
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 324

The Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019

PART 2

Eligibility

Overview

3.—(1) A person who applies for a young carer grant is entitled to receive it if that person meets the conditions prescribed in these Regulations.

(2) Regulation 4 provides for the making of applications, including providing conditions related to the age of the applicant.

(3) Regulation 5 provides conditions relating to the care being provided and regulation 6 provides conditions relating to the person or persons being cared for.

(4) Regulation 7 provides further conditions relating to receipt of assistance and the status of the applicant.

(5) Regulation 8 provides conditions relating to the applicant's residence.

(6) Part 3 provides timescales for some procedural matters, including situations that involve multiple applications relating to care of the same person, and provides for when the Scottish Ministers must determine that an individual is entitled to a young carer grant without an application.

(7) Regulation 12 makes provision about the assistance that an applicant is entitled to receive.

Commencement Information

11 Reg. 3 in force at 21.10.2019, see [reg. 1](#)

Making of applications

4.—(1) A person is entitled to a young carer grant if, on the day their application for that assistance is made, they are aged at least 16 and are under the age of 19.

(2) In a non-leap year, the birthday of a person born on 29 February is to be taken to be 28 February.

[^{F1}(3) An application is to be treated as made—

(a) in a case where paragraph (7) applies, on the day after the end of the 13 week period to which the application relates,

(b) in any other case, on the day it is received by the Scottish Ministers.]

(4) In a case where, by virtue of a regulation 11, a determination is to be, or has been, made without an application, references in these Regulations to the day the application is made are to be read in accordance with paragraph (3) of that regulation.

(5) For the avoidance of doubt, a thing that purports to be an application is not an application unless it is—

- (a) made in the form, and
- (b) accompanied by the evidence,

required by the Scottish Ministers under section 38(1) of the Social Security (Scotland) Act 2018.

(6) For the purposes of determining assistance, the period of an application is the period of 13 weeks ending with the day before the day of the application for a grant and an application in respect of any other period of 13 weeks is to be regarded as an application for a different period, despite any overlap between the two periods.

[^{F2}(7) This paragraph applies where—

- (a) an application for a young carer grant is made on or after the day on which the Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 came into force,
- (b) the application relates to a period of 13 weeks beginning after [^{F3}22 July 2019] and ending before the day mentioned in sub-paragraph (a), and
- (c) it appears to the Scottish Ministers that the applicant would be likely to have been entitled to a young carer grant on making an application on the day after the end of that 13 week period were it not for the requirement in regulation 8(3)(a) of these Regulations to have previously been properly paid a young carer grant, as it had effect immediately before the date on which the Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 came into force.]

Textual Amendments

- F1** Reg. 4(3) substituted (24.12.2020) by *The Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 (S.S.I. 2020/475)*, regs. 1, **11(2)(a)**
- F2** Reg. 4(7) inserted (24.12.2020) by *The Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 (S.S.I. 2020/475)*, regs. 1, **11(2)(b)**
- F3** Words in reg. 4(7)(b) substituted (1.4.2021) by *The Social Security (Up-rating) (Miscellaneous Amendment) (Scotland) Regulations 2021 (S.S.I. 2021/170)*, regs. 1(1), **3(2)**

Commencement Information

- I2** Reg. 4 in force at 21.10.2019, see **reg. 1**

Conditions relating to the care being provided

5.—(1) To qualify for a young carer grant the applicant must have provided care, over the period of 13 weeks ending with the day before the day on which their application for a grant is made (“the qualifying period”)—

- (a) to a person or persons described in regulation 6,
- (b) for the number of hours, and in the number of weeks, described in paragraph (2),
- (c) as described in paragraph (3), and

- (d) which was not provided in the manner described in paragraph (4).
- (2) The care must have been provided—
 - (a) for at least 208 hours during the qualifying period, and
 - (b) in at least 10 weeks during that period.
- (3) The care provided must involve activity that promotes the physical, mental or emotional well-being of the person being cared for.
- (4) The care must not have been provided by the applicant—
 - (a) under or by virtue of a contract, unless the contract is of a kind specified by regulations under section 1(3)(a) of the Carers (Scotland) Act 2016 ^{M1} as not to be regarded as a contract for the purposes of that Act, or
 - (b) as voluntary work.

Commencement Information

I3 Reg. 5 in force at 21.10.2019, see [reg. 1](#)

Marginal Citations

M1 [2016 asp 9](#).

