

2023 No. 258

SOCIAL SECURITY

The Carer’s Assistance (Carer Support Payment) (Consequential and Miscellaneous Amendments and Transitional Provision) (Scotland) Regulations 2023

Made - - - - *13th September 2023*
Laid before the Scottish Parliament *14th September 2023*
Coming into force - - *19th November 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 95 of the Social Security (Scotland) Act 2018(a), section 70 of the Social Security Contributions and Benefits Act 1992(b) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Carer’s Assistance (Carer Support Payment) (Consequential and Miscellaneous Amendments and Transitional Provision) (Scotland) Regulations 2023 and come into force on 19 November 2023.

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 7 of the Social Security (Invalid Care Allowance) Regulations 1976 (manner of electing the person entitled to a carer’s allowance)—

- (a) for the heading, substitute “manner of electing the person entitled to carer’s allowance in respect of a severely disabled person where more than one person would be entitled”,
- (b) in paragraph (1), for “section 37(7) of the Act” substitute “section 70(7ZA) of the Contributions and Benefits Act(d)”,
- (c) after paragraph (1), insert—

“(1A) For the purposes of section 70(7ZC) of the Contributions and Benefits Act(e) which provides that where, apart from that section, one person (A) would have an entitlement mentioned in subsection (7ZB) and another person (B) would have an entitlement to carer’s allowance for the same day in respect of the same severely disabled person, A and B may jointly elect in the prescribed manner which of them shall have such

(a) 2018 asp 9.

(b) 1992 c. 4. Section 70 was amended by S.I. 1994/2556, S.I. 2002/1457, S.I. 2011/2426, S.I. 2013/388, S.I. 2013/796, S.I. 2015/1754, S.I. 2021/1301, S.S.I. 2022/54, S.S.I. 2021/174 and S.S.I. 2022/332.

(c) S.I. 1976/409, which was mostly recently relevantly amended by S.I. 2015/1754.

(d) Inserted by S.I. 2023/XXX.

(e) Inserted by S.I. 2023/XXX.

entitlement, an election shall be made by giving the Scottish Ministers a notice in writing signed by both A and B specifying that B shall have entitlement to carer's allowance and A shall not have an entitlement mentioned in subsection (7ZB).

(1B) For the purposes of section 70(7ZE) of the Contributions and Benefits Act(a) which provides that where, apart from that section, one person (A) has, or would have an entitlement to universal credit carer element and another person (B) would have an entitlement to carer's allowance for the same day in respect of the same severely disabled person, A and B may jointly elect in the prescribed manner which of them shall have such entitlement, an election shall be made by giving the Scottish Ministers a notice in writing signed by both A and B specifying that B shall have an entitlement to carer's allowance and A shall not have entitlement to universal credit carer element.”,

(d) in paragraph (2)—

(i) for “paragraph (1)” substitute “paragraphs (1), (1A) or (1B)”,

(ii) after “a carer's allowance” insert “, carer support payment”,

(e) after paragraph (3), insert—

“(4) In paragraph (2), “carer support payment” means a payment made under the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023(b).”.

Amendment of the National Assistance (Assessment of Resources) Regulations 1992

3.—(1) The National Assistance (Assessment of Resources) Regulations 1992(c) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation), after the definition of “attendance allowance” insert—

““Carer Support Payment” means carer's assistance payable under the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023(d).”.

(3) In paragraph 3(2)(a) of schedule 2 (sums to be disregarded in the calculation of earnings), after “carer's allowance”, insert “or Carer Support Payment”.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

4.—(1) The Advice and Assistance (Scotland) Regulations 1996(e) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) after the definition of “auditor” insert—

““carer support payment” means carer's assistance payable under the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023(f).”.

(3) In regulation 16 (payment of fees and outlays from property recovered or preserved) after paragraph (2)(cc) insert—

“(cd) to carer support payment given in accordance with the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023(g).”.

(4) In schedule 2 (assessment of disposable capital and disposable income) after paragraph 5(d)(azd) insert—

(a) Inserted by S.I. 2023/XXX.

