
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 117

SOCIAL SECURITY

**The Carer's Allowance (Coronavirus)
(Breaks in Care) (Scotland) Regulations 2020**

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| <i>Made</i> | - - - - | <i>1st April 2020</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>2nd April 2020</i> |
| <i>Coming into force</i> | - - | <i>3rd April 2020</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 70(8) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992 ^{M1} and all other powers enabling them to do so.

Marginal Citations

M1 1992 c.4. The function of prescribing the circumstances in which a person is or is not to be treated as engaged, or regularly and substantially engaged, in caring for a severely disabled person, for the purpose of section 70(8) of the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”), transferred to the Scottish Ministers on the commencement of section 81 of the [Social Security \(Scotland\) Act 2018 \(asp 9\)](#), dealing with carer's allowance supplement. The transfer is in terms of regulation 4 of [S.I. 2017/444](#), which causes section 53(1) and (2) of the [Scotland Act 1998 \(c.46\)](#) to have effect in relation to pre-commencement enactments, within the meaning of section 32 of the [Scotland Act 2016 \(c.11\)](#) as read with section 22(2) of that Act, relating to carer's benefits, upon commencement of a provision which relies on the exception in relation to carer's benefits in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998. Section 81 of the Social Security (Scotland) Act 2018 was commenced on 3 September 2018 by regulation 2 of [S.S.I. 2018/250](#). Accordingly, responsibility for the exercise of the functions exercisable by the Secretary of State in relation to carer's allowance has transferred to the Scottish Ministers as regards provision of carer's allowance to people residing in Scotland. The prescribing of circumstances in which a person is to be treated as regularly and substantially engaged in caring for a severely disabled person falls within that responsibility. The requirement to consult the Social Security Advisory Committee in section 172 of the 1992 Act does not apply to the Scottish Ministers by virtue of section 33 of the Scotland Act 2016. An amendment was made to section 175(1) of the 1992 Act which is not relevant to these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations 2020 and come into force on 3 April 2020.

(2) In these Regulations—

“carer's allowance” means the allowance paid under section 70 of the Social Security Contributions and Benefits Act 1992 (invalid care allowance) ^{M2},

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),

“isolation” in relation to a person means separation of that person from any other person in such manner as to prevent infection or contamination with coronavirus, and

“severely disabled person” has the meaning given in section 70(2) of the Social Security Contributions and Benefits Act 1992 ^{M3}.

Commencement Information

I1 Reg. 1 in force at 3.4.2020, see [reg. 1\(1\)](#)

Marginal Citations

M2 Section 70 was amended by [S.I. 1994/2556](#), [S.I. 2002/1457](#), [S.I. 2011/2426](#), [S.I. 2013/388](#), [S.I. 2013/796](#) and [S.I. 2015/1754](#).

M3 Section 70(2) was amended by [S.I. 2013/388](#) and [S.I. 2013/796](#).

Entitlement to carer's allowance while unable to care as a result of coronavirus

2.—(1) This regulation applies where a person in receipt of carer's allowance (“A”) is temporarily unable to care for the severely disabled person (“B”) in respect of whom the carer's allowance is paid by reason of isolation due to, or infection with, coronavirus of either A or B.

(2) Regulation 4(2) of the Social Security (Invalid Care Allowance) Regulations 1976 (circumstances in which persons are or are not to be treated as engaged or regularly and substantially engaged in caring for severely disabled persons) ^{M4} is to be read as if the words from “and” at the end of sub-paragraph (a) to the end of sub-paragraph (b) were omitted.

Commencement Information

I2 Reg. 2 in force at 3.4.2020, see [reg. 1\(1\)](#)

Marginal Citations

M4 [S.I. 1976/409](#).

Expiry

3. Regulation 2 ceases to have effect [^{F1}on [^{F2}31 August] 2021 at 2359 hours].

Textual Amendments

F1 Words in [reg. 3](#) substituted (3.12.2020) by [The Carer's Allowance \(Coronavirus\) \(Breaks in Care\) \(Scotland\) Amendment Regulations 2020](#) (S.S.I. 2020/350), regs. 1(1), [2\(2\)](#)

F2 Words in [reg. 3](#) substituted (12.5.2021) by [The Carer's Allowance \(Coronavirus\) \(Breaks in Care\) \(Scotland\) Amendment Regulations 2021](#) (S.S.I. 2021/140), regs. 1(1), [2\(2\)](#)

Commencement Information

I3 Reg. 3 in force at 3.4.2020, see [reg. 1\(1\)](#)

[^{F3}Continued disregard of breaks in care related to coronavirus

4.—(1) This regulation applies where a person who is in receipt of carer's allowance ("A") on or after [^{F4}1 September] 2021 temporarily ceases to care for the severely disabled person ("B") in respect of whom the carer's allowance is paid.

(2) For the purposes of regulation 4(2)(b) of the Social Security (Invalid Care Allowance) Regulations 1976, there is to be disregarded any week in which A did not meet the requirements of regulation 4(1) of those Regulations in respect of care for B where—

- (a) the break in A's care for B occurred between 3 April 2020 and [^{F4}1 September] 2021, and
- (b) the break in care arose because of isolation due to, or infection with, coronavirus of either A or B.]

Textual Amendments

F3 Reg. 4 inserted (3.12.2020) by [The Carer's Allowance \(Coronavirus\) \(Breaks in Care\) \(Scotland\) Amendment Regulations 2020](#) (S.S.I. 2020/350), regs. 1(1), **2(3)**

F4 Words in [reg. 4](#) substituted (12.5.2021) by [The Carer's Allowance \(Coronavirus\) \(Breaks in Care\) \(Scotland\) Amendment Regulations 2021](#) (S.S.I. 2021/140), regs. 1(1), **2(3)**

St Andrew's House,
Edinburgh

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

Changes to legislation: *There are currently no known outstanding effects for the The Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations 2020. (See end of Document for details)*

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a temporary adjustment to entitlement to carer's allowance. The effect of regulation 2 is to allow carers to retain their entitlement to carer's allowance if they have a temporary break in caring as a result of isolation due to, or infection or contamination with, coronavirus of either the carer or the person cared for. The normal requirement to have provided care over a certain number of weeks in order to continue to qualify for carer's allowance during a break in care will not apply. Regulation 3 provides that regulation 2 will cease to have effect 8 months after that regulation comes into force.

Changes to legislation:

There are currently no known outstanding effects for the The Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations 2020.