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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2022 No.**

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

**PART 8**

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

**Entitlement beginning while in alternative accommodation**

**32.**—(1) This regulation applies where an individual is resident in a care home, an in-patient in a hospital or similar institution, or in legal detention on the day on which their entitlement to Adult Disability Payment begins.

(2) On and after that day, and for so long as the individual continues to reside in a place mentioned in paragraph (1), instead of the values set out in regulation 34 (amount and form of Adult Disability Payment), the individual is to be given the value of £0—

- (a) where the individual is resident in a care home, in respect of the daily living component of Adult Disability Payment,
- (b) where the individual is—
  - (i) aged 18 or over,
  - (ii) undergoing medical or other treatment as an in-patient in a hospital or similar institution, and
  - (iii) any of the costs of the treatment, accommodation and any related services provided for them are borne out of public funds within the meaning of regulation 28(4),in respect of each component of Adult Disability Payment, or
- (c) where the individual is in legal detention and—
  - (i) aged 18 or over, in respect of either component of Adult Disability Payment,
  - (ii) aged 16 or 17, in respect of the daily living component of Adult Disability Payment.

(3) Paragraphs (1) and (2) do not apply where the individual is a resident in a care home, and the full costs of any qualifying services are met—

- (a) entirely out of the resources of the individual for whom the qualifying services are provided,
- (b) partly out of the resources of the individual for whom the qualifying services are provided and partly out of the resources of another person (other than a local authority) or assistance from a charity, or
- (c) entirely out of the resources of another person (other than a local authority) or assistance from a charity.

(4) For the purposes of this regulation, an individual is not resident in a care home during any period when the individual is being looked after by a local authority and—

- (a) has been placed temporarily in a private dwelling with a family, relative or some other suitable person while aged between 16 and 18 and receiving services under Part II of the Children (Scotland) Act 1995<sup>(1)</sup> by virtue of being a child in need within the meaning of section 93(4)(a)(ii) (impairment of health), or 93(4)(a)(iii) (disability) of that Act, or
- (b) is accommodated in a care home outside the United Kingdom, where the costs of any qualifying services are met wholly or partly by a local authority pursuant to their powers under section 25 of the Education (Additional Support for Learning) (Scotland) Act 2004 (attendance at establishments outwith the United Kingdom)<sup>(2)</sup>.

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(1) 1995 c. 36.  
(2) 2004 asp. 4.