to a shared ownership agreement within the meaning of section 83(3) of the Housing (Scotland) Act 2001.
- (4) If provision of the kind described in this paragraph is made, the regulations are to set out, for the purpose of determining entitlement to housing assistance—
- (a) a definition of “housing costs”,
  - (b) the circumstances in which an individual is to be regarded as needing assistance to meet housing costs.

*Status: Point in time view as at 24/01/2022.*

*Changes to legislation: Social Security (Scotland) Act 2018 is up to date with all changes known to be in force on or before 14 September 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)*

## CHAPTER 2

### FURTHER CRITERIA

#### *Participation in education*

- 3 The regulations may make an individual's eligibility depend on—
- (a) whether or not the individual, or anyone who lives with the individual, is in education, and
  - (b) the length of time the individual, or someone who lives with the individual, spends over a given period in education.

#### *Residence and presence*

- 4 The regulations may make an individual's eligibility depend on the individual being resident and present in a particular place.

#### *Age*

- 5 The regulations may make an individual's eligibility depend on the age of either or both—
- (a) the individual, and
  - (b) anyone who lives with the individual.

#### *Financial circumstances*

- 6 The regulations may make an individual's eligibility depend on the financial circumstances of either or both—
- (a) the individual, and
  - (b) anyone who lives with the individual.

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

- 7 The regulations may make an individual's eligibility depend on either or both the individual and anyone who lives with 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.

#### *Application within specified period*

- 8 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 housing assistance in respect of the period, or
  - (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to housing assistance in respect of the period by regulations under section 52.



*Status: Point in time view as at 24/01/2022.*

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## PART 2

### ASSISTANCE TO BE GIVEN

#### CHAPTER 1

##### VALUE

PROSPECTIVE

##### *Cases where paragraph 1(3) conditions met*

- 9
- (1) The regulations must provide for the value of housing assistance to be given in a case to which this paragraph applies to be the amount described in sub-paragraph (3).
  - (2) This paragraph applies to a case in which an individual is entitled to housing assistance in respect of a given period by virtue of meeting the conditions described in paragraph 1(3).
  - (3) The amount referred to in sub-paragraph (1) is the lower of—
    - (a) the difference between—
      - (i) the amount under section 11 of the Welfare Reform Act 2012 included in the calculation of the individual's universal credit award for the period in question, and
      - (ii) the amount that would have been included under that section in the calculation were it not for the regulations referred to in paragraph 1(3)(d), or
    - (b) the amount by which the value of the assistance to which the individual is entitled from the Secretary of State in respect of the period in question is reduced in accordance with regulations under section 96 of the Welfare Reform Act 2012.
  - (4) Sub-paragraph (1) does not apply if, by virtue of paragraph 1(2), the regulations need not provide for eligibility to depend on the conditions described in paragraph 1(3) being met.

PROSPECTIVE

##### *Cases where paragraph 1(3) conditions not met*

- 10
- In a case to which paragraph 9 does not apply, the regulations may make the value of housing assistance that is to be given to an individual depend on—
- (a) the age of either or both—
    - (i) the individual, and
    - (ii) anyone who lives with the individual,
  - (b) the financial circumstances of either or both—
    - (i) the individual, and
    - (ii) anyone who lives with the individual.

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*Power to set value of assistance as nil*

**Textual Amendments**

**F11** Sch. 9 para. 10A inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), ss. **13(5)(a)**, 18(2)(3); S.S.I. 2021/232, reg. 2(g)

- 10A (1) Provision may be made in the regulations for the value of the housing assistance that is to be given to an individual in respect of a period to be £0, but—
- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
    - (i) the individual being resident and present in a particular place during the period,
    - (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
  - (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to housing assistance with a value of £0 in respect of a period rather than not being entitled to housing assistance at all.
- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.]

PROSPECTIVE

**CHAPTER 2**

FORM

*Meeting liabilities*

- 11 The regulations may provide for housing assistance that is to be given to an individual to be given (in whole or in part) by way of—
- (a) payment to another person in order to meet, or contribute towards meeting, any liability the individual has to that person,
  - (b) deduction from any liability the individual has to the Scottish Ministers under section 63.