Conditions relating to the person or persons being cared for

6.—(1) To qualify for a young carer grant the person or persons being cared for must, throughout the qualifying period and on the day the application for assistance is made, each be a person to whom a qualifying disability benefit is normally payable.

(2) An applicant may combine hours caring for up to three persons during the qualifying period.

(3) In paragraph (1), “qualifying disability benefit” means a disability benefit, or where applicable a component of a disability benefit, which is of a type, and being paid at a rate, that would entitle a person who cares for the recipient of that benefit and who meets the relevant qualifying conditions to—

- (a) carer's assistance, payable under section 28 of the Social Security (Scotland) Act 2018, or
- (b) carer's allowance, payable under section 70 of the Social Security Contributions and Benefits Act 1992 ^{M2} or section 70 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ^{M3}.

Commencement Information

I4 Reg. 6 in force at 21.10.2019, see [reg. 1](#)

Marginal Citations

M2 [1992 c.4](#). Section 70 was amended to provide for carer's allowance by articles 2 and 3 of, and paragraph 2 of the schedule of, [S.I. 2002/1457](#). There are other amendments to section 70 that are not relevant to these Regulations.

M3 [1992 c.7](#). Section 70 was amended to provide for carer's allowance by articles 2 and 3 of [S.R. 2002/321](#). There are other amendments to section 70 that are not relevant to these Regulations.

Further eligibility conditions

7.—(1) An applicant is not entitled to a young carer grant if, [^{F4}at any point in the qualifying period or] on the day their application is made, the applicant is in receipt of a benefit named in regulation 6(3)(a) or (b) ^{F5}....

(2) An applicant is not entitled to a young carer grant if they have applied for a benefit named in regulation 6(3)(a) or (b) in respect of a period that includes the day their application is made, unless it has already been determined that the applicant is ineligible for that benefit in respect of that day.

[^{F6}(3) An applicant is not entitled to a young carer grant if they have previously received a young carer grant, unless—

- (a) the day their application is made is at least one year after the day of the application in respect of which that grant was paid, or
- (b) in a case where regulation 4(7) applies, the day their application is made is at least one year either before or after the application in respect of which the grant was paid.]

[^{F7}(4) Paragraph (5) applies if—

- (a) any other person has been paid a young carer grant in respect of care of any of the persons being cared for in an application for a young carer grant, and
- (b) either—
 - (i) that grant was paid as a result of an application made during the year immediately preceding the day the applicant makes his or her application, or
 - (ii) in a case where regulation 4(7) applies, that grant was paid as a result of an application made during the year immediately preceding or following the day the applicant makes his or her application.]

(5) The applicant is not entitled to a young carer grant unless—

- (a) the other person who was paid a young carer grant has died, or
- (b) the Scottish Ministers have concluded that a young carer grant should not have been paid to the other person.

(6) If an applicant has already received three young carer grants, they are not entitled to a further young carer grant.

[^{F8}(7) In paragraph (5)(a), in a case where regulation 4(7) applies, the reference to the other person who was paid a young carer grant having died is to be read as a reference to that other person having died before the day on which the applicant's application was made.]

^{F9}(7)

Textual Amendments

- F4** Words in reg. 7(1) inserted (19.11.2023) by The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (S.S.I. 2023/302), reg. 1(2), **sch. 1 para. 11(2)(a)**
- F5** Words in reg. 7(1) omitted (19.11.2023) by virtue of The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (S.S.I. 2023/302), reg. 1(2), **sch. 1 para. 11(2)(b)**
- F6** Reg. 7(3) substituted (24.12.2020) by The Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 (S.S.I. 2020/475), regs. 1, **11(3)(a)**
- F7** Reg. 7(4) substituted (24.12.2020) by The Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 (S.S.I. 2020/475), regs. 1, **11(3)(b)**

- F8** Reg. 7(7) inserted (24.12.2020) by *The Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 (S.S.I. 2020/475)*, regs. 1, **11(3)(c)**
- F9** Reg. 7(7) omitted (1.4.2020) by virtue of *The Funeral Expense Assistance and Young Carer Grants (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/99)*, regs. 1, **3(2)**

Commencement Information

- I5** Reg. 7 in force at 21.10.2019, see [reg. 1](#)

Conditions relating to residence

8.—(1) Subject to paragraphs (2) and (3), to qualify for a young carer grant the applicant must, on the day their application is made for that assistance, be—

- (a) habitually resident in the United Kingdom, the Channel Islands, the Isle of Man, the European Economic Area or Switzerland, and
- (b) ordinarily resident in Scotland.

