
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 54

**The Disability Assistance for Working
Age People (Scotland) Regulations 2022**

PART 8

Effect of time spent in care homes, hospital and legal detention

Effect of admission to hospital on ongoing entitlement to Adult Disability Payment

28.—(1) This regulation applies where an individual who is aged 18 years or older and has an ongoing entitlement to either component of Adult Disability Payment—

- (a) is undergoing medical or other treatment as an in-patient at a hospital or similar institution, and
- (b) any of the costs of the treatment, accommodation and any related services provided for them are borne out of public funds.

(2) Subject to regulation 29, on the day after the day on which the individual has been an in-patient in a hospital or similar institution for 28 days, and for so long as the individual continues to be an in-patient in such an institution, the value of each component of Adult Disability Payment that is to be given to the individual is £0 instead of the values set out in regulation 34 (amount and form of Adult Disability Payment).

(3) The 28 days referred to in paragraph (2) may comprise two or more separate periods, provided that there is no more than 28 days between each period.

(4) For the purposes of paragraph (1), the costs of treatment, accommodation or any related services are borne out of public funds if the individual is undergoing medical or other treatment as an in-patient in—

- (a) a hospital or similar institution under—
 - (i) the National Health Service Act 2006⁽¹⁾,
 - (ii) the National Health Service (Wales) Act 2006⁽²⁾, ^{F1}...
 - (iii) the National Health Service (Scotland) Act 1978⁽³⁾, or
 - ^{F2}(iv) a hospital or similar institution under the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Personal Social Services (Northern Ireland) Order 1991,]
- (b) a hospital or similar institution maintained or administered by the Defence Council⁽⁴⁾.

(5) This regulation does not apply where an individual was under the age of 18 on the day on which they began their current period undergoing medical or other treatment as an in-patient at a hospital or similar institution.

(1) 2006 c. 41.

(2) 2006 c. 42.

(3) 1978 c. 29.

(4) The Defence Council was established by section 1 of the Defence (Transfer of Functions) Act 1964 (c. 15).

Changes to legislation: *The Disability Assistance for Working Age People (Scotland) Regulations 2022, Section 28 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

- F1** Word in [reg. 28\(4\)\(a\)\(ii\)](#) omitted (7.6.2024) by virtue of [The Disability Assistance for Older People \(Scotland\) Regulations 2024 \(S.S.I. 2024/166\)](#), [reg. 1\(3\)](#), **sch. para. 16(2)(a)**
- F2** [Reg. 28\(4\)\(a\)\(iv\)](#) inserted (7.6.2024) by [The Disability Assistance for Older People \(Scotland\) Regulations 2024 \(S.S.I. 2024/166\)](#), [reg. 1\(3\)](#), **sch. para. 16(2)(b)**
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Commencement Information

- I1** [Reg. 28](#) in force at 21.3.2022, see [reg. 1](#)

Changes to legislation:

The Disability Assistance for Working Age People (Scotland) Regulations 2022, Section 28 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 4(ba) inserted by [S.S.I. 2024/141 reg. 12\(3\)](#)
- reg. 26(12)(a)(iia) inserted by [S.S.I. 2024/141 reg. 12\(4\)](#)