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## STATUTORY INSTRUMENTS

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# 1976 No. 409

## SOCIAL SECURITY

### The Social Security (Invalid Care Allowance) Regulations 1976

<i>Made</i>	- - - -	<i>15th March 1976</i>
<i>Laid before Parliament</i>		<i>22nd March 1976</i>
<i>Coming into Operation</i>		<i>12th April 1976</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon her by sections 13(4), 37, 40(2), 49, 79(1), 80, 81(1), (2) and (6), 82(1), (5) and (6), 84(1) and (2), 85(1), 86(5) and 119(3) of the Social Security Act 1975, section 36(7) of the National Insurance Act 1965 as continued in force by regulation 2(2) of the Social Security (Graduated Retirement Benefit) Regulations 1975(1), and of all other powers enabling her in that behalf, and after reference to the National Insurance Advisory Committee, hereby makes the following regulations:

### PART I GENERAL

#### **Citation and commencement**

1. These regulations may be cited as the Social Security (Invalid Care Allowance) Regulations 1976 and shall come into operation on 12th April 1976.

#### **Interpretation**

2.—<sup>[F1(1)]</sup> In these Regulations, “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 .]

(2) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which may re-enact or replace, it with or without modification.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889 shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

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(1) (1975 I, p. 1949).

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**Textual Amendments**

- F1** Words in reg. 2(1) substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, 2(2)

**[<sup>F2</sup>Disapplication of section 1(1A) of the Administration Act**

**2A.** Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply—

- <sup>F3</sup>(a) .....
- (b) to any claim for [<sup>F4</sup>carer’s allowance] made or treated as made before 9th February 1998;
- (c) to an adult dependant in respect of whom a claim for an increase of [<sup>F4</sup>carer’s allowance] is made or treated as made before 5th October 1998.]
- [<sup>F5</sup>(d) to an adult dependant who—
  - (i) is a person in respect of whom a claim for an increase of carer’s allowance is made;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
  - (iii) has not previously been allocated a national insurance number.]

**Textual Amendments**

- F2** Reg. 2A inserted (1.12.1997) by [The Social Security \(National Insurance Number Information: Exemption\) Regulations 1997 \(S.I. 1997/2676\)](#), regs. 1(1), 11
- F3** Reg 2A(a) omitted (6.4.2003) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) \(No. 2\) Regulations 2003 \(S.I. 2003/937\)](#), **regs. 1(a), 2(1)**
- F4** Words in reg. 2A substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(a), **Sch. 2 paras. 1**
- F5** Reg. 2A(d) inserted (6.4.2009) by [The Social Security \(National Insurance Number Information: Exemption\) Regulations 2009 \(S.I. 2009/471\)](#), **regs. 1, 2**

**PART II**

**MISCELLANEOUS PROVISIONS RELATING TO [<sup>F6</sup>CARER'S ALLOWANCE]**

**Textual Amendments**

- F6** Words in Pt. II heading substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1, **Sch. 2 para. 1, 2**

**Prescribed payments out of public funds which constitute the persons in respect of whom they are payable as severely disabled persons**

**3.—(1)** For the purposes of [<sup>F7</sup>section 70 of the Contributions and Benefits Act] ([<sup>F8</sup>carer’s allowance]) the prescribed payments out of public funds which constitute the persons in respect of whom they are payable as severely disabled persons are—

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- (a) a payment under [<sup>F9</sup>section 104 of the Contributions and Benefits Act] (increase of disablement pension where constant attendance needed);
  - (b) a payment such as is referred to in section 7(3)(b) of the Industrial Injuries and Diseases (Old Cases) Act 1975 (increase of an allowance under that Act where the person in respect of whom that allowance is payable requires constant attendance as a result of his disablement);
  - (c) a payment under regulation 44 of the Social Security (Industrial Injuries) (Benefit) Regulations 1975(2) in respect of the need of constant attendance;
  - (d) a payment by way of an allowance in respect of constant attendance on account of disablement for which a person is in receipt of a war disablement pension,
- being a payment the weekly rate of which is not less than the amount specified in [<sup>F10</sup>paragraph 2(a) of Part V of Schedule 4 to the Contributions and Benefits Act].

