
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

SOCIAL SECURITY

**The Social Security (Residence and Presence Requirements)
(Miscellaneous Amendment) (Scotland) Regulations 2026**

Made - - - - 2026
Coming into force - - 2026

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 13 of the Social Security Act 1988(a), sections 64(1), 70(4), 71(6), 113(1)(a) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(b), sections 4(5), 77(3) and 94(2) of the Welfare Reform Act 2012(c) and sections 28(2), 31(2) and 32(2) of the Social Security (Scotland) Act 2018(d) (“the 2018 Act”) and all other powers enabling them to do so.

In accordance with section 13(2) of the Social Security Act 1988, the Scottish Ministers have consulted the Welsh Ministers(e).

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- (a) 1988 c. 7. Section 13 was substituted by section 185(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) and amended by section 27(5) of the Scotland Act 2016 (c. 11) (“the 2016 Act”). Sections 13 and 15A of the 1988 Act read together with section 175 of the Social Security Contributions and Benefits Act 1992 (c. 4) provide for different provision to be made for different cases or classes of cases. The functions of the Secretary of State, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46) as read with sections 27 and 32 of the 2016 Act.
- (b) 1992 c. 4. The functions of the Secretary of State to make regulations to amend the qualifying conditions for disability and carer’s benefits were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act as read with sections 22(2) and 32 of the 2016 Act. Section 22(2) of the 2016 Act inserted exceptions into the social security reservation in Head F1 of Part 2 of schedule 5 of the Scotland Act relating to carer’s and disability benefits. Accordingly, in so far as the functions under the Social Security Contributions and Benefits Act 1992 (c. 4) are exercisable within devolved competence for these benefits, they are now exercisable by the Scottish Ministers instead of by the Secretary of State. Under section 172(1) of the Social Security Administration Act 1992 (c. 5), the Secretary of State is required to refer to the Social Security Advisory Committee (SSAC) proposals for regulations under “relevant enactments”, as defined in section 170(5) of that Act. This includes regulations under the provisions of the Social Security Contributions and Benefits Act 1992. As a result of section 33(1) of the 2016 Act, the function of the Secretary of State to consult the SSAC has not transferred to the Scottish Ministers. There is therefore no requirement for the Scottish Ministers to consult the SSAC before making these Regulations.
- (c) 2012 c. 5 (“the 2012 Act”). The functions of the Secretary of State, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act as read with section 22(2) of the 2016 Act. Section 22(2) inserted exceptions into the social security reservation in Head F1 of Part 2 of schedule 5 of the Scotland Act. Section 32 of the 2016 Act provides the meaning of “pre-commencement enactment” in this context. Accordingly, in so far as the functions under sections 77 and 94 are exercisable within devolved competence, they are now exercisable by the Scottish Ministers. Under section 172(1) of the Social Security Administration Act 1992, the Secretary of State is required to refer to SSAC proposals for regulations under “relevant enactments”, as defined in section 170(5) of that Act. This includes regulations under Part 4 of the 2012 Act. As a result of section 33(1) of the 2016 Act, the function of the Secretary of State to consult the SSAC has not transferred to the Scottish Ministers. There is therefore no requirement for the Scottish Ministers to consult the SSAC before making these Regulations.
- (d) 2018 asp 9. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) and the Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.
- (e) Functions conferred or imposed on the National Assembly for Wales immediately before the first appointment of a First Minister under section 46 of the Government of Wales Act 2006 (c. 32) by an enactment contained in an Act were transferred to the Welsh Ministers by paragraph 30(2)(c) of schedule 11 of that Act.

In accordance with section 96(2) of the 2018 Act^(a), a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 97(2) of the 2018 Act^(b), the Scottish Ministers have informed the Scottish Commission on Social Security of their proposals, notified the Scottish Parliament that they have done so and made their proposals publicly available by such means as they consider appropriate.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security (Residence and Presence Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2026 and come into force on 18 March 2026.

(2) These Regulations extend to Scotland only.

Amendment of the Social Security (Invalid Care Allowance) Regulations 1976

2.—(1) The Social Security (Invalid Care Allowance) Regulations 1976^(c) are amended in accordance with paragraph (2).