*Restriction on giving assistance in a form other than money*

- 12 (1) The regulations may allow housing assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given housing assistance in a form other than money at any time.
- (3) Despite sub-paragraph (1), the regulations may provide for housing assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any

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liability the individual has to the Scottish Ministers under section 63 if the individual has unreasonably refused to agree to the assistance being given in that form.

- (4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

PROSPECTIVE

### PART 3

#### FINAL PROVISIONS

##### *Generality of enabling power unaffected*

- 13 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
  - (b) paragraphs 9 <sup>[F12]</sup>, 10A] and 12 of Part 2.

##### **Textual Amendments**

- F12** Word in [sch. 9 para. 13](#) inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\), ss. 13\(5\)\(b\), 18\(2\)\(3\); S.S.I. 2021/232, reg. 2\(g\)](#)

##### *Interpretation*

- 14 In this schedule (unless stated otherwise)—
- “eligibility” means eligibility for housing assistance and “eligible” means eligible for housing assistance,
  - “the regulations” means regulations under section 35(2).

## SCHEDULE 10

*(introduced by section 36)*

### SHORT-TERM ASSISTANCE REGULATIONS

#### PART 1

#### ELIGIBILITY

##### *Entitlement to other assistance being reviewed*

- 1 (1) The regulations must be framed so that an individual is eligible for short-term assistance if—

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- (a) the individual is, or was, entitled to a particular type of assistance (other than short-term assistance) under a determination made on the basis that the individual has ongoing entitlement,
  - (b) that determination has been superseded by a determination under section 37 with the result that the individual—
    - (i) is no longer entitled to the type of assistance in question, or
    - (ii) is entitled to less assistance of the type in question,
  - (c) the individual's entitlement to the type of assistance in question is under review, and
  - (d) any further eligibility rules prescribed in the regulations are satisfied in the individual's case.
- (2) An individual's entitlement to a particular type of assistance is under review within the meaning of sub-paragraph (1)(c) if—
- (a) the individual has, under section 41, requested a re-determination of the individual's entitlement to the type of assistance in question and—
    - (i) the Scottish Ministers have yet to make a determination of the individual's entitlement under section 43, and
    - (ii) the individual has not, since requesting the re-determination, made an appeal to the First-tier Tribunal against a determination of the individual's entitlement, or
  - (b) the individual has, under section 46, appealed to the First-tier Tribunal against a determination of the individual's entitlement to the type of assistance in question and the First-tier Tribunal has yet to make a decision under section 49, or
  - (c) the First-tier Tribunal is considering, under section 48(1)(b), whether to give permission for the individual to bring an appeal against a determination of the individual's entitlement to the type of assistance in question.

**Commencement Information**

**190** Sch. 10 para. 1 in force at 8.10.2020 by [S.S.I. 2020/295](#), [reg. 2\(d\)](#)

**PART 2**

ASSISTANCE TO BE GIVEN

*Value and form of assistance where entitlement to other assistance under review*

- 2 (1) This paragraph applies to any case in which an individual is eligible for short-term assistance by virtue of provision made in accordance with paragraph 1(1).
- (2) In this paragraph, “the superseded determination” means the determination that has been superseded with one of the results mentioned in paragraph 1(1)(b), as a consequence of which the individual in question is eligible for short-term assistance.
- (3) In relation to a case to which this paragraph applies, the regulations must provide for the value of the short-term assistance given to an individual in respect of any period to be equal to—

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## V1 – V2

where—

V1 is the value of the assistance that the individual would have been given in respect of the period under the superseded determination had it not been superseded, and

V2 is the value of the assistance that the individual is to be given in respect of the period under what is, at the time the individual becomes eligible for short-term assistance in respect of the period, the most recent determination of the individual's entitlement to the type of assistance to which the superseded determination relates.

- (4) In relation to a case to which this paragraph applies, the regulations must provide for the rules regarding the form in which short-term assistance is given to an individual to be the same as the rules governing the form in which the type of assistance to which the superseded determination relates may be given.