(b) S.S.I. 2023/XXX.

(c) S.I. 1992/2977 as relevantly amended by S.I. 1988/663, S.I. 1989/534, S.I. 1993/964, S.I. 1993/2230, S.I. 1995/858, S.I. 2003/897 and S.S.I. 2021/73.

(d) S.S.I. 2023/XXX.

(e) S.I. 1996/2447 as relevantly amended by S.I. 1997/726, S.I. 1998/724, S.I. 2008/1879, S.S.I. 2000/399, S.S.I. 2002/495, S.S.I. 2003/163, S.S.I. 2003/421, S.S.I. 2010/166, S.S.I. 2011/134, S.S.I. 2013/65, S.S.I. 2013/137, S.S.I. 2013/142, S.S.I. 2013/200, S.S.I. 2013/250, S.S.I. 2014/90, S.S.I. 2020/424, S.S.I. 2021/73, S.S.I. 2021/333, S.S.I. 2021/368, S.S.I. 2022/31 and S.S.I. 2023/11.

(f) S.S.I. 2023/XXX.

(g) S.S.I. 2023/XXX.

“(aze)carer support payment given in accordance with the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(a),”.

Amendment of the Individual Learning Account (Scotland) Regulations 2011

5.—(1) The Individual Learning Account (Scotland) Regulations 2011(b) are amended in accordance with paragraph (2).

(2) In regulation 3 (qualifying persons (training account holders)) after paragraph (6)(b)(iii) insert —

“(iia) carer support payment payable under the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(c),”.

Amendment of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012

6.—(1) The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(d) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation) after the definition of “care home” insert—

““carer support payment” means carer’s assistance payable under the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(e),”.

(3) In schedule 1, part 3 (disability premiums)—

(a) in paragraph 6(1)—

(i) at the end of head (a) omit “and”,

(ii) after head (a), insert—

“(ab) in the case of carer support payment, any period during which, but for regulation 16 of the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023, the person would be in receipt of carer support payment, and”,

(b) in paragraph 6(2), after “sub-paragraph (1)(a)” insert “or carer support payment by virtue of sub-paragraph (1)(ab)”,

(c) in paragraph 7(2)(a)(iii), after “section 70 of the 1992 Act,” insert “carer support payment”,

(d) in paragraph 7(2)(b), after “carer’s allowance,”, in both places where it appears, insert “carer support payment”,

(e) in paragraph 7(7)(b), after “carer’s allowance”, in both places where it appears, insert “, carer support payment”,

(f) in paragraph 7(8)—

(i) in head (a) after “carer’s allowance,” insert “carer support payment”,

(ii) in head (b)—

(aa) after “carer’s allowance” insert “, carer support payment”, and

(bb) after “in receipt of that allowance”, insert “, payment”,

(g) in paragraph 10—

(i) in sub-paragraph (1) after “carer’s allowance” insert “or carer support payment”,

(a) S.S.I. 2023/XXX.

(b) S.S.I. 2011/107 as relevantly amended by S.S.I. 2012/172, S.S.I. 2013/75, S.S.I. 2013/137 and S.S.I. 2017/288.

(c) S.S.I. 2023/XXX.

(d) S.S.I. 2012/319 as relevantly amended by S.I. 2014/3255, S.I. 2020/354, S.S.I. 2013/49, S.S.I. 2013/142, S.S.I. 2013/218, S.S.I. 2015/46 S.S.I. 2016/81, S.S.I. 2017/326, S.S.I. 2018/211, S.S.I. 2018/295, S.S.I. 2019/29, S.S.I. 2019/29, S.S.I. 2019/133, S.S.I. 2019/325, S.S.I. 2020/25, S.S.I. 2020/108, S.S.I. 2020/413, S.S.I. 2021/51, S.S.I. 2021/73, S.S.I. 2022/31, S.S.I. 2022/52 and S.S.I. 2023/38.

(e) S.S.I. 2023/XXX.

