
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 469

SOCIAL CARE

**The Social Care Staff Support Fund (Coronavirus)
(Scotland) Amendment Regulations 2020**

Approved by the Scottish Parliament

		<i>at 8.15 a.m. on 23rd</i>
<i>Made</i>	- - - -	<i>December 2020</i>
<i>Laid before the Scottish</i>		<i>at 12.15 p.m. on</i>
<i>Parliament</i>	- - - -	<i>23rd December 2020</i>
<i>Coming into force</i>	- -	<i>24th December 2020</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2 and 7, and paragraph 7(3) of schedule 1, of the Coronavirus (Scotland) (No. 2) Act 2020⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Care Staff Support Fund (Coronavirus) (Scotland) Amendment Regulations 2020 and come into force on the day after the day on which they are made.

(2) In these Regulations, “the principal Regulations” means the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020⁽²⁾.

Amendment of the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020

2.—(1) The principal Regulations are amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(3) (interpretation)—

(a) before the definition of “expected income” insert—

““the coronavirus job retention scheme” means the scheme which was established on 15 April 2020 (and as it has effect from time to time) administered by Her Majesty’s Revenue and Customs under the direction of the Commissioners of Her Majesty’s Treasury under section 76 of the Coronavirus Act 2020⁽³⁾,”.

(1) 2020 asp 10. S.S.I. 2020/299 amended section 9(1) so the expiry date of the Coronavirus (Scotland) (No. 2) Act 2020 (“the Act”) is currently 31 March 2021. The expiry date in section 9(1) may be further altered by regulations made under section 9 or 10 of the Act.
(2) S.S.I. 2020/188.
(3) 2020 c.7.

- (b) after the definition of “the Fund” insert—
- ““health board” means a Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978(4),”.
- (3) In regulation 2 (establishment, maintenance and administration of the Fund)—
- (a) in paragraph (4), for “or local authority” substitute “, a local authority or any other person”, and
- (b) after paragraph (4) insert—
- “(4A) The Scottish Ministers may appoint a different person under paragraph (4) to administer different parts of the Fund for different purposes.”.
- (4) In regulation 3 (eligibility criteria to receive financial assistance deriving from the Fund)—
- (a) in paragraph (1), for “paragraphs (2) to (5) are met” substitute—
- “—
- (a) paragraphs (2) to (5), or
- (b) paragraphs (2) to (4) and—
- (i) paragraph (6), or
- (ii) paragraph (7),
- are met”, and
- (b) after paragraph (5) insert—
- “(6) The fifth condition is that the worker is, or was, a person falling within a description in schedule 1 (conditions or treatments relevant for the purposes of regulation 3(6)) and has been advised by the Scottish Ministers, a registered medical practitioner or a health board to shield themselves from the general public in order to reduce the risk of that worker contracting coronavirus.
- (7) The sixth condition is that the worker is, or was, a person falling within a description in schedule 2 (conditions or statuses relevant for the purposes of regulation 3(7)), and has agreed with their employer, following an assessment, that the worker is unable to carry out their duties for a period of time due to the risk of that worker contracting coronavirus.
- (8) No financial assistance is to be granted under these regulations in respect of any period after 31 October 2020 to a worker who is eligible by virtue of the conditions set out in paragraphs (6) or (7).”.
- (5) In regulation 4 (requirements for claim on the Fund by relevant social care workers) for “regulation 3 are met” substitute—
- “—
- (a) regulations 3(2) to (5), or
- (b) regulation 3(2) to (4) and—
- (i) regulation 3(6), or
- (ii) regulation 3(7),
- are met”.
- (6) In regulation 5 (amount of financial assistance to be paid from the Fund)—
- (a) in paragraph (1) for “regulation 3” substitute “regulation 3(2) to (5)”,

(4) 1978 c.29, amended by section 14(2) and schedule 7, paragraph 1 of the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 28(a)(i) and (ii) of the National Health Service and Community Care Act 1990 (c.19), schedule 2, schedule 1, paragraph 1(2)(a) of the National Health Service Reform (Scotland) Act 2004 (asp 7), paragraph 2(2) of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13).

(b) after paragraph (1) insert—

“(1A) Subject to paragraph (2), the maximum amount to be paid from the Fund to each relevant social care worker in respect of each period that the worker meets all the conditions in regulations 3(2) to (4) and either (6) or (7), regardless of whether they also meet the condition at regulation 3(5), is the difference between—

- (a) 80% of that worker’s expected income from health and care work in respect of that period, and
- (b) their actual income from health and care work (including any sick pay) in respect of that period.”

(c) in paragraph (2)—

- (i) after “paragraph (1)” add “or (1A)”, and
- (ii) for “from any public body or other person” substitute—

“by virtue of—

- (a) any sick pay,
- (b) the coronavirus job retention scheme, or
- (c) their employer”.