### Commencement Information

**I91** Sch. 10 para. 2 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(d)**

## PART 3

### FINAL PROVISIONS

#### *Generality of enabling power unaffected*

- 3 Nothing in this schedule is to be taken to preclude the regulations from providing for an individual to be eligible for short-term assistance in circumstances other than those described in paragraph 1.

### Commencement Information

**I92** Sch. 10 para. 3 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(d)**

#### *Interpretation*

- 4 In this schedule, “the regulations” means regulations under section 36(2).

### Commencement Information

**I93** Sch. 10 para. 4 in force at 8.10.2020 by [S.S.I. 2020/295](#), **reg. 2(d)**

*Status: Point in time view as at 24/01/2022.*

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## <sup>F13</sup>SCHEDULE 11 (introduced by section 51)

### SUSPENSION OF ASSISTANCE

#### Textual Amendments

**F13** Sch. 11 inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), ss. **12(4)**, 18(2)(3); S.S.I. 2021/232, reg. 2(f)

#### *Circumstances in which assistance may be suspended*

- 1 (1) The regulations may provide for an individual's assistance to be suspended in the following circumstances only—
- (a) under section 54(1A) the Scottish Ministers have issued a decision to suspend assistance to the individual due to a failure to provide information which the individual is yet to provide,
  - (b) where the Scottish Ministers have made arrangements (whether under section 85A, 85B or otherwise) for a person to receive the assistance on the individual's behalf, and the Ministers consider that it is necessary to suspend the assistance—
    - (i) in order to protect the individual from the risk of financial abuse,
    - (ii) because the person with whom the Ministers have made arrangements is unable to continue to receive the assistance, or
    - (iii) for any other reason specified in the regulations, or
  - (c) the individual has requested that the Scottish Ministers temporarily stop giving the assistance in question and is yet to request that they resume doing so.
- (2) For the purpose of sub-sub-paragraph (1)(b), “financial abuse” includes—
- (a) having money or other property stolen,
  - (b) being defrauded,
  - (c) being put under pressure in relation to money or other property,
  - (d) having money or other property misused.

#### *Safeguards: requirement to consider financial circumstances before suspension*

- 2 The regulations must require the Scottish Ministers, before suspending the assistance given to an individual, to have regard to the financial circumstances of the individual.

#### *Safeguards: right to review suspension*

- 3 The regulations must confer a right on an individual whose assistance has been suspended to require the Scottish Ministers to review their decision to suspend the individual's assistance.

#### *Safeguards: information to be given following suspension*

- 4 (1) The regulations must require the Scottish Ministers to inform an individual whose assistance they have suspended—

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- (a) of their decision to suspend the individual's assistance,
  - (b) of the reasons for their decision,
  - (c) of any steps which might be taken by the individual in order for the Scottish Ministers to consider ending the suspension, and
  - (d) of the individual's right in accordance with the regulations to require the Scottish Ministers to review their decision to suspend the individual's assistance.
- (2) The regulations must provide that the Scottish Ministers are to fulfil the duty described by sub-paragraph (1) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

*Safeguards: effect of suspension ending*

- 5 The regulations must provide that when—
- (a) the suspension of an individual's assistance ends, and
  - (b) under the latest determination of the individual's entitlement to the type of assistance in question, the individual would have become entitled to be given assistance during the period of the suspension,
- the individual is immediately to be given under section 24 the assistance that the individual would have become entitled to be given under the determination during that period.

*Generality of enabling power unaffected*

- 6 Nothing in this schedule is to be taken to limit the provision that may be included in the regulations except to the extent stated.

*Interpretation*

- 7 In this schedule—
- (a) references to an individual's assistance being suspended are to an individual, by virtue of the regulations, not becoming entitled to be given some or all of the assistance in respect of a period that the individual otherwise would at the time, or times, prescribed by regulations under section 51(2)(a),
  - (b) “the regulations” means regulations under section 51(1).]

**Status:**

Point in time view as at 24/01/2022.

**Changes to legislation:**

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