- (ii) in sub-paragraph (2)(a) after “carer’s allowance” insert “or carer support payment”,
 - (iii) in sub-paragraph (2)(b) after “carer’s allowance” insert “or carer support payment”,
 - (iv) in sub-paragraph (3)(a) after “carer’s allowance” insert “or carer support payment”,
 - (v) in sub-paragraph (3)(b) after “carer’s allowance” insert “or carer support payment”,
 - (vi) in sub-paragraph (4) after “carer’s allowance” insert “or carer support payment”.
- (4) In schedule 1, part 4 (amount of disability premium)—
- (a) in paragraph 13—
 - (i) in sub-paragraph (1)(b)(i) after “carer’s allowance,” insert “carer support payment”,
 - (ii) in sub-paragraph (1)(b)(ii) after “carer’s allowance” insert “, carer support payment”.

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

7.—(1) The Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019(a) are amended in accordance with paragraph (2).

(2) In regulation 6(3)(a) (conditions relating to the person or persons being care for) for “carer’s assistance, payable under section 28 of the Social Security (Scotland) Act 2018”, substitute, “Carer Support Payment payable under the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(b)”.

Amendment of the Council Tax Reduction (Scotland) Regulations 2021

8.—(1) The Council Tax Reduction (Scotland) Regulations 2021(c) are amended in accordance with paragraphs (2) to (5).

- (2) In regulation 4 (interpretation) after the definition of “blind” insert—
- ““carer support payment” means carer’s assistance payable under the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(d),”.
- (3) In regulation 57 (meaning of “unearned income”) after paragraph (1)(b)(iv) insert—
- “(iva) carer support payment,”.
- (4) In schedule 1 (applicable amount)
- (a) in paragraph 5—
 - (i) in sub-paragraph (4)(b) after “carer’s allowance” insert “or carer support payment”,
 - (ii) in sub-paragraph (4)(c)—
 - (aa) after “carer’s allowance” insert “or carer support payment”,
 - (bb) after “Social Security (Overlapping Benefits) Regulations 1979” insert “or, as the case may be, regulation 16 of the Carer’s Allowance (Carer Support Payment) (Scotland) Regulations 2023(e),”.
 - (iii) in sub-paragraph (6)(a) after “carer’s allowance” insert “or carer support payment”,
 - (iv) in sub-paragraph (6)(b) after “carer’s allowance” insert “or carer support payment”,
 - (v) in sub-paragraph (7)(a) after “carer’s allowance”, in both places where it appears, insert “or carer support payment”,
 - (vi) in sub-paragraph (7)(b) after “carer’s allowance” insert “or carer support payment”,
 - (b) in paragraph 6—
 - (i) in sub-paragraph (1)(a) after “carer’s allowance” insert “or carer support payment”,

(a) S.S.I. 2019/324.
 (b) S.S.I. 2023/XXX.
 (c) S.S.I. 2021/249 as relevantly amended by S.S.I. 2022/52, S.S.I. 2022/161, S.S.I. 2023/38 and S.S.I. 2023/46.
 (d) S.S.I. 2023/XXX.
 (e) S.S.I. 2023/XXX.

- (ii) in sub-paragraph (1)(b)—
 - (aa) after “carer’s allowance” insert “, or carer support payment”,
 - (bb) after “Social Security (Overlapping Benefits) Regulations 1979” insert “or, as the case may be, regulation 16 of the Carer’s Allowance (Carer Support Payment) (Scotland) Regulations 2023(a)”,
 - (iii) in sub-paragraph (4)—
 - (aa) after “carer’s allowance” insert “or carer support payment”, and
 - (bb) after “whose care the allowance” insert “or payment”,
 - (c) in paragraph 13—
 - (i) in sub-paragraph (2)(a)(iii) after “section 70 of the 1992 Act” insert “, carer support payment payable under the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(b),”,
 - (ii) in sub-paragraph (2)(b) after “carer’s allowance,”, in both places where it appears, insert “, carer support payment”,
 - (iii) in sub-paragraph (5)(b) after “carer’s allowance”, in both places where it appears, insert “, carer support payment”,
 - (iv) in sub-paragraph (6) after “carer’s allowance,” insert “carer support payment,”,
 - (v) in sub-paragraph (7)—
 - (aa) after “carer’s allowance” insert “, carer support payment”, and
 - (bb) after “in receipt of that allowance” insert “, payment”,
 - (d) in paragraph 17 after “carer’s allowance,”, in both places where it appears, insert “carer support payment,”.
- (5) In schedule 3 (sums to be disregarded in the calculation of earnings) in paragraph 6(1)(a) after “carer’s allowance” in both places where it appears, insert “, or carer support payment”.