(7) In regulation 6(2) (reimbursement of employers of payments to relevant social care workers)

- (a) after “administer the Fund” insert “or different parts of the Fund,”, and
- (b) in sub-paragraph (a), for “regulation 3” substitute—

“—

- (i) regulation 3(2) to (5), or
- (ii) regulation 3(2) to (4) and
 - (aa) regulation 3(6), or
 - (bb) regulation 3(7)”.

(8) Insert as schedules to the principal Regulations—

“SCHEDULE 1

Regulation 3(6)

Conditions or treatments relevant for the purposes of regulation 3(6)

A person who has cancer and is receiving a course of chemotherapy

A person who has lung cancer and is either receiving, or has previously received, radiotherapy intended to cure the cancer

A person who has cancer of the blood or bone marrow (including leukaemia, lymphoma or myeloma) and is at any stage of treatment

A person with a severe chest condition such as cystic fibrosis, severe asthma, severe chronic obstructive pulmonary disease, severe bronchiectasis or pulmonary hypertension

A person with a rare disease, including all forms of interstitial lung disease/sarcoidosis, and inborn errors of metabolism (such as severe combined immunodeficiency and homozygous sickle cell) that significantly increase the risk of infections

A person with an absent spleen or who has had their spleen removed

A person who is pregnant and who has significant heart disease (whether congenital or acquired)

- A person aged 18 or over with Down's syndrome
- A person with stage 5 kidney disease
- A person who has had solid organ transplants
- A person who has had bone marrow or stem cell transplants in the last six months, or who is taking immunosuppression drugs
- A person who is receiving immunotherapy or other continuing antibody treatments for cancer
- A person who is receiving targeted cancer treatments which can affect the immune system, such as protein kinase inhibitors or poly (ADP-ribose) polymerase inhibitors
- A person who is receiving immunosuppression therapies that significantly increase the risk of infection
- A person who is receiving renal dialysis treatment

SCHEDULE 2

Regulation 3(7)

Conditions or statuses relevant for the purposes of regulation 3(7)

- A person who is aged 70 or older
- A person who is under 70 and instructed to get a flu jab each year on medical grounds
- A person who is pregnant
- A person with chronic respiratory diseases, such as asthma, chronic obstructive pulmonary disease, emphysema or bronchitis
- A person with chronic heart disease
- A person with chronic kidney disease
- A person with chronic liver disease
- A person with a chronic neurological condition, including Parkinson's disease, motor neurone disease, multiple sclerosis, a learning disability or cerebral palsy
- A person with diabetes
- A person who has problems with their spleen, for example sickle cell disease
- A person with a weakened immune system as the result of conditions such as human immunodeficiency virus or acquired immune deficiency syndrome, or as a result of medicines such as steroid tablets or chemotherapy
- A person with a body mass index of 40 or above"

St Andrew's House,
Edinburgh
At 8.15 a.m. on 23rd December 2020

JEANE FREEMAN
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 (“the principal Regulations”).

Regulation 2(3) amends regulation 2(4) in the principal Regulations, with the effect that in addition to an integration authority or a local authority, the Scottish Ministers can appoint any other person to administer the Social Care Staff Support Fund (“the Fund”) on their behalf. It also adds a new paragraph (4A) into regulation 2, which enables the Scottish Ministers to appoint different persons to administer different parts of the Fund for different purposes.

Regulation 2(4) amends regulation 3 of the principal Regulations. It inserts new paragraphs (6) to (8) in relation to (a) workers with certain conditions of undergoing certain treatments who have been advised to shield and (b) workers with certain conditions or statuses who have agreed with their employer that they are unable to work because of the risk of contracting coronavirus. New regulation 3(8) provides any such workers will only be eligible for financial assistance from the Fund in relation to any period all those conditions are met up to 31 October 2020.

Regulation 2(5) amends regulation 4 of the principal Regulations in consequence of the new conditions added to regulation 3. Regulation 2(6) inserts a new paragraph (1A) into regulation 5 of the principal Regulations to outline the method to be used in calculating the amount a worker will receive from the Fund where that worker satisfies the amended eligibility criteria and amends regulation 5(2) in respect of payments received from the coronavirus job retention scheme, their employer, or relevant sick pay that will be subtracted in determining the amount of financial assistance paid from the Fund.

Regulation 2(7) makes consequential amendments to regulation 6 of the principal Regulations.

Regulation 2(8) inserts schedules 1 (conditions or treatments) and 2 (conditions or statuses) into the principal Regulations.

A Business and Regulatory Impact Assessment in relation to these Regulations has been prepared and placed in the Scottish Parliament Information Centre. Copies of it can be obtained online at www.legislation.gov.uk.