
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 415

The Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations 2021

Amendment of the principal Regulations

- 2.—(1) The principal Regulations are amended in accordance with the following paragraphs.
- (2) In regulation 2 (interpretation) in the appropriate places insert—
- ““the 2013 Regulations” means the Social Security (Personal Independence Payment) Regulations 2013(1),”
- ““the 2016 Regulations” means the Personal Independence Payment Regulations (Northern Ireland) 2016(2),”
- ““first qualifying week” means the qualifying week in the same calendar year these Regulations came into force,”
- ““Personal Independence Payment” means personal independence payment under—
- (a) Part 4 of the Welfare Reform Act 2012(3), or
- (b) article 82 of the Welfare Reform (Northern Ireland) Order 2015(4),”.
- (3) Regulation 4 (eligibility rules for child winter heating assistance) is amended as follows—
- (a) for paragraph (1)(b) substitute—
- ““(b) entitled to receive payment of—
- (i) the highest rate of the care component of—
- (aa) Disability Living Allowance, or
- (bb) Child Disability Payment, or
- (ii) the enhanced rate of the daily living component of Personal Independence Payment, and”.
- (b) in paragraph (2)—
- (i) for “paragraph (1)(b)(i)” substitute “paragraph (1)(b)(i)(aa)”; and
- (ii) after “week,” insert “regulation 8 (Hospitalisation of persons aged 18 or over), or”.
- (c) in paragraph (3), for “paragraph (1)(b)(ii)” substitute “paragraph (1)(b)(i)(bb)”.
- (d) after paragraph (4) insert—
- “(5) For the purposes of the rule in paragraph (1)(b)(ii), an individual is to be treated as being entitled to receive payment even if, throughout the qualifying week—
- (a) regulation 28 (care home residents) of either the 2013 Regulations or the 2016 Regulations applies to the individual due to the individual being resident in a care home, or

(1) S.I. 2013/377, relevantly amended by S.I. 2013/2270, S.I. 2015/643, S.I. 2016/556, S.I. 2017/901 and S.I. 2019/1027.

(2) S.I. 2016/217, relevantly amended by S.I. 2016/235.

(3) 2012 c. 5. Part 4 was relevantly amended by S.I. 2018/1084 and S.I. 2021/804.

(4) S.I. 2015/2006.

(b) regulation 29 (hospital in-patients aged 18 or over) of either the 2013 Regulations or the 2016 Regulations applies to the individual due to the individual being an in-patient in hospital.

(6) In paragraph (5)—

(a) “care home” has the meaning given in section 85(3) of the Welfare Reform Act 2012 or article 90(3) of the Welfare Reform Act (Northern Ireland) Order 2015, and

(b) “hospital” has the meaning given in regulation 29 of the 2013 Regulations or regulation 29 of the 2016 Regulations.

(7) An individual is entitled to be paid child winter heating assistance in respect of the first qualifying week if it appears to the Scottish Ministers from information available to them that the individual would have been entitled to be paid child winter heating assistance had the requirement in regulation 4(1)(b)(ii) had effect beginning with the day upon which these Regulations came into force.”

(4) In regulation 5 (determination of entitlement to child winter heating assistance without application), omit “by the end of December in any year”.

(5) In regulation 8 (determination following backdated award of assistance), for subparagraph (b)(i) substitute—

“(i) following an appeal, an award of—

(aa) the highest rate of the care component of Disability Living Allowance,

(bb) the highest rate of the care component of Child Disability Payment, or

(cc) the enhanced rate of the daily living component of Personal Independence Payment,

is made that is a backdated award, and”.

(6) Regulation 10 (value and form of child winter heating assistance) is amended as follows—

(a) in paragraph (1), for “The value” substitute “Subject to paragraph (1A), the value”.

(b) after paragraph (1) insert—

“(1A) Where an individual is entitled to be paid child winter heating assistance by virtue of regulation 4(7), the value of child winter heating assistance payable is the value specified in paragraph (1) as it had effect on the day these Regulations came into force.”.

(7) In regulation 11 (making payments), in paragraph (1) in each place where it occurs for “young person” substitute “child or young person”.