(2) In regulation 9C (refugees and certain persons with leave to enter and remain in the United Kingdom)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (g), omit “or”, and

(ii) after sub-paragraph (h) insert—

“,

(i) leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and—

(i) was residing in a country or territory outside of Great Britain,

(ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and

(iii) arrived in Great Britain in the first 26 weeks beginning on the date on which—

(aa) the public information was issued, or

(bb) the evacuation is started, or

(j) as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules.”.

(b) after paragraph (1A), insert—

“(1B) Where paragraph (1)(i) of this regulation applies, it will apply for 130 weeks beginning on the day on which the public information is issued, or the evacuation is started.”.

(a) Section 96(2) was amended by section 26(2)(a) of the Social Security (Amendment) (Scotland) Act 2025 (asp 2).

(b) Section 97(2) was relevantly amended by section 20(2)(a) and section 20(2)(c) of the Social Security (Amendment) (Scotland) Act 2025 (asp 2).

(c) S.I. 1976/409. Regulation 9C was inserted by S.I. 2017/1015 and relevantly amended by S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149 and 2023/309.

Amendment of the Social Security (Attendance Allowance) Regulations 1991

3.—(1) The Social Security (Attendance Allowance) Regulations 1991(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(b)(conditions as to residence and presence in Great Britain)—

- (a) in paragraph (3C) for “and (3B)” substitute “, (3B) and (3D)”,
- (b) after paragraph (3C) insert—

“(3D) Where a person is temporarily absent from Great Britain, they are treated as present in Great Britain for the purposes of paragraph (1)(a)(ii) and (iii) for the first 26 weeks of that absence, where—

- (a) that person was present in a country or territory outside Great Britain immediately before His Majesty’s Government—
 - (i) provided public information to advise British nationals to leave that country or territory, or
 - (ii) arranged the evacuation of British nationals from that country or territory,
- (b) the Scottish Ministers are satisfied that it would be unreasonable to expect the person to return, or to have returned, to Great Britain, and
- (c) the person did not enter that country or territory when His Majesty’s Government’s public information was to advise British nationals to leave that country or territory.

(3E) Where a person is temporarily absent from Great Britain in the circumstances specified in paragraphs (2)(d), (3B) or (3D), the total period of an absence where the person is treated as present in Great Britain will not exceed 26 weeks.”.

(3) In regulation 2C(1)(c)(refugees and certain persons with leave to enter and remain in the United Kingdom)—

- (a) at the end of sub-paragraph (g), omit “or”, and
- (b) after sub-paragraph (h) insert—

“,

- (i) leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and—
 - (i) was residing in a country or territory outside of Great Britain,
 - (ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and
- (iii) arrived in Great Britain in the first 26 weeks beginning on the date on which—
 - (aa) the public information was issued, or
 - (bb) the evacuation is started, or
- (j) as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules.”.

- (c) after paragraph (1A), insert—

(a) S.I. 1991/2740.

(b) Relevantly amended by S.I. 2000/636, S.I. 2005/2877, S.I. 2006/2378, S.I. 2013/389, S.I. 2017/1015 and S.I. 2022/335.

(c) Regulation 2C(1) was added by S.I. 2017/1015 and relevantly amended by S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149 and S.S.I. 2023/309.

“(1B) Where paragraph (1)(i) of this regulation applies, it will apply for 130 weeks beginning on the day on which the public information is issued, or the evacuation is started.”.

Amendment of the Social Security (Disability Living Allowance) Regulations 1991

4.—(1) The Social Security (Disability Living Allowance) Regulations 1991(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(b)(conditions as to residence and presence in Great Britain)—

- (a) in paragraph (3C) for “and (3B)” substitute “, (3B) and (3D)”,
- (b) after paragraph (3C) insert—

“(3D) Where a person is temporarily absent from Great Britain, they are treated as present in Great Britain for the purposes of paragraph (1)(a)(ii) and (iii) for the first 26 weeks of that absence, where—

- (a) that person was present in a country or territory outside Great Britain immediately before His Majesty’s Government—
 - (i) provided public information to advise British nationals to leave that country or territory, or
 - (ii) arranged the evacuation of British nationals from that country or territory,
- (b) the Scottish Ministers are satisfied that it would be unreasonable to expect the person to return, or to have returned, to Great Britain, and
- (c) the person did not enter that country or territory when His Majesty’s Government’s public information was to advise British nationals to leave that country or territory.