Transitional provision – extinguishment of right to apply for Carer’s Allowance

9.—(1) No person may claim carer’s allowance under section 70 of the Social Security Contributions and Benefits Act 1992(c) who—

- (a) during the initial period for applications for carer support payment, is resident in the local authority area of Perthshire and Kinross, City of Dundee or Western Isles, or
- (b) after the expiry of the initial period for applications—
 - (i) is resident in Scotland, or
 - (ii) is a person to whom regulation 6(3) (residence and presence conditions), regulation 8 (serving members of His Majesty’s forces, civil servants and their family members) or regulation 11 (persons residing outside the United Kingdom to whom a relevant EU regulation applies) of the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023 applies.

(2) In this regulation—

“carer support payment” means carer’s assistance payable under the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(d),

“carer’s allowance” means assistance payable under the Social Security Contributions and Benefits Act 1992, and

(a) S.S.I. 2023/XXX.
 (b) S.S.I. 2023/XXX.
 (c) 1992 c. 4. Section 70 was amended by S.I. 1994/2556, S.I. 2002/1457, S.I. 2011/2426, S.I. 2013/388, S.I. 2013/796, S.I. 2015/1754, S.I. 2021/1301, S.S.I. 2022/54, S.S.I. 2021/174 and S.S.I. 2022/332.
 (d) S.S.I. 2023/XXX.

“initial period for applications” means the period referred to in regulation 46 (transitory provision – initial period for applications) of the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023, beginning with 19 November 2023 and ending with 30 September 2024.

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

St Andrew’s House,
Edinburgh
13th September 2023

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential, miscellaneous and transitional provision in connection with the introduction of a new form of carer's assistance known as carer support payment, under section 28 of the Social Security (Scotland) Act 2018 ("the 2018 Act"). Carer support payment is provided for by the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 ("the Carer Support Payment Regulations").

Regulation 2 makes miscellaneous amendments to the Social Security (Invalid Care Allowance) Regulations 1976.

Regulations 3 to 8 make consequential amendments to secondary legislation in connection with the introduction of carer support payment. The amendments ensure that individuals who are entitled to carer support payment have the same entitlements and disregards under that legislation as individuals who are entitled to carer's allowance payable under the Social Security Contributions and Benefits Act 1992.

Carer support payment will replace carer's allowance in Scotland for new applicants, and as such these Regulations also make provision in connection with the transition from the pre-existing statutory framework for carer's benefits in Scotland to that provided for under the 2018 Act and the Carer Support Payment Regulations. Regulation 9 provides that no person aged 16 or older who is able to apply for carer support payment due to being resident in the local authority areas of Perthshire and Kinross, City of Dundee or Western Isles during the initial period for applications may apply for carer's allowance. It also provides that no person aged 16 or older who is able to apply for carer support payment due to being resident in Scotland, or otherwise meeting the residence and presence conditions in the Carer Support Payment Regulations after the initial period for applications may apply for carer's allowance.

No business and regulatory impact assessment has been prepared for these Regulations.

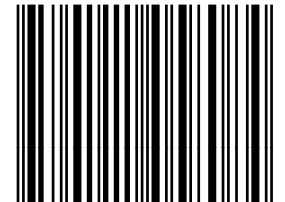
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