- (2) For the purposes of paragraph (1)(d) of this regulation “war disablement pension” means —
- (a) retired pay, pension or allowance granted in respect of disablement under powers conferred by or under the Ministry of Pensions Act 1916 the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947, the Home Guard Act 1951 or the Ulster Defence Regiment Act 1969;
  - (b) any retired pay or pension to which section 365(1) of the Income and Corporation Taxes Act 1970 applies, not being retired pay, pension or allowance to which sub-paragraph (a) of this paragraph applies; or
  - (c) any payment which the Secretary of State has certified can be accepted as being analogous to any such retired pay, pension or allowance as is referred to in sub-paragraph (a) or (b) of this paragraph.

#### Textual Amendments

- F7** Words in reg. 3(1) substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, 2(3)(a)
- F8** Words in reg. 3 substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), Sch. 2 paras. 1, 2
- F9** Words in reg. 3(1) substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, 2(3)(b)
- F10** Words in reg. 3(1) substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, 2(3)(c)

#### Circumstances in which persons are or are not to be treated as engaged or regularly and substantially engaged in caring for severely disabled persons

4.—(1) [<sup>F11</sup>Subject to paragraph (1A) of this regulation,] a person shall be treated as engaged and as regularly and substantially engaged in caring for a severely disabled person on every day in a week if, and shall not be treated as engaged or regularly and substantially engaged in caring for a severely disabled person on any day in a week unless, as at that week he is, or is likely to be, engaged and regularly engaged for at least 35 hours a week in caring for that severely disabled person.

[<sup>F12</sup>(1A) A person who is caring for two or more severely disabled persons in a week shall be treated as engaged and regularly and substantially engaged in caring for a severely disabled person

(2) (1975 I, p. 1979).

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only where he is engaged and regularly engaged for at least 35 hours in that week in caring for any one severely disabled person, considered without reference to any other severely disabled person for whom he is caring.]

(2) A week in respect of which a person fails to satisfy the requirements of paragraph (1) of this regulation shall be treated as a week in respect of which that person satisfies those requirements if he establishes—

- (a) that he has only temporarily ceased to satisfy them; <sup>F13</sup> and
- (b) that (disregarding the provisions of this sub-paragraph) he has satisfied them for at least 14 weeks in the period of 26 weeks ending with that week and would have satisfied them for at least 22 weeks in that period but for the fact that either he or the severely disabled person for whom he has been caring was undergoing medical or other treatment as an in-patient in a hospital or similar institution.]

#### Textual Amendments

- F11** Words in reg. 4(1) substituted (17.8.1993) by [The Social Security \(Invalid Care Allowance\) Amendment \(No. 2\) Regulations 1993 \(S.I. 1993/1851\)](#), regs. 1, **2(2)**
- F12** Reg. 4(1A) inserted (17.8.1993) by [The Social Security \(Invalid Care Allowance\) Amendment \(No. 2\) Regulations 1993 \(S.I. 1993/1851\)](#), regs. 1, **2(3)**
- F13** Words in reg. 4(2) omitted (temp.) (E.W.) (30.3.2020) by virtue of [The Social Security \(Coronavirus\) \(Further Measures\) Regulations 2020 \(S.I. 2020/371\)](#), regs. 1(1), **9(2)** (with reg. 10(2)) (as amended; (12.5.2021) by reg. 3 [S.I. 2021/476](#)); and words in reg. 4(2) omitted (temp.) (S.) (3.4.2020) by virtue of [The Carers Allowance \(Coronavirus\) \(Breaks in Care\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/117\)](#), regs. 1(1), **2** (with reg. 3) (as amended; (12.5.2021) by reg. 2(2) [S.S.I. 2021/140](#))

#### Modifications etc. (not altering text)

- C1** Reg. 4(2)(b) modified by [S.S.I. 2020/117](#), reg. 4(2) (as inserted (S.) (3.12.2020) by [The Carer's Allowance \(Coronavirus\) \(Breaks in Care\) \(Scotland\) Amendment Regulations 2020 \(S.S.I. 2020/350\)](#), regs. 1(1), **2(3)**)

### Circumstances in which persons are to be regarded as receiving full-time education

<sup>F14</sup>**5.**—(1) For the purposes of <sup>F15</sup>[section 70(3) of the Contributions and Benefits Act], a person shall be treated as receiving full-time education for any period during which he attends a course of education at a university, college, school or other educational establishment for twenty-one hours or more a week.

- (2) In calculating the hours of attendance under paragraph (1) of this regulation—
  - (a) there shall be included the time spent receiving instruction or tuition, undertaking supervised study, examination or practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course; and
  - (b) there shall be excluded any time occupied by meal breaks or spent on unsupervised study, whether undertaken on or off the premises of the educational establishment.