(3E) Where a person is temporarily absent from Great Britain in the circumstances specified in paragraphs (2)(d), (3B) or (3D), the total period of an absence where the person is treated as present in Great Britain will not exceed 26 weeks.”.

(3) In regulation 2C(c)(refugees and certain persons with leave to enter and remain in the United Kingdom)—

- (a) at the end of sub-paragraph (g), omit “or”, and
- (b) after sub-paragraph (h) insert—

“,

- (i) leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and—
 - (i) was residing in a country or territory outside of Great Britain,
 - (ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and
- (iii) arrived in Great Britain in the first 26 weeks beginning on the date on which—
 - (aa) the public information was issued, or
 - (bb) the evacuation is started, or

(a) S.I. 1991/2890.

(b) Relevantly amended by S.I. 1993/1939, S.I. 1999/2860, S.I. 2000/636, S.I. 2005/2877, S.I. 2006/2378, S.I. 2013/389, S.I. 2021/804, S.I. 2022/335, S.I. 2023/664 and S.I. 2025/227.

(c) Regulation 2C was inserted by S.I. 2017/1015 and relevantly amended by S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149 and S.S.I. 2023/309.

(j) as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules.”.

(c) after paragraph (1A), insert—

“(1B) Where paragraph (1)(i) applies, it will apply for the following periods beginning on the day on which the public information is issued, or the evacuation is started—

- (a) no more than 130 weeks for persons aged 16 years and over;
- (b) no more than 52 weeks for persons aged between 6 months and under 16 years;
- (c) no more than 39 weeks for persons aged under 6 months.”.

Amendment of the Social Security (Personal Independence Payment) Regulations 2013

5.—(1) The Social Security (Personal Independence Payment) Regulations 2013(a) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 18 (absence from Great Britain to receive medical treatment) insert—

“Absence where His Majesty’s Government provides public information to advise British nationals to leave a country or territory or arranges the evacuation of British nationals from a country or territory

18A.—(1) Where C is temporarily absent from Great Britain, C is treated as present in Great Britain for the purposes of regulation 16(a) and (b) during the first 26 weeks of that absence, where—

- (a) C was present in a country or territory outside Great Britain immediately before His Majesty’s Government—
 - (i) provided public information to advise British nationals to leave that country or territory, or
 - (ii) arranged the evacuation of British nationals from that country or territory,
 - (b) the Scottish Ministers are satisfied that it would be unreasonable to expect C to return, or to have returned, to Great Britain, and
 - (c) C did not enter that country or territory when His Majesty’s Government’s public information was to advise British nationals to leave that country or territory.
- (2) In this regulation, “temporarily absent” has the same meaning as in regulation 17(2).”.

(3) In regulation 23A(1) (refugees and certain persons with leave to enter and remain in the United Kingdom)—

(a) at the end of sub-paragraph (g) omit “or”,

(b) after sub-paragraph (h) insert—

“,

(i) met conditions A to D,

Condition A

The person was residing in a country or territory outside Great Britain immediately before His Majesty’s Government—

- (a) provided public information to advise British nationals to leave that country or territory, or

(a) S.I. 2013/377. Regulation 23A was inserted by S.I. 2017/1015 and relevantly amended by S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149, S.S.I. 2023/309.

(b) arranged the evacuation of British nationals from that country or territory,

Condition B

The person has left that country or territory.

Condition C

The person arrived in Great Britain in the first 26 weeks beginning on the day on which the public information is issued, or the evacuation is started.

Condition D

The person—

(a) has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971,

(b) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act,

(c) has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of that Act, or

(d) has leave on a discretionary basis outside of rules made under section 3(2) of that Act, or

(j) as part of a safe and legal humanitarian immigration route, leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules.

(c) after paragraph (1A) insert—

“(1B) Where paragraph (1)(i) applies, it will apply for 130 weeks beginning on the day on which the public information is issued, or the evacuation is started.”.

