
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

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

- (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.

(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.