(3) In determining the duration of a period of full-time education under paragraph (1) of this regulation, a person who has started on a course of education shall be treated as attending it for the usual number of hours per week throughout any vacation or any temporary interruption of his attendance until the end of the course or such earlier date as he abandons it or is dismissed from it.]

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#### Textual Amendments

- F14** Reg. 5 substituted (6.4.1992) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1992 \(S.I. 1992/470\)](#), regs. 1, 2
- F15** Words in reg. 5(1) substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, 2(4)

### **[<sup>F16</sup>Severely disabled persons prescribed for the purposes of [<sup>F17</sup>section 70(1)(c) of the Contributions and Benefits Act]**

6. For the purposes of [<sup>F18</sup>section 70(1)(c) of the Contributions and Benefits Act] (condition of entitlement to [<sup>F19</sup>a carer's allowance] that the severely disabled person is either such relative of the person caring for him as may be prescribed or a person of any such other description as may be prescribed) where a severely disabled person is being cared for by another person, that disabled person shall be a prescribed person for the purposes of that section, whether he is related to the person caring for him or not.]

#### Textual Amendments

- F16** Reg. 6 substituted (1.6.1981) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1981 \(S.I. 1981/655\)](#), regs. 1, 2
- F17** Words in reg. 6 heading substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, 2(5)
- F18** Words in reg. 6 substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, 2(5)
- F19** Words in reg. 6 substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), Sch. 2 paras. 1, 2

### **Manner of electing the person entitled to [<sup>F20</sup>a carer's allowance] in respect of a severely disabled person where, but for [<sup>F21</sup>section 70(7) of the Contributions and Benefits Act], more than one person would be entitled to [<sup>F20</sup>a carer's allowance] in respect of that severely disabled person**

7.—(1) For the purposes of the provision in [<sup>F22</sup>section 70(7) of the Contributions and Benefits Act] which provides that where, apart from that section, two or more persons would [<sup>F23</sup>have a relevant entitlement for the same day] in respect of the same severely disabled person one of them only [<sup>F24</sup>shall have that entitlement], being such one of them as they may jointly elect in the prescribed manner, an election shall be made by giving the Secretary of State a notice in writing signed by the persons who but for the said provision would [<sup>F25</sup>have a relevant entitlement] in respect of the same severely disabled person specifying one of them as the person [<sup>F26</sup>to have that entitlement].

(2) An election under paragraph (1) of this regulation shall not be effective to confer [<sup>F27</sup>a relevant entitlement] either for the day on which the election is made or for any earlier day if such day is one for which [<sup>F28</sup>a carer's allowance or the carer element of universal credit] has been paid in respect of the severely disabled person in question and has not been repaid or recovered.

[<sup>F29</sup>(3) In paragraph (2) “the carer element of universal credit” means an amount included in an award of universal credit in respect of the fact that a person has regular and substantial caring responsibilities for a severely disabled person.]

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**Textual Amendments**

- F20** Words in reg. 7 substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(a), Sch. 2 paras. 1, 2
- F21** Words in reg. 7 heading substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, 2(6)
- F22** Words in reg. 7 substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), **regs. 1, 2(6)**
- F23** Words in reg. 7(1) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), reg. 1(1), **12(2)(a)**
- F24** Words in reg. 7(1) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), reg. 1(1), **12(2)(b)**
- F25** Words in reg. 7(1) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), reg. 1(1), **12(2)(c)**
- F26** Words in reg. 7(1) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), reg. 1(1), **12(2)(d)**
- F27** Words in reg. 7(2) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), reg. 1(1), **12(3)(a)**
- F28** Words in reg. 7(2) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), reg. 1(1), **12(3)(b)**
- F29** Reg. 7(3) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), reg. 1(1), **12(4)**

**Circumstances in which a person is or is not to be treated as gainfully employed**

8.—(1) For the purposes of [F30 section 70(1)(b) of the Contributions and Benefits Act] (condition of a person being entitled to [F31 a carer’s allowance] for any day that he is not gainfully employed) a person shall not be treated as gainfully employed on any day in a week unless his earnings in the immediately preceding week have exceeded [F32 £132] and, subject to paragraph (2) of this regulation, shall be treated as gainfully employed on every day in a week if his earnings in the immediately preceding week have exceeded [F32 £132].

- (2) There shall be disregarded for the purposes of paragraph (1) above a person's earnings—
  - (a) for any week which under paragraph (2) of regulation 4 of these regulations is treated as a week in which that person satisfies the requirements of paragraph (1) of that regulation;
    - F33 ...
  - F34 (b) .....
  - F35 (c) .....

