



Social Security (Scotland) Act 2018

2018 asp 9

PART 3

SUPPLEMENTING ASSISTANCE UNDER OTHER ENACTMENTS

Carer's allowance: temporary provision

81 Carer's allowance supplement

- (1) The Scottish Ministers must make a payment (a “carer's allowance supplement”) to qualifying individuals in respect of each of the following periods of each financial year—
- 1 April to 30 September, and
 - 1 October to 31 March.

[^{F1}(1A) A qualifying individual is an individual to whom subsection (2) or (2A) applies.]

- (2) [^{F2}This subsection applies to] an individual who, on the qualifying date, was—
- in receipt of a carer's allowance under section 70 of the Social Security Contributions and Benefits Act 1992, and
 - resident in Scotland.

[^{F3}(2A) This subsection applies to an individual whom the Scottish Ministers have determined in accordance with Part 2 of the Carer's Allowance Supplement and Young Carers Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 ([S.S.I. 2020/475](#))—

- met the eligibility conditions in subsection (9) on the qualifying date (where the qualifying date is before IP completion day),
- met the eligibility conditions in subsection (11) on the qualifying date (where the qualifying date is after IP completion day and the individual has rights arising from a relevant EU regulation), or
- met the eligibility conditions in subsection (13) on the qualifying date (where the qualifying date is after IP completion day and the individual has rights arising from the UK-Ireland convention mentioned in that subsection).]

Status: Point in time view as at 16/11/2021. This version of this provision has been superseded.

Changes to legislation: Social Security (Scotland) Act 2018, Section 81 is up to date with all changes known to be in force on or before 31 March 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)

- (3) The qualifying date is a date determined by the Scottish Ministers falling within the period to which the payment relates.
- (4) The amount of a carer's allowance supplement is to be calculated according to the following formula [^{F4}(but see also subsection (4B))] —

$$(JSA - CA) \times 26$$

where—

JSA is whichever is the higher of—

- (a) the weekly amount specified in regulation 79(1)(c) of the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) as it has effect on the qualifying date, and
- (b) that amount as it would have effect on the qualifying date if it were adjusted for inflation in accordance with subsection (5), and

CA is the weekly rate of carer's allowance specified in Part 3 of schedule 4 of the Social Security Contributions and Benefits Act 1992 as it has effect in Scotland on the qualifying date.

[^{F5}(4B) The amount of a carer's allowance supplement in respect of the period of 1 October 2021 to 31 March 2022 is £231.40 greater than that calculated according to the formula in subsection (4).]

- (5) The Scottish Ministers must, before the start of each new tax year, beginning with the first new tax year beginning after this section comes into force—
- (a) calculate what the weekly amount specified in regulation 79(1)(c) of the Jobseeker's Allowance Regulations 1996 (“the JSA Regulations”) would be if it were adjusted for inflation,
 - (b) publish a statement explaining how they have calculated inflation for this purpose.
- (6) In calculating the amount for the purpose of subsection (5)(a), the Scottish Ministers may take account of any change in the weekly amount specified in regulation 79(1)(c) of the JSA Regulations since this section came into force.
- (7) For the purposes of subsection (5), a tax year means a period beginning with 6 April in one year and ending with 5 April in the next.
- (8) The Scottish Ministers may by regulations modify this section so as to modify who is a qualifying individual for the purposes of this section.
- [^{F6}(9) An individual met the eligibility conditions referred to in subsection (2A)(a) on a given date if, on that date