

2021 No. 140

SOCIAL SECURITY

**The Carer's Allowance (Coronavirus) (Breaks in Care)
(Scotland) Amendment Regulations 2021**

Made - - - - at 10.45 a.m. on 15th March 2021

Laid before the Scottish Parliament at 3.00 p.m. on 15th March 2021

Coming into force - - - - 12th May 2021

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(a) 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 2021 and come into force on 12 May 2021.

(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(b) are amended as follows.

(2) In regulation 3 (expiry)(c), for "12 May" substitute "31 August".

(a) 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 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.

(b) S.S.I. 2020/117 which was amended by S.S.I. 2020/350.

(c) Regulation 3 was amended by S.S.I. 2020/350.

(3) In regulation 4 (continued disregard of breaks in care related to coronavirus)(a), for “13 May”, in both places where it occurs, substitute “1 September”.

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

St Andrew’s House,
Edinburgh
At 10.45 a.m. on 15th March 2021

(a) Regulation 4 was inserted by S.S.I. 2020/350.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend the period during which regulation 2 of the Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations 2020 ("the 2020 Regulations") has effect. The regulation is to have effect until 23:59 on 31 August 2021. These Regulations also make a consequential amendment to regulation 4 of the 2020 Regulations, to reflect the extension.

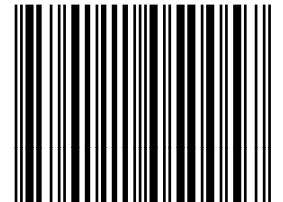
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