(3) The Social Security Benefit (Computation of Earnings) Regulations 1974(3), as amended(4), except regulations 5 to 7 thereof, shall apply in relation to invalid care allowance as they apply in relation to invalidity pension.

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(3) (1974 III, p. 7017).  
 (4) There is no amendment relevant for the purposes of this regulation.

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**Textual Amendments**

- F30** Words in reg. 8(1) substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, **2(7)(a)**
- F31** Words in reg. 8 substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), Sch. 2 paras. 1, **2**
- F32** Sum in reg. 8(1) substituted (11.4.2022) by [The Carer's Allowance Up-rating \(Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/28\)](#), regs. 1, 2 and by [The Social Security Benefits Up Rating Regulations 2022 \(S.I. 2022/342\)](#), regs. 1(1), **4**
- F33** Word in reg. 8(2)(a) omitted (25.11.1996) by virtue of [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, **2(7)(b)**
- F34** Reg. 8(2)(b) omitted (12.12.1995) by virtue of [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1995 \(S.I. 1995/2935\)](#), regs. 1, **2**
- F35** Reg. 8(2)(c) omitted (25.11.1996) by virtue of [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, **2(7)(c)**

**Conditions relating to residence and presence in Great Britain**

9.—(1) Subject to the following provisions of this regulation [<sup>F36</sup>and regulations [<sup>F37</sup>9A, 9B and 9C]], the prescribed conditions for the purposes of [<sup>F38</sup>section 70(4) of the Contributions and Benefits Act] (person not to be entitled to [<sup>F39</sup>a carer's allowance] unless he satisfies prescribed conditions as to residence or presence in Great Britain) in relation to any person in respect of any day shall be—

- (a) that he is [<sup>F40</sup>habitually] resident in [<sup>F41</sup>the United Kingdom, the Republic of Ireland, the Isle of Man or the Channel Islands]; and
- [<sup>F42</sup>(ia) he is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 or section 115 of that Act does not apply to him for the purposes of entitlement to [<sup>F39</sup>a carer's allowance] by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000, and]
- (b) that he is present in Great Britain; and
- (c) that he has been present in Great Britain for a period of, or periods amounting in the aggregate to, not less than [<sup>F43</sup>104] weeks in the [<sup>F44</sup>156 weeks] immediately preceding that day.

[<sup>F45</sup>(1A) .....

(2) For the purposes of paragraph (1)(b) and (c) of this regulation, a person who is absent from Great Britain on any day shall be treated as being present in Great Britain—

- (a) if his absence is, and when it began was, for a temporary purpose and has not lasted for a continuous period exceeding 4 weeks; or
- [<sup>F46</sup>(b) if his absence is temporary and for the specific purpose of caring for the severely disabled person who is also absent from Great Britain and where any of the following is payable in respect of that disabled person for that day—
  - (i) attendance allowance;
  - (ii) the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act;
  - (iii) the daily living component of personal independence payment at the standard or enhanced rate prescribed in accordance with section 78(3) of the Welfare Reform Act 2012; <sup>F47</sup> ...

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[<sup>F48</sup>(iiiia) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011; or ]

(iv) a payment specified in regulation 3(1) of these Regulations.]

[<sup>F49</sup>(3) Notwithstanding that on any day a person is absent from Great Britain, he shall be treated as though he were—

(a) habitually resident and present in Great Britain for the purposes of paragraphs (1)(a) to (c) if—

(i) his absence is by reason only of the fact that on that day he is abroad in his capacity as a serving member of the forces and for this purpose “serving member of the forces” has the meaning given in regulation 1(2) of the Social Security (Contributions) Regulations 2001 (“the 2001 Regulations”); or

(ii) he is living with a person mentioned in sub-paragraph (a)(i) and is the spouse, civil partner, son, daughter, step-son, step-daughter, father, father-in-law, step-father, mother, mother-in-law or step-mother of that person; and

(b) present in Great Britain for the purposes of paragraph (1)(b) and (c) if his absence is by reason only of the fact that on that day he is—

(i) abroad in his capacity as an airman within the meaning of regulation 111 of the 2001 Regulations or a mariner within the meaning of regulation 115 of those Regulations; or

(ii) in prescribed employment in connection with continental shelf operations within the meaning of regulation 114(1) of those Regulations.]

