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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 258**

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

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

2.—(1) The Social Security (Invalid Care Allowance) Regulations 1976<sup>(1)</sup> 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<sup>(2)</sup>”,
- (c) after paragraph (1), insert—

“(1A) For the purposes of section 70(7ZC) of the Contributions and Benefits Act<sup>(3)</sup> 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 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<sup>(4)</sup> 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—

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

(2) Inserted by S.I. 2023/1214.

(3) Inserted by S.I. 2023/1214.

(4) Inserted by S.I. 2023/1214.

“(4) In paragraph (2), “carer support payment” means a payment made under the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023<sup>(5)</sup>.”.

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<sup>(5)</sup> S.S.I. 2023/302.