Amendment of the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018

6.—(1) The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018(a) are amended in accordance with paragraphs (2) to (4).

(2) In paragraph 4 of schedule 2 (residence requirement – pregnancy and baby grant), after sub paragraph (2)(af), insert—

“(ag) a person who has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and—

(i) was residing in a country or territory outside of the United Kingdom,

(ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and

(iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—

(aa) the public information was issued, or

(bb) the evacuation is started, or

(ah) a person who, as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules

(a) S.S.I. 2018/370, relevantly amended by S.S.I. 2019/110, S.S.I. 2019/157, S.S.I. 2020/399, S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149, S.S.I. 2023/309 and S.S.I. 2025/250.

made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules,”.

(3) In paragraph 3 of schedule 3 (residence requirement – early learning grant), after sub-paragraph (2)(af), insert—

“(ag) a person who has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and—

- (i) was residing in a country or territory outside of the United Kingdom,
- (ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and
- (iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—

(aa) the public information was issued, or

(bb) the evacuation is started, or

(ah) a person who, as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules,”.

(4) In paragraph 4 of schedule 4 (residence requirement – school-age grant), after sub-paragraph (2)(af), insert—

“(ag) a person who has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and—

- (i) was residing in a country or territory outside of United Kingdom,
- (ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and
- (iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—

(aa) the public information was issued, or

(bb) the evacuation is started, or

(ah) a person who, as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules,”.

Amendment of the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019

7.—(1) Regulation 9 of the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019(a) (residence requirement) is amended in accordance with paragraph (2).

(2) After paragraph (2)(af), insert—

(a) S.S.I. 2019/193, relevantly amended by S.S.I. 2020/399, S.S.I. 2020/475, S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149, S.S.I. 2023/309, S.S.I. 2023/371 and S.S.I. 2025/250.

- “(ag) a person who has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and—
 - (i) was residing in a country or territory outside of the United Kingdom,
 - (ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and
 - (iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—
 - (aa) the public information was issued, or
 - (bb) the evacuation is started, or
- (ah) a person who, as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules,”.

Amendment of the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019

8.—(1) Regulation 8 of the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019(a) (conditions relating to residence) is amended in accordance with paragraph (2).

(2) After paragraph (2)(ae), insert—

- “(af) a person who has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and—
 - (i) was residing in a country or territory outside of the United Kingdom,
 - (ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and
 - (iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—
 - (aa) the public information was issued, or
 - (bb) the evacuation is started, or
- (ag) a person who, as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules,”.

Amendment of the Disability Assistance for Children and Young People (Scotland) Regulations 2021

9.—(1) The Disability Assistance for Children and Young People (Scotland) Regulations 2021(b) are amended in accordance with paragraphs (2) to (4).

(a) S.S.I. 2019/324, relevantly amended by S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149, S.S.I. 2023/309 and S.S.I. 2025/250.

- (2) In regulation 5 (residence and presence conditions)—
- (a) in paragraph (10A)—
 - (i) at the end of sub-paragraph (i), omit “or”,
 - (ii) after sub-paragraph (j), insert—
 - “;
 - (k) has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where the individual—
 - (i) was residing in a country or territory outside of the United Kingdom,
 - (ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and
 - (iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—
 - (aa) the public information was issued, or
 - (bb) the evacuation is started, or
 - (l) as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules”,
 - (b) after paragraph 11, insert—
 - “(12) Where paragraph (10A)(k) of this regulation applies, it will apply for the following periods beginning on the day on which his Majesty’s Government provided public information to advise British nationals to leave a country or territory immediately or arranged the evacuation of British nationals from that country or territory (whichever is earlier)—
 - (a) no more than 52 weeks for persons who were aged 6 months and over,
 - (b) no more than 39 weeks for persons who were under the age of 6 months.”.
- (3) In regulation 7 (temporary absence from the common travel area), in paragraph (1)—
- (a) at the end of sub-paragraph (a), omit “or”,
 - (b) after sub-paragraph (b), insert—
 - “;
 - (c) the first 26 weeks of that absence where—
 - (i) after the first 13 weeks, the individual was present in a country or territory outside the common travel area immediately before His Majesty’s Government—
 - (aa) provided public information to advise British nationals to leave that country or territory, or
 - (bb) arranged the evacuation of British nationals from that country or territory,
 - (ii) Scottish Ministers are satisfied that it would be unreasonable to expect the individual to return, or have returned, to the common travel area, and

(b) S.S.I. 2021/174, relevantly amended by S.S.I. 2021/320, S.S.I. 2021/416, S.S.I. 2022/41, S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149, S.S.I. 2023/309 and S.S.I. 2025/250.

