
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 174

**The Disability Assistance for Children and
Young People (Scotland) Regulations 2021**

PART 3

Eligibility

Care component criterion: lowest, middle or highest rate care component

11.—(1) An individual satisfies the care component criterion in respect of any period throughout which at least one of the following conditions is satisfied—

- (a) the individual is so severely disabled physically or mentally that they require in connection with their bodily functions attention from another person for a significant portion of the day (whether during a single period or a number of periods),
 - (b) the individual is 16 years old or older and is so severely disabled physically or mentally that they cannot prepare a cooked main meal for themselves if they have the ingredients,
 - (c) the individual is so severely disabled physically or mentally that they require from another person—
 - (i) frequent attention throughout the day in connection with their bodily functions, or
 - (ii) continual supervision throughout the day in order to avoid substantial danger to the individual or others, or
 - (d) the individual is so severely disabled physically or mentally that they require—
 - (i) prolonged or repeated attention from another person [F¹at] night in connection with their bodily functions, or
 - (ii) another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over the individual [F¹at] night in order to avoid substantial danger to the individual or others.
- (2) No condition mentioned in paragraph (1) is to be taken to be satisfied unless—
- (a) the individual has requirements of a description mentioned in the condition substantially in excess of the normal requirements of a person of the same age, or
 - (b) the individual has substantial requirements of such a description which younger persons in normal physical and mental health may also have but which persons of the individual's age and in normal physical and mental health would not have.
- (3) An individual is not entitled to the care component unless—
- (a) throughout the period of 13 weeks immediately preceding the date on which the award of that component would begin, the individual has satisfied or is likely to satisfy at least one of the conditions mentioned in paragraph (1) as read with paragraph (2), and
 - (b) the individual is likely to continue to satisfy at least one of those conditions throughout the period of 26 weeks beginning with that date.

(4) In the case of an individual who is under the age of 16 on the date on which the award of the care component would begin, paragraph (2) only applies in relation to so much of any period mentioned in that paragraph as falls before the day on which the individual reaches the age of 16.

(5) The amount of the care component that an individual is entitled to be given for each week in the period for which they are awarded that component is—

- (a) the highest rate (see regulation 23(1)(a)), if the individual falls within paragraph (3) by virtue of having satisfied or being likely to satisfy both the conditions mentioned in paragraph (1)(c) and (d) above throughout both the period mentioned in paragraph (3)(a) and that mentioned in paragraph (3)(b),
- (b) the middle rate (see regulation 23(1)(b)), if the individual falls within paragraph (3) by virtue of having satisfied or being likely to satisfy one of those conditions mentioned in paragraph (1)(c) or (d) throughout both those periods, and
- (c) the lowest rate (see regulation 23(1)(c)) in any other case.

(6) In paragraph (1)—

- (a) references to “day” and “night” are to be construed in relation to the ordinary domestic routine of the household in which the individual lives, and
- (b) “attention” means the provision of personal care, prompting or motivation in relation to bodily functions or assistance with communication needs.

(7) In paragraph (1) and regulation 12, “supervision” means the precautionary or anticipatory presence of another person to monitor an individual’s physical, mental or emotional health including monitoring for obstacles or dangerous places or situations.

(8) In this regulation and regulations 12 and 13, “require” means reasonably require and cognate expressions are to be construed accordingly.

Textual Amendments

- F1** Word in [reg. 11\(1\)\(d\)](#) substituted (22.11.2021) by [The Disability Assistance for Children and Young People \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/416\)](#), regs. 1, 7
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Commencement Information

- I1** [Reg. 11](#) in force at 26.7.2021, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Disability Assistance for Children and Young People (Scotland) Regulations 2021, Section 11.