
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 54

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

PART 5

Residence and Presence Conditions

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

20.—(1) The residence and presence conditions set out in regulation 15(1) do not apply in relation to the daily living component where on any day the individual satisfies the conditions in paragraph (2).

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

(a) be an individual—

(i) to whom the rules set out in a relevant EU regulation apply by virtue of—

(aa) Title III of Part 2 of the EU withdrawal agreement,

(bb) Part 3 or Article 23(4) of the Swiss citizens' rights agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020 ("the 2020 Act")),

(cc) Title III of the EEA EFTA separation agreement (as defined in section 39(1) of the 2020 Act), or

(dd) the agreement constituted by the exchange of letters set out in the schedule of the Family Allowances, National Insurance and Industrial Injuries (Gibraltar) Order 1974, and

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

(b) be habitually resident in—

(i) Switzerland,

(ii) an EEA state, or

(iii) Gibraltar, and

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

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

(4) In this regulation, "EEA State" means—

(a) any member state of the European Union, or

Changes to legislation: *The Disability Assistance for Working Age People (Scotland) Regulations 2022, Section 20 is up to date with all changes known to be in force on or before 03 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) any other state that is party to the agreement on the European Economic Area signed at Oporto on 2 May 1992⁽¹⁾, together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993⁽²⁾, as modified or supplemented from time to time.

Commencement Information

II [Reg. 20](#) in force at 21.3.2022, see [reg. 1](#)

(1) Command Paper 2073 and OJ L 1, 3.1.1994, p.3.
(2) Command Paper 2183 and OJ L 1, 3.1.1994, p.572.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 4(ba) inserted by [S.S.I. 2024/141 reg. 12\(3\)](#)
- reg. 26(12)(a)(iia) inserted by [S.S.I. 2024/141 reg. 12\(4\)](#)