Draft Regulations laid before the Scottish Parliament under section 96(2) of the Social Security (Scotland) Act 2018, for approval by resolution of the Scottish Parliament.

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 - -	*18th March 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.

(**a**) 1988 c. 7 ("the 1988 Act"). 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 Minsters 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 1992 Act"). 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 1998 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 1992 Act 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 1992 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.

(**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 1998 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. For the purposes of section 172(1) of the Social Security Administration Act 1992, proposals for regulations under "relevant enactments", as defined in section 170(5) of that Act 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.

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

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.

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

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(**d**) are amended as follows.

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

(a) in paragraph (1), after sub-paragraph (j)(**e**) insert—

“,

(k) 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—

(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,

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—

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

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(**a**) 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.

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

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

(**d**) 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 S.S.I. 2023/309.

(**e**) S.I. 2025/884 inserted sub-paragraphs (i) and (j) as regulation 9C extends to England and Wales.

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

(iii) has leave to enter or remain in the United Kingdom in accordance with immigration rules, or

(iv) has leave on a discretionary basis outside of immigration rules, 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 the immigration rules or leave on a discretionary basis outside of those rules",

(b) after paragraph (1B)(**a**), insert—

"(1C) Where paragraph (1)(k) 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 (Attendance Allowance) Regulations 1991

3.—(1) The Social Security (Attendance Allowance) Regulations 1991(**b**) are amended as follows.

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

(a) in paragraph (3C) for "and (3B)" substitute ", (3B) and (3F)",

(b) after paragraph (3E)(**d**) insert—

"(3F) Where a person is temporarily absent from Great Britain, they are treated as present in the relevant area 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.

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

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

(a) in paragraph (1), after sub-paragraph (j)(**f**) insert—

",

(k) 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**) S.I. 2025/884 inserted paragraph (1B) as regulation 9C extends to England and Wales.
(**b**) S.I. 1991/2740.
(**c**) Relevantly amended by S.I. 2000/636, S.I. 2005/2877, S.I. 2006/2378, S.I. 2013/389 and S.I. 2017/1015.
(**d**) S.I. 2025/884 inserted paragraph (3E) as regulation 2 extends to England and Wales.
(**e**) Regulation 2C 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.
(**f**) S.I. 2025/884 inserted sub-paragraphs (i) and (j) as regulation 2C extends to England and Wales.

(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,

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—

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

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

(iii) has leave to enter or remain in the United Kingdom in accordance with immigration rules, or

(iv) has leave on a discretionary basis outside of immigration rules, 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 the immigration rules or leave on a discretionary basis outside of those rules",

(b) after paragraph (1B)(**a**), insert—

"(1C) Where paragraph (1)(k) 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(**b**) are amended as follows.

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

(a) in paragraph (3BA) for "and (3B)" substitute ", (3B), (3F) and (3G)",

(b) in paragraph (3C) for "and (3B)" substitute ", (3B) and (3F)",

(c) after paragraph (3E)(**d**) insert—

"(3F) Where a person is temporarily absent from Great Britain, they are treated as present in the relevant area 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.

(**a**) S.I. 2025/884 inserted paragraph (1B) as regulation 2C extends to England and Wales.
(**b**) S.I. 1991/2890.
(**c**) Relevantly amended by S.I. 1993/1939, S.I. 1999/2860, S.I. 2000/636, S.I. 2005/2877, S.I. 2006/2378 and S.I. 2013/389.
(**d**) S.I. 2025/884 inserted paragraph (3E) as regulation 2 extends to England and Wales.

(3G) Where a person is temporarily absent from Great Britain in the circumstances specified in paragraph (2)(d), (3B) or (3F), the total period of an absence where the person is treated as present in the relevant area will not exceed 26 weeks.".

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

(a) in paragraph (1), after sub-paragraph (j)(**b**) insert—

";

(k) 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—

(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,

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—

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

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

(iii) has leave to enter or remain in the United Kingdom in accordance with immigration rules, or

(iv) has leave on a discretionary basis outside of immigration rules, or

(l) as part of a safe and legal humanitarian immigration route, leave to enter or remain in the United Kingdom in accordance with immigration rules or leave on a discretionary basis outside of those rules",

(b) after paragraph (1B)(**c**), insert—

"(1C) Where paragraph (1)(k) applies, it will apply for the following periods beginning on the day on which the public information is issued, or the evacuation is started no more than—

(a) 130 weeks for persons aged 16 years and over,

(b) 52 weeks for persons aged 6 months and over but under 16 years,

(c) 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(**d**) are amended as follows.

(**a**) 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.

(**b**) S.I. 2025/884 inserted sub-paragraphs (i) and (j) as regulation 2C extends to England and Wales.

(**c**) S.I. 2025/884 inserted paragraph (1B) as regulation 2C extends to England and Wales.

(**d**) 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 and S.S.I. 2023/309.

(2) After regulation 18B(**a**), 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

18C.—(1) Where C is temporarily absent from Great Britain, C is treated as present in the relevant area for the purposes of regulation 16(a) and (b)(**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).

Time limits on absences where the claimant is treated as being in Great Britain

18D.—(1) Where a person is temporarily absent from Great Britain in the circumstances specified in regulation 17(1), 18(1) or 18C(1), the total period of an absence where C is treated as present in the relevant area will not exceed 26 weeks.".

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

(a) after sub-paragraph (j) insert—

",

(k) 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—

(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,

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**) S.I. 2025/884 inserted regulation 18B as the Regulations extend to England and Wales.