(2) Paragraph (1)(a) does not apply to the following persons (if they meet the condition in paragraph (1)(b) of being ordinarily resident in Scotland)—

- (a) a refugee within the definition in Article 1 of the Convention relating to the status of refugees done at Geneva on 28 July 1951, as extended by article 1(2) of the Protocol relating to the status of refugees done at New York on 31 January 1967,

[^{F10}(aa) a person who—

- (i) has leave to enter or remain in the United Kingdom granted under the immigration rules made under section 3(2) of the Immigration Act 1971, by virtue of—

- (ia) the Afghan Relocations and Assistance Policy, or

- (ib) previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme),

- (ii) has been granted discretionary leave outside the immigration rules as a dependant of a person referred to in sub-head (i), or

- (iii) has leave granted under the Afghan Citizens Resettlement Scheme],

[^{F11}(ab) a person who was residing in Ukraine immediately before 1 January 2022, left Ukraine in connection with the Russian invasion which took place on 24 February 2022 and—

- (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971, ^{F12}...

- (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act, [^{F13}or]

- [does not require leave to enter or remain in the United Kingdom in accordance with ^{F14}(iii) section 3ZA of that Act,]

[^{F15}(ac) a person who was residing in Sudan before 15 April 2023, left Sudan in connection with the violence which rapidly escalated on 15 April 2023 in Khartoum and across Sudan and—

- (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971,

- (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act, or

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

- [^{F16}(ad) a person in Great Britain who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7 October 2023, left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7 October 2023 or the violence which rapidly escalated in the region following the attack and—
- (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971,
 - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act, or
 - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act,]
- (b) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971 ^{M4}, ^{F17}...
- (c) a person who has humanitarian protection granted under the rules made under section 3(2) of the Immigration Act 1971, or
- (d) a person who—
- (i) is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 ^{M5}, and
 - (ii) is in the United Kingdom as a result of deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.
- [^{F18}(3) An applicant who is not ordinarily resident in the United Kingdom does not have to meet the condition in paragraph (1)(b) (and therefore is entitled to a young carer grant) if—
- (a) they satisfy the conditions in paragraph (4) on the day on which the application is made, if the application is made before IP completion day,
 - (b) they satisfy the conditions in paragraph (5) on the day the application is made, if the application is made after IP completion day and the individual has rights arising from a relevant EU regulation, or
 - (c) they satisfy the conditions in paragraph (6) on the day the application is made, if the application is made after IP completion day and the individual has rights arising from the UK-Ireland convention mentioned in that paragraph.
- (4) The conditions referred to in paragraph (3)(a) are that the applicant must—
- (a) be an individual—
 - (i) to whom a relevant EU Regulation applies, and
 - (ii) in respect of whom the United Kingdom is competent for payment of sickness benefits in cash for the purposes of Chapter 1 of Title III of the Regulation in question,
 - (b) be resident in—
 - (i) Switzerland, or
 - (ii) an EEA State other than the United Kingdom,
 - (c) have a genuine and sufficient link to Scotland, and
 - (d) meet the other conditions prescribed in these Regulations.
- (5) The conditions referred to in paragraph (3)(b) are that the applicant must—
- (a) be an individual—
 - (i) to whom the rules set out in a relevant EU regulation apply by virtue of—