### Textual Amendments

- F36** Words in reg. 9(1) inserted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer's Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **2(2)(a)**
- F37** Words in reg. 9(1) substituted (16.11.2017) by [The Social Security \(Miscellaneous Amendments No. 4\) Regulations 2017 \(S.I. 2017/1015\)](#), regs. 1(2), **2(2)**
- F38** Words in reg. 9(1) substituted (25.11.1996) by [The Social Security \(Invalid Care Allowance\) Amendment Regulations 1996 \(S.I. 1996/2744\)](#), regs. 1, **2(8)(a)**
- F39** Words in reg. 9 substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), Sch. 2 paras. 1, **2**
- F40** Word in reg. 9(1)(a) substituted (with application in accordance with reg. 1(3)(4) of the amending S.I.) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer's Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **2(2)(b)(i)**
- F41** Words in reg. 9(1)(a) substituted (with application in accordance with reg. 1(3)(4) of the amending S.I.) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer's Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **2(2)(b)(ii)**
- F42** Reg. 9(1)(ia) substituted for reg. 9(1)(aa) (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(1), **8(2)** (with reg. 12(10))
- F43** Word in reg. 9(1)(c) substituted (with application in accordance with reg. 1(3)(5) of the amending S.I.) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer's Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **2(2)(c)(i)**
- F44** Words in reg. 9(1)(c) substituted (with application in accordance with reg. 1(3)(5) of the amending S.I.) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer's Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **2(2)(c)(ii)**
- F45** Reg. 9(1A) omitted (3.4.2000) by virtue of [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(1), **8(3)** (with reg. 12(10))

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- F46** Reg. 9(2)(b) substituted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 9**
- F47** Word in reg. 9(2)(b)(iii) omitted (8.4.2013) by virtue of [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 2(2)(a)**
- F48** Reg. 9(2)(b)(iiia) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 2(2)(b)**
- F49** Reg. 9(3) substituted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer's Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **2(2)(d)**

### [<sup>F50</sup>Persons residing in Great Britain to whom a relevant EU Regulation applies

**9A.**—(1) Regulation 9(1)(c) shall not apply where on any day—

- (a) the person is habitually resident in Great Britain;
- (b) a relevant EU Regulation applies; and
- (c) the person can demonstrate a genuine and sufficient link to the United Kingdom social security system.

(2) For the purposes of paragraph (1)(b) and regulation 9B, “relevant EU Regulation” has the meaning given by section 84(2) of the Welfare Reform Act 2012.]

#### Textual Amendments

- F50** Regs. 9A-9B inserted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer's Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **2(3)**

### [<sup>F50</sup>Persons residing in an EEA state <sup>F51</sup>... or in Switzerland to whom a relevant EU Regulation applies

**9B.** Regulation 9(1)(a) to (c) shall not apply where on any day—

- (a) the person is habitually resident in—
  - (i) an EEA state<sup>F52</sup>...; or
  - (ii) Switzerland;
- (b) a relevant EU Regulation applies; and
- (c) the person can demonstrate a genuine and sufficient link to the United Kingdom social security system.]

#### Textual Amendments

- F50** Regs. 9A-9B inserted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer's Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **2(3)**
- F51** Words in reg. 9B title omitted (31.12.2020) by virtue of [The Social Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/128\)](#), reg. 1(2), **Sch. para. 2(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F52** Words in reg. 9B(a)(i) omitted (31.12.2020) by virtue of [The Social Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/128\)](#), reg. 1(2), **Sch. para. 2(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

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<sup>F53</sup><sup>F54</sup> **Refugees and certain persons with leave to enter and remain in the United Kingdom]**

**9C.**—(1) Regulation 9(1)(c) shall not apply where the person has—

- (a) been granted refugee status or humanitarian protection under the immigration rules; <sup>F55</sup> ...
- (b) leave to enter or remain in the United Kingdom as the dependant of a person granted refugee status or humanitarian protection under the immigration rules.
- [ leave to enter or remain in the United Kingdom granted under the immigration rules by <sup>F56</sup>(c) virtue of—
  - (i) the Afghan Relocations and Assistance Policy, or
  - (ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme),
- (d) been granted discretionary leave outside the immigration rules as a dependant of a person referred to in sub-paragraph (c), <sup>F57</sup> ...
- (e) leave granted under the Afghan Citizens Resettlement Scheme,]<sup>F58</sup> or
- (f) leave to enter or remain in the United Kingdom granted under or outside the immigration rules or a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 where the person—
  - (i) was residing in Ukraine immediately before 1st January 2022; and
  - (ii) left Ukraine in connection with the Russian invasion which took place on 24th February 2022.]

[ <sup>F59</sup>(1A) Regulation 9(1)(a) shall not apply where [<sup>F60</sup>any sub-paragraph in paragraph (1)] applies to the person.]

