
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 350

SOCIAL SECURITY

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

Made - - - - *3rd November 2020*
Laid before the Scottish
Parliament - - - - *4th November 2020*
Coming into force - - *3rd December 2020*

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(1) and all other powers enabling them to do so.

Citation, commencement and extent

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

(2) These Regulations extend to Scotland only.

Amendment of the Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations 2020

2.—(1) The Carer's Allowance (Coronavirus) (Breaks in care) (Scotland) Regulations 2020(2) are amended as follows.

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- (1) [1992 c.4](#). Section 70 has been relevantly amended by [S.I. 2002/1457](#). 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) (read with section 175(1)) 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.
- (2) [S.S.I. 2020/117](#).

(2) In regulation 3 (expiry), for the words from “at” to the end substitute “on 12 May 2021 at 2359 hours”.

(3) After regulation 3 insert—

“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 13 May 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 13 May 2021, and
- (b) the break in care arose because of isolation due to, or infection with, coronavirus of either A or B.”.

St Andrew’s House,
Edinburgh
3rd November 2020

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend the period for which regulation 2 of the Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations 2020 ("the Breaks in Care Regulations") has effect. The regulation is to have effect until 23:59 on 12 May 2021. They also insert a new regulation 4 into the Breaks in Care Regulations. The new regulation 4 provides that, where a person has received carer's allowance during a break in care associated with coronavirus, the eventual expiry of regulation 2 does not cause the period covered by the break to be counted against the person's entitlement to receive carer's allowance during a break in care which takes place after the expiry.