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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

**The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Modifications) Order 2023**

**PART 2**

England and Wales

**Amendment of the Social Security Contributions and Benefits Act 1992**

2.—(1) The Social Security Contributions and Benefits Act 1992(1) is amended as follows.

(2) In section 70 (carer's allowance)(2)—

(a) for subsection (7), substitute—

“(7) No person shall be entitled for the same day to—

(a) more than one allowance under this section; or

(b) both an allowance under this section and carer support payment.

(7ZA) Where, apart from this subsection, two or more persons would have a relevant entitlement for the same day in respect of the same severely disabled person, one of them only shall have that entitlement and that shall be such one of them—

(a) as they may jointly elect in the prescribed manner; or

(b) as may, in default of such an election, be determined by the Secretary of State in the Secretary of State's discretion.

(7ZB) Subsection (7ZC) applies where a person (A)—

(a) (disregarding the effect of regulation 5(3) of the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023)(3) has, or would have, an entitlement to carer support payment; or

(b) has, or would have, an entitlement to carer's allowance in respect of which the Scottish Ministers have the power to make decisions,

for a day in respect of a severely disabled person.

(7ZC) Another person (B) shall not have a relevant entitlement for the same day in respect of the same severely disabled person unless—

(a) A and B jointly elect in the prescribed manner that B shall have the relevant entitlement (and that A shall not have an entitlement mentioned in subsection (7ZB)) for that day in respect of that severely disabled person; or

(b) in default of such an election, the Secretary of State is satisfied, following consultation with the Scottish Ministers, that—

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(1) 1992 c. 4.

(2) Section 70(7) was amended by, and section 70(7A) was inserted by, S.I. 2015/1754; there are other amending instruments but none is relevant.

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

- (i) the Scottish Ministers have decided, or will decide, that A shall not have an entitlement mentioned in subsection (7ZB); and
- (ii) B shall have the relevant entitlement,  
for that day in respect of that severely disabled person.”;
- (b) in subsection (7A), for “subsection (7)” substitute “subsections (7ZA) and (7ZC)”;
- (c) in subsection (7A)(a), after “carer’s allowance” insert “in respect of which the Secretary of State has the power to make decisions”;
- (d) after subsection (7A), insert—  
“(7B) In subsections (7) and (7ZB), “carer support payment” means carer’s assistance given in accordance with the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023.”.