[ <sup>F61</sup>(2) For the purposes of this regulation—
 

- (a) “immigration rules” means the rules laid before Parliament under section 3(2) of the Immigration Act 1971,
- (b) “the Afghan Citizens Resettlement Scheme” means the scheme announced by the United Kingdom Government on 18 August 2021.]]

**Textual Amendments**

- F53** Reg. 9C inserted (16.11.2017) by [The Social Security \(Miscellaneous Amendments No. 4\) Regulations 2017 \(S.I. 2017/1015\)](#), regs. 1(2), **2(3)**
- F54** Reg. 9C heading substituted (S.) (15.9.2021) by [The Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/320\)](#), regs. 1(1), **2(2)(5)(a)**; and substituted (E.W.) (16.9.2021) by [The Social Security \(Habitual Residence and Past Presence\) \(Amendment\) Regulations 2021 \(S.I. 2021/1034\)](#), regs. 1(1), **4(2)(4)**
- F55** Word in reg. 9C(1)(a) omitted (S.) (15.9.2021) by virtue of [The Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/320\)](#), regs. 1(1), **2(3)(a)(5)(a)**; and (E.W.) (16.9.2021) by virtue of [The Social Security \(Habitual Residence and Past Presence\) \(Amendment\) Regulations 2021 \(S.I. 2021/1034\)](#), regs. 1(1), **4(3)(a)(4)**
- F56** Reg. 9C(1)(c)-(e) inserted (S.) (15.9.2021) by [The Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/320\)](#), regs. 1(1), **2(3)(b)(5)(a)**; and (E.W.) (16.9.2021) by [The Social Security \(Habitual Residence and Past Presence\) \(Amendment\) Regulations 2021 \(S.I. 2021/1034\)](#), regs. 1(1), **4(3)(b)(4)**
- F57** Word in reg. 9C(1)(d) omitted (E.W.) (22.3.2022) by virtue of [The Social Security \(Habitual Residence and Past Presence\) \(Amendment\) Regulations 2022 \(S.I. 2022/344\)](#), regs. 1(1), **4(2)(a)(4)(a)**; and

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- (S.) (22.3.2022 at 5.40 p.m.) by virtue of The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022 (S.S.I. 2022/108), regs. 1(1), 2(2)(a)(4)(a)
- F58** Reg. 9C(1)(f) and word inserted (E.W.) (22.3.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (S.I. 2022/344), regs. 1(1), 4(2)(b)(4)(a); and (S.) (22.3.2022 at 5.40 p.m.) by virtue of The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022 (S.S.I. 2022/108), regs. 1(1), 2(2)(b)(4)(a)
- F59** Reg. 9C(1A) inserted (S.) (15.9.2021) by The Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021 (S.S.I. 2021/320), regs. 1(1), 2(6); and (E.W.) (16.9.2021) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2021 (S.I. 2021/1034), regs. 1(1), 4(5)
- F60** Words in reg. 9C(1A) substituted (E.W.) (22.3.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (S.I. 2022/344), regs. 1(1), 4(3)(4)(a); and (S.) (22.3.2022 at 5.40 p.m.) by virtue of The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022 (S.S.I. 2022/108), regs. 1(1), 2(3)(4)(a)
- F61** Reg. 9C(2) substituted (S.) (15.9.2021) by The Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021 (S.S.I. 2021/320), regs. 1(1), 2(4)(5)(a)

**Circumstances in which a person over pensionable age is to be treated as having been entitled to invalid care allowance immediately before attaining that age**

<sup>F62</sup>10. ....

- Textual Amendments**
- F62** Reg. 10 revoked (28.10.2002) by The Social Security Amendment (Carer's Allowance) Regulations 2002 (S.I. 2002/2497), regs. 1(a), 2(1)(a)

**[<sup>F63</sup>Women aged 65 before 28th October 1994**

- 10A.** A woman shall be entitled to [<sup>F64</sup>a carer's allowance] if—
- (a) she attained the age of 65 before 28th October 1994;
  - (b) immediately before attaining the age of 65 she would have satisfied the requirements for entitlement to [<sup>F64</sup>a carer's allowance], whether or not she made a claim, but for the condition, which applied prior to 28th October 1994, in section 70(5) of the Contributions and Benefits Act(exclusion of persons who had attained pensionable age and had not been entitled to that allowance immediately before attaining that age); and
  - (c) she satisfies the requirements for entitlement to [<sup>F64</sup>a carer's allowance] apart from the conditions in section 70(1)(a) and (b) <sup>F65</sup>... of the Contributions and Benefits Act.]