(iii) the individual did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory".

(4) After regulation 7, insert—

"Time limits on absences where the claimant is treated as being in the common travel area

7A. Where the individual is temporarily absent from the common travel area in the circumstances specified in regulation 7(1), the total period of an absence where an individual is treated as present in the common travel area will not exceed 26 weeks."

Amendment of the Disability Assistance for Working Age People (Scotland) Regulations 2022

10.—(1) The Disability Assistance for Working Age People (Scotland) Regulations 2022(a) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 15 (residence and presence conditions),

(a) in paragraph (7)—

(i) at the end of sub-paragraph (g), omit "or", and

(ii) after sub-paragraph (h), insert—

“,

(i) has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where the individual—

(i) was residing in a country or territory outside of the United Kingdom,

(ii) left that country or territory when his Majesty's Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and

(iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—

(aa) the public information was issued, or

(bb) the evacuation is started, or

(j) as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules”,

(b) after paragraph 8, insert—

“(9) Where paragraph (7)(i) of this regulation applies, it will apply for 52 weeks beginning on the day on which his Majesty's Government provided public information to advise British nationals to leave a country or territory immediately or arranged the evacuation of British nationals from that country or territory (whichever is earlier).”.

(3) In regulation 16 (temporary absence from the common travel area), in paragraph (1)—

(a) at the end of sub-paragraph (a), omit “or”,

(b) after sub-paragraph (b), insert—

(a) S.S.I. 2022/54, relevantly amended by S.S.I. 2022/108, S.S.I. 2022/336, S.S.I. 2023/149, S.S.I. 2023/309 and S.S.I. 2025/250.

“

(c) the first 26 weeks of that absence where—

(i) after the first 13 weeks, the individual was present in a country or territory outside the common travel area immediately before His Majesty’s Government—

(aa) provided public information to advise British nationals to leave that country or territory, or

(bb) arranged the evacuation of British nationals from that country or territory,

(ii) Scottish Ministers are satisfied that it would be unreasonable to expect the individual to return, or have returned, to the common travel area, and

(iii) the individual did not enter that country or territory when His Majesty’s Government’s public information was to advise British nationals to leave that country or territory”.

(4) After regulation 16, insert—

“Time limits on absences where the claimant is treated as being in the common travel area

16A. Where the individual is temporarily absent from the common travel area in the circumstances specified in regulation 16(1), the total period of an absence where an individual is treated as present in the common travel area will not exceed 26 weeks.”.

Amendment of the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023

11.—(1) The Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023^(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 6 (residence and presence conditions)—

(a) in paragraph (8)—

(i) at the end of sub-paragraph (i), omit “or”, and

(ii) after sub-paragraph (j) insert—

“

(k) has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where the individual—

(i) was residing in a country or territory outside of the United Kingdom,

(ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and

(iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—

(aa) the public information was issued, or

(bb) the evacuation is started, or

(a) S.S.I. 2023/302, relevantly amended by S.S.I. 2023/309 and S.S.I. 2025/250.

- (l) as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules”.
- (b) after paragraph (9), insert—

“(10) Where paragraph (8)(k) of this regulation applies, it will apply for 52 weeks beginning on the day on which his Majesty’s Government provided public information to advise British nationals to leave a country or territory immediately or arranged the evacuation of British nationals from that country or territory (whichever is earlier).”.
- (3) For regulation 7 (temporary absence from the common travel area) substitute—

“Temporary absence from the common travel area

7.—(1) Where an individual is temporarily absent from the common travel area, the individual is to be treated as present in the common travel area for—