(**b**) S.I. 2025/1089 inserted regulations 23ZB and 23ZC which make provision for individuals who have entitlement or an ongoing claim for personal independence payment but have moved to Scotland. Regulation 23ZB treats a person who is permanently resident in Scotland as present in England and Wales for the purpose of regulation 16(a) for a transitional period and regulation 23ZC applies regulation 16(a) as if it read as present in Great Britain instead of England and Wales.

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

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

(iii) has leave to enter or remain in the United Kingdom in accordance with immigration rules, or

(iv) has leave on a discretionary basis outside of immigration rules, or

(l) as part of a safe and legal humanitarian immigration route, leave to enter or remain in the United Kingdom in accordance with immigration rules or leave on a discretionary basis outside of those rules",

(b) after paragraph (1B)(**a**) insert—

"(1C) Where paragraph (1)(k) 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(**b**) are amended as follows.

(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 made under section 3(2) of the Immigration Act 1971, a right of abode in the United Kingdom within the meaning given in section 2 of that Act 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 is issued, or

(bb) the evacuation is started,

(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 those rules,".

(3) In paragraph 6 of schedule 2 (the basic amount – pregnancy and baby grant)—

(a) at the end of sub-paragraph (6)(b)(v), omit "or",

(b) after sub-paragraph (6)(b)(vi), insert—

", or

(vii) 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—

(**a**) S.I. 2025/884 inserted paragraph (1B) as the Regulations extend to England and Wales.

(**b**) 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, S.S.I. 2025/250 and S.S.I. 2025/336.

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

(bb) 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

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

(A) the public information is issued, or

(B) the evacuation is started, or

(viii) 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 those rules.",

(c) in sub-paragraph (7), for "paragraph (6)" substitute "sub-paragraph (6)".

(4) 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 made under section 3(2) of the Immigration Act 1971, a right of abode in the United Kingdom within the meaning given in section 2 of that Act 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 is issued, or

(bb) the evacuation is started,

(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 those rules,".

(5) 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 made under section 3(2) of the Immigration Act 1971, a right of abode in the United Kingdom within the meaning given in section 2 of that Act 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 is issued, or

(bb) the evacuation is started,

(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 those 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 as follows.

(2) After 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 made under section 3(2) of the Immigration Act 1971, a right of abode in the United Kingdom within the meaning given in section 2 of that Act 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 is issued, or

(bb) the evacuation is started,

(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 those 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(**b**) (conditions relating to residence) is amended as follows.

(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 made under section 3(2) of the Immigration Act 1971, a right of abode in the United Kingdom within the meaning given in section 2 of that Act 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 is issued, or

(**a**) S.S.I. 2019/193, relevantly amended by 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, S.S.I. 2023/371 and S.S.I. 2025/250.

(**b**) 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, S.S.I. 2025/250 and S.S.I. 2025/336.

(bb) the evacuation is started,

(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 those 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(**a**) are amended as follows.

(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 is 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 the immigration rules or leave on a discretionary basis outside of those rules.",

(b) after paragraph (11), insert—

"(12) Where paragraph (10A)(k) applies, it applies for a period beginning on the date on which His Majesty's Government—

(a) issued public information to advise British nationals to leave a country or territory immediately, or

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

whichever is the earlier.

(13) The period mentioned in paragraph (12) ends not more than—

(a) 52 weeks after the date mentioned in paragraph (12) for persons aged 6 months or over, or

(b) 39 weeks after the date mentioned in paragraph (12) for persons aged under 6 months,

(**a**) S.S.I. 2021/174, relevantly amended by S.S.I. 2021/320, 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.

on the date the application is treated as made in accordance with regulation 24(1) (when an application is to be treated as made and beginning of entitlement to assistance).".

(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—

", or

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

(i) after the first 13 weeks of that 26 week period, 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 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 as follows.

(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

(**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.

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 is 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 the immigration rules or leave on a discretionary basis outside of those rules",

(b) after paragraph (8), insert—

"(9) Where paragraph (7)(i) 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—

", or

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

(i) after the first 13 weeks of that 26 week period, 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 as follows.

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

(a) in paragraph (8)—

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

(**a**) S.S.I. 2023/302, relevantly amended by S.S.I. 2023/309, S.S.I. 2025/250 and S.S.I. 2025/340.

(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 is 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 the immigration rules or leave on a discretionary basis outside of those rules”.

(b) after paragraph (9), insert—

“(10) Where paragraph (8)(k) 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 first 13 weeks of that 26 week period—

(aa) the absence is for the specific purpose of caring for a cared for person or additional cared for person,

(bb) the absence 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,

(cc) 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 of that 26 week period, 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).".

(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 Older People (Scotland) Regulations 2024

12.—(1) The Disability Assistance for Older People (Scotland) Regulations 2024(**a**) are amended as follows.

(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,

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

(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 is 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 the immigration rules or leave on a discretionary basis outside of those rules",

(b) after paragraph (8), insert—

"(9) Where paragraph (7)(i) 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—

", or

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

(i) after the first 13 weeks of that 26 week period, 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 as follows.

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

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

(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 is 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 the immigration rules or leave on a discretionary basis outside of those rules".

(b) after paragraph (8), insert—

"(9) Where paragraph (7)(i) 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—

", or

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

(i) after the first 13 weeks of that 26 week period, 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 the 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 (in the United Kingdom) 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 His Majesty's Government has subsequently advised British nationals to leave or from which it has arranged the evacuation of British nationals.

Regulations 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 category of person mentioned above from the past presence and habitual residence tests for the relevant benefit.

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 category of person mentioned above into the list of persons who are exempt from having to satisfy the habitual residence test for the relevant benefit.

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 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 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.

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