- Textual Amendments**
- F63** Reg. 10A inserted (28.10.1994) by The Social Security (Severe Disablement Allowance and Invalid Care Allowance) Amendment Regulations 1994 (S.I. 1994/2556), regs. 1, 5(4)
  - F64** Words in reg. 10A substituted (1.4.2003) by The Social Security Amendment (Carer's Allowance) Regulations 2002 (S.I. 2002/2497), reg. 1(b), Sch. 2 paras. 1, 2
  - F65** Words in reg. 10A(c) omitted (28.10.2002) by virtue of The Social Security Amendment (Carer's Allowance) Regulations 2002 (S.I. 2002/2497), regs. 1(a), 2(2)

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## Invalid care allowance for persons over retiring age

<sup>F66</sup>**11.** . . . . .

### Textual Amendments

**F66** Reg. 11 revoked (28.10.2002) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), regs. 1(a), **2(1)(b)**

## [<sup>F67</sup>Men aged 65 before 28th October 1994

**11A.** A man who—

- (a) attained the age of 65 before 28th October 1994; and
- (b) was entitled to [<sup>F68</sup>a carer's allowance] immediately before he attained that age,

shall be entitled to that allowance notwithstanding that, after he attained that age, he was not caring for a severely disabled person or no longer satisfied the requirements of section 70(1)(a) or (b) of the Contributions and Benefits Act, if he satisfies the other requirements for entitlement to that allowance.]

### Textual Amendments

**F67** Reg. 11A inserted (28.10.1994) by [The Social Security \(Severe Disablement Allowance and Invalid Care Allowance\) Amendment Regulations 1994 \(S.I. 1994/2556\)](#), regs. 1, **5(6)**

**F68** Words in reg. 11A substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), Sch. 2 paras. 1, 2

## Increase of invalid care allowance for child dependants

<sup>F69</sup>**12.** . . . . .

### Textual Amendments

**F69** Reg. 12 revoked (4.4.1977) by [The Social Security Benefit \(Dependency\) Regulations 1977 \(S.I. 1977/343\)](#), reg. 001(01), **Sch. 3**

## Increase of invalid care allowance for adult dependants

<sup>F70</sup>**13.** . . . . .

### Textual Amendments

**F70** Reg. 13 revoked (4.4.1977) by [The Social Security Benefit \(Dependency\) Regulations 1977 \(S.I. 1977/343\)](#), reg. 001(01), **Sch. 3**

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## Application of [<sup>F71</sup>the Social Security (General Benefit) Regulations 1982] to [<sup>F72</sup>carer's allowance]

14. The provisions of [<sup>F73</sup>the Social Security (General Benefit) Regulations 1982](5), specified in column (1) of Schedule 1 to these regulations, the subject matter of which is described in column (2) of that Schedule, shall, with any necessary modifications, apply to [<sup>F72</sup>carer's allowance] as they apply to [<sup>F73</sup>incapacity benefit].

### Textual Amendments

- F71 Words in reg. 14 heading substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), **8(2)**
- F72 Words in reg. 14 substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), Sch. 2 paras. 1, **2**
- F73 Words in reg. 14 substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), **8(2)**

## PART III

### CONSEQUENTIAL AMENDMENTS OF REGULATIONS

#### Amendment of the Social (Overlapping Benefits) Regulations 1975

<sup>F74</sup>15. ....

### Textual Amendments

- F74 Reg. 15 revoked (29.6.1979) by [The Social Security \(Overlapping Benefits\) Regulations 1979 \(S.I. 1979/597\)](#), reg. 1, **Sch. 2**

#### Amendment of Part VI of the Social Security (Determination of Claims and Questions) Regulations 1975

<sup>F75</sup>16. ....

### Textual Amendments

- F75 Reg. 16 revoked (23.4.1984) by [The Social Security \(Adjudication\) Regulations 1984 \(S.I. 1984/451\)](#), reg. 1, **Sch. 5**

#### Amendment of the Social Security (Claims and Payments) Regulations 1975

<sup>F76</sup>17. ....

(5) There is no amendment which relates expressly to the subject matter of these Regulations.