- (a) the first 4 weeks of that absence,
- (b) the first 13 weeks of that absence where the absence is for the specific purpose of caring for a cared for person or additional cared for person who is also absent from the common travel area and where that cared for person or additional cared for person is paid a qualifying disability benefit during that period,
- (c) the first 26 weeks of that absence where—
 - (i) after the first 13 weeks, the absence is for the specific purpose of caring for a cared for person or additional cared for person and is in connection with arrangements made for the medical treatment of the cared for person or additional cared for person for a disease or bodily or mental disablement which commenced before leaving the common travel area and where that cared for person or additional cared for person is paid a qualifying disability benefit during that period, and
 - (ii) the arrangements relate to medical treatment—
 - (aa) outside the common travel area,
 - (bb) during the period when the cared for person or additional cared for person is temporarily absent from the common travel area, and
 - (cc) by, or under the supervision of, a person appropriately qualified to carry out that treatment or
- (d) the first 26 weeks of that absence where after the first 13 weeks, the individual was—
 - (i) absent for the specific purpose of caring for a cared for person or additional cared for person who is also absent from the common travel area and where that cared for person or additional cared for person is paid a qualifying disability benefit during that period, and
 - (ii) present in a country or territory outside the common travel area immediately before His Majesty’s Government—
 - (aa) provided public information to advise British nationals to leave that country or territory, or
 - (bb) arranged the evacuation of British nationals from that country or territory, and
 - (iii) Scottish Ministers are satisfied that it would be unreasonable to expect the individual to return, or have returned, to the common travel area, and
 - (iv) the individual did not enter that country or territory when His Majesty’s Government’s public information was to advise British nationals to leave that country or territory.

(2) For the purposes of paragraph (1)—

- (a) an individual is “temporarily absent” if, at the beginning of the period of absence, that absence is unlikely to exceed 52 weeks, and
- (b) “medical treatment” means medical, surgical, psychological or rehabilitative treatment (including any course or diet regimen).

Time limits on absences where the claimant is treated as being in the common travel area

7A. Where the individual is temporarily absent from the common travel area in the circumstances specified in regulation 7(1), the total period of an absence where an individual is treated as present in the common travel area will not exceed 26 weeks.”.

Amendment of the Disability Assistance for Older People (Scotland) Regulations 2024

12.—(1) The Disability Assistance for Older People (Scotland) Regulations 2024(a) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 9 (residence and presence conditions)—

(a) in paragraph (7)—

- (i) at the end of sub-paragraph (g), omit “or”, and
- (ii) after sub-paragraph (h), insert—

“,

- (i) has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where the individual—

(i) was residing in a country or territory outside of the United Kingdom,

(ii) left that country or territory when his Majesty’s Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and

(iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—

(aa) the public information was issued, or

(bb) the evacuation is started, or

- (j) as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules”,

(b) after paragraph (8), insert—

“(9) Where paragraph (7)(i) of this regulation applies, it will apply for 52 weeks beginning on the day on which his Majesty’s Government provided public information to advise British nationals to leave a country or territory immediately or arranged the evacuation of British nationals from that country or territory (whichever is earlier).”.

(3) In regulation 10 (temporary absence from the common travel area), in paragraph (1)—

- (a) at the end of sub-paragraph (a), omit “or”,
- (b) after sub-paragraph (b), insert—

(a) S.S.I. 2024/166, relevantly amended by S.S.I. 2025/250.

“

(c) the first 26 weeks of that absence where—

(i) after the first 13 weeks, the individual was present in a country or territory outside the common travel area immediately before His Majesty's Government—

(aa) provided public information to advise British nationals to leave that country or territory, or

(bb) arranged the evacuation of British nationals from that country or territory,

(ii) Scottish Ministers are satisfied that it would be unreasonable to expect the individual to return, or have returned, to the common travel area, and

(iii) the individual did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory”.

(4) After regulation 10, insert—

“Time limits on absences where the claimant is treated as being in the common travel area

10A. Where the individual is temporarily absent from the common travel area in the circumstances specified in regulation 10(1), the total period of an absence where an individual is treated as present in the common travel area will not exceed 26 weeks.”.