- (aa) Title III of Part 2 of the EU withdrawal agreement,
 - (bb) Part 3 or Article 23(4) of the Swiss citizens' rights agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020),
 - (cc) Title III of the EEA EFTA separation agreement (as defined in that section), or
 - (dd) the agreement constituted by the exchange of letters set out in the schedule of the Family Allowances, National Insurance and Industrial Injuries (Gibraltar) Order 1974, and
- (ii) in respect of whom the United Kingdom is, as a result, competent for payment of sickness benefits in cash,
- (b) be resident in—
 - (i) Switzerland,
 - (ii) an EEA state, or
 - (iii) Gibraltar,
 - (c) have a genuine and sufficient link to Scotland, and
 - (d) meet the other conditions prescribed in these Regulations.
- (6) The conditions referred to in paragraph (3)(c) are that the applicant must—
- (a) be an individual—
 - (i) to whom the convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland signed at Dublin on 1 February 2019, as modified from time to time in accordance with any provision of it, applies, and
 - (ii) in respect of whom the United Kingdom is, as a result, competent for payment of long term care benefits,
 - (b) be resident in Ireland,
 - (c) have a genuine and sufficient link to Scotland, and
 - (d) meet the other conditions prescribed in these Regulations.
- (7) The reference in paragraph (4)(c) to an individual's link to Scotland being sufficient is to it being sufficiently close that if the individual were not entitled to a young carer grant paragraph (4)—
- (a) would be incompatible with EU law, or
 - (b) would have been incompatible with EU law immediately preceding IP completion day.
- (8) The reference in paragraph (5)(c) to an individual's link to Scotland being sufficient is to it being sufficiently close that if the individual were not entitled to a young carer grant, paragraph (5) would be incompatible with the applicable agreement referred to in that paragraph.
- (9) The reference in paragraph (6)(c) to an individual's link to Scotland being sufficient is to its being sufficiently close that if the individual were not entitled to a young carer grant, paragraph (6) would be incompatible with the convention mentioned in that paragraph.
- (10) In this regulation—
- [^{F19}“the Afghan Citizens Resettlement Scheme” means the scheme announced by the United Kingdom Government on 18 August 2021];
 - “EEA State” means—
 - (a) any member state of the European Union or

- (b) any other state that is party to the agreement on the European Economic Area signed at Oporto on 2 May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993, as modified or supplemented from time to time,
- “EU law” has the meaning given by subsection (9) of section 126 of the Scotland Act 1998 or, if that subsection has been repealed, the meaning given by that subsection immediately before its repeal,
- “relevant EU Regulation” means—
- (a) one of the following Regulations—
- (i) Council Regulation (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community,
- (ii) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, or
- (b) in relation to an individual to whom the exchange of letters mentioned in paragraph (5) (a)(i)(dd) applies, a Regulation mentioned in paragraph (a) as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018.]

Textual Amendments

- F10** Reg. 8(2)(aa) inserted (15.9.2021) by [The Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/320\)](#), regs. 1(1), **5(2)**
- F11** Reg. 8(2)(ab) inserted (22.3.2022 at 5.40 p.m.) by [The Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/108\)](#), regs. 1(1), **6(2)**
- F12** Word in reg. 8(2)(ab)(i) omitted (14.11.2022) by virtue of [The Social Security \(Miscellaneous Amendment and Transitional Provision\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/336\)](#), regs. 1(1), **7(a)**
- F13** Word in reg. 8(2)(ab)(ii) inserted (14.11.2022) by [The Social Security \(Miscellaneous Amendment and Transitional Provision\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/336\)](#), regs. 1(1), **7(b)**
- F14** Reg. 8(2)(ab)(iii) inserted (14.11.2022) by [The Social Security \(Miscellaneous Amendment and Transitional Provision\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/336\)](#), regs. 1(1), **7(c)**
- F15** Reg. 8(2)(ac) inserted (17.5.2023 at 5.54 p.m.) by [The Social Security \(Residence Requirements\) \(Sudan\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/149\)](#), regs. 1(1), **6(2)**
- F16** Reg. 8(2)(ad) inserted (26.10.2023 at 5.38 p.m.) by [The Social Security \(Residence and Presence Requirements\) \(Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights and Lebanon\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/309\)](#), regs. 1(2), **6(2)**
- F17** Words in reg. 8(2)(b) omitted (22.3.2022 at 5.40 p.m.) by virtue of [The Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/108\)](#), regs. 1(1), **6(3)**
- F18** Reg. 8(3)-(10) substituted for reg. 8(3) (24.12.2020) by [The Carer's Allowance Supplement and Young Carer Grants \(Residence Requirements and Procedural Provisions\) \(EU Exit\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/475\)](#), regs. 1, **11(4)(a)**
- F19** Words in reg. 8(10) inserted (15.9.2021) by [The Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/320\)](#), regs. 1(1), **5(3)**

Commencement Information

- I6** Reg. 8 in force at 21.10.2019, see [reg. 1](#)

Marginal Citations

- M4** 1971 c.77.
M5 1999 c.33.

Changes to legislation:

There are currently no known outstanding effects for the The Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019, PART 2.