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**Textual Amendments**

**F76** Reg. 17 revoked (9.7.1979) by [The Social Security \(Claims and Payments\) Regulations 1979 \(S.I. 1979/628\)](#), reg. 1, [Sch. 5](#)

**Amendment of the National Insurance (Graduated Retirement Benefit and Consequential Provisions) Regulations 1961**

**F77** **18.** . . . . .

**Textual Amendments**

**F77** Reg. 18 revoked (6.4.1979) by [The Social Security \(Graduated Retirement Benefit\) \(No. 2\) Regulations 1978 \(S.I. 1978/393\)](#), regs. 1(4), [5](#)

**Amendment of the Social Security (Credits) Regulations 1975**

**19.** The Social Security (Credits) Regulations 1975(6) shall be amended by the insertion of the following regulation after regulation 7:—

**“Credits for invalid care allowance**

**7A.—(1)** For the purposes of entitlement to any benefit by virtue of a person's contributions he shall, subject to paragraph (2), be entitled to a Class I credit in respect of each week for any part of which an invalid care allowance is paid to him, or in the case of a widow, would have been so payable but for the provisions of the Social Security (Overlapping Benefits) Regulations 1975, as amended by the Social Security (Invalid Care Allowance) Regulations 1976, requiring adjustment of an invalid care allowance against widow's benefit or benefit by virtue of section 39(4) corresponding to a widowed mother's allowance or a widow's pension.

(2) Paragraph (1) shall not apply—

- (a) to a person in respect of any week where he is entitled to a Class 1 credit under regulation 9 in respect of the same week; or
- (b) to a woman in respect of any week in any part of which she was a married woman in respect of whom an election made by her under regulations made under section 130(2) had effect.”.

**Amendment of the Social Security Benefit (Persons Abroad) Regulations 1975**

**20.** In the Social Security Benefit (Persons Abroad) Regulations 1975(7), after regulation 10A, added to those regulations by regulation 10 of the Mobility Allowance Regulations 1975(8), there shall be added the following regulation:—

**“Modification of the Act in relation to invalid care allowance**

**10B.** A person shall not be disqualified for receiving an invalid care allowance by reason of being absent from Great Britain.”.

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(6) (1975 I, p. 1941).  
(7) (1975 I, p. 2052).  
(8) (1975 III, p. 5450).

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## Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974

<sup>F78</sup>21. ....

### Textual Amendments

**F78** Reg. 21 revoked (10.7.1979) by [The Social Security \(Widow's Benefit and Retirement Pensions\) Regulations 1979 \(S.I. 1979/642\)](#), reg. 1, **Sch. 2**

*Barbara Castle*  
Secretary of State for Social Services

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[<sup>F79</sup>SCHEDULE 1

PROVISIONS OF THE SOCIAL SECURITY (GENERAL BENEFIT)  
REGULATIONS 1982 APPLIED TO [<sup>F80</sup>CARER'S ALLOWANCE]

**Textual Amendments**

- F79** Sch. 1 substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), **8(3)**
- F80** Words in Sch. 1 substituted (1.4.2003) by [The Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), Sch. 2 paras. 1, 2

Regulation applied (1)	Subject matter (2)
2	Exceptions from disqualification for imprisonment etc.
3	Suspension of payment of benefit during imprisonment etc.
4	Interim payments by way of benefit under the Act
9	Payment of benefit and suspension of payments pending a decision on appeals or references, arrears and repayments]

SCHEDULE 2

Regulation 18(1)

REGULATION 2(3) OF THE NATIONAL INSURANCE (GRADUATED  
RETIREMENT BENEFIT AND CONSEQUENTIAL PROVISIONS)  
REGULATIONS 1961 AS AMENDED BY THESE REGULATIONS(9)

F81 ...

**Textual Amendments**

- F81** Sch.2 revoked (6.4.79) by [The Social Security \(Graduated Retirement Benefit\) \(No. 2\) Regulations 1978 \(S.I. 1978/393\)](#), **reg 001(04)**, reg. 005

(9)

The words added by these regulations are shown in italics.

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## EXPLANATORY NOTE

These Regulations contain provisions relating to invalid care allowance under section 37 of the Social Security Act 1975.

Part I of the Regulations relates to their citation, commencement and interpretation; Part II contains miscellaneous provisions relating to the allowance and applies to the allowance the provisions of the Social Security (General Benefit) Regulations 1974 set out in Schedule 1 to the Regulations; and Part III, together with Schedule 2 to the Regulations, relates to consequential amendments of other Social Security Regulations. The Regulations contain an “Arrangement of Regulations” (see pages 1 and 2).

The Report of the National Insurance Advisory Committee dated 9th March 1976 on the draft of these Regulations referred to them is contained in House of Commons Paper No. 271 (Session 1975-76) published by Her Majesty's Stationery Office.

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