Amendment of the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025

13.—(1) The Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025(a) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 10 (residence and presence conditions)—

(a) in paragraph (7)—

(i) at the end of sub-paragraph (g), omit “or”, and

(ii) after sub-paragraph (h), insert

“

(i) has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where the individual—

(i) was residing in a country or territory outside of the United Kingdom,

(ii) left that country or territory when his Majesty's Government provided public information to advise British nationals to leave that country or territory immediately or arranged the evacuation of British nationals from that country or territory, and

(iii) arrived in the United Kingdom in the first 26 weeks beginning on the date on which—

(aa) the public information was issued, or

(bb) the evacuation is started, or

(a) S.S.I. 2025/3, relevantly amended by S.S.I. 2025/250.

- (j) as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules”.
- (b) after paragraph (8), insert—
 - “(9) Where paragraph (7)(i) of this regulation applies, it will apply for 52 weeks beginning on the day on which his Majesty’s Government provided public information to advise British nationals to leave a country or territory immediately or arranged the evacuation of British nationals from that country or territory (whichever is earlier).”.
- (3) In regulation 11 (temporary absence from the common travel area), in paragraph (1)—
 - (a) at the end of sub-paragraph (a), omit “or”,
 - (b) after sub-paragraph (b), insert—
 - “,
 - (c) the first 26 weeks of that absence where—
 - (i) after the first 13 weeks, the individual was present in a country or territory outside the common travel area immediately before His Majesty’s Government—
 - (aa) provided public information to advise British nationals to leave that country or territory, or
 - (bb) arranged the evacuation of British nationals from that country or territory,
 - (ii) Scottish Ministers are satisfied that it would be unreasonable to expect the individual to return, or have returned, to the common travel area, and
 - (iii) the individual did not enter that country or territory when His Majesty’s Government’s public information was to advise British nationals to leave that country or territory”.
- (4) After regulation 11, insert—

“Time limits on absences where the claimant is treated as being in the common travel area

11A. Where the individual is temporarily absent from the common travel area in the circumstances specified in regulation 11(1), the total period of an absence where an individual is treated as present in the common travel area will not exceed 26 weeks.”.

Name
A member of the Scottish Government

St Andrew’s House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of social security assistance entitlement of certain persons arriving in Scotland in the following situations, provided they meet the other relevant entitlement criteria:

- where His Majesty's Government has provided public information to advise British nationals to leave a country or territory or has arranged the evacuation of British nationals from that country or territory; or
- where a person has permission to stay under immigration provisions which have been sanctioned by His Majesty's Government as safe and legal immigration routes for humanitarian reasons.

These Regulations also extend the permitted period of temporary absence in respect of social security assistance for persons who have travelled to a country or territory that the UK Government has subsequently advised British nationals to leave or from which it has arranged the evacuation of British nationals.

Regulations 2(2), 3(3), 4(3), 5(3), 9(2), 10(2), 11(2), 12(2) and 13(2) amend the Social Security (Invalid Care Allowance) Regulations 1976, the Social Security (Attendance Allowance) Regulations 1991, the Social Security (Disability Living Allowance) Regulations 1991, the Social Security (Personal Independence Payment) Regulations 2013, the Disability Assistance for Children and Young People (Scotland) Regulations 2021, the Disability Assistance for Working Age People (Scotland) Regulations 2022, the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023, the Disability Assistance for Older People (Scotland) Regulations 2024 and the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025 respectively to exempt the above-mentioned group from the past presence and habitual residence tests.

Regulations 6, 7 and 8 amend the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018, the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019 and the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 respectively to insert the above mentioned category of person into the list of persons who are exempt from having to satisfy the habitual residence test.

Regulations 3(2), 4(2), 5(2), 9(3), 10(3), 11(3), 12(3) and 13(3) amend the Social Security (Attendance Allowance) Regulations 1991, the Social Security (Disability Living Allowance) Regulations 1991, the Social Security (Personal Independence Payment) Regulations 2013, the Disability Assistance for Children and Young People (Scotland) Regulations 2021, the Disability Assistance for Working Age People (Scotland) Regulations 2022, the Disability Assistance for Older People (Scotland) Regulations 2024 and the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025 respectively to insert a new category of temporary absence for these benefits not exceeding a period of 26 weeks beginning with the first day of the absence from Great Britain.