
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 302

The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023

PART 6

Re-consideration of entitlement to Carer Support Payment: determination without application

Determination following error – overpayments

38.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to Carer Support Payment, without receiving an application, where—

- (a) they have previously made a determination of the individual's entitlement to Carer Support Payment (“the original determination”),
 - (b) they establish that, due to an error, the original determination was incorrect resulting in the individual being given—
 - (i) an award of Carer Support Payment to which the individual was not entitled, or
 - (ii) a higher award than that to which the individual was entitled,
 - (c) the Scottish Ministers are not considering a request for a re-determination of the individual's entitlement to Carer Support Payment, and
 - (d) the individual has not made an appeal to the First-tier Tribunal for Scotland or Upper Tribunal against the Scottish Minister's determination of the individual's entitlement to Carer Support Payment, that has not yet been determined.
- (2) In making a determination required by paragraph (1) the Scottish Ministers are to use—
- (a) any information—
 - (i) provided in the application that led to the original determination, and
 - (ii) they have obtained in connection with that application,
 - (b) any other information they have obtained in connection with the individual's entitlement to Carer Support Payment, and
 - (c) any other information available to them that is relevant to their consideration of whether the individual is entitled to Carer Support Payment.
- (3) In this regulation references to an “error” are to—
- (a) an error in the performance of a function conferred by these Regulations or the 2018 Act, including a determination being made—
 - (i) wrongly, or
 - (ii) correctly but on the basis of—
 - (aa) incorrect information, or
 - (bb) an assumption which proves to be wrong, or

Changes to legislation: The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023, Section 38 is up to date with all changes known to be in force on or before 09 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) a new determination not being made after an assumption on the basis of which an earlier determination was made has proved to be wrong.

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Commencement Information

I1 Reg. 38 in force at 19.11.2023, see [reg. 1\(2\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 6(6)(b)(iii)(gg) and word inserted by [S.S.I. 2024/141 reg. 13\(3\)\(b\)](#)
- reg. 6(6)(b)(iii)(ee) word omitted by [S.S.I. 2024/141 reg. 13\(3\)\(a\)](#)
- reg. 6(7)(da) inserted by [S.S.I. 2024/141 reg. 13\(3\)\(c\)](#)
- reg. 23(4)(c)(i)(cc) and word inserted by [S.S.I. 2024/141 reg. 13\(4\)\(b\)](#)
- reg. 23(4)(c)(i)(aa) word omitted by [S.S.I. 2024/141 reg. 13\(4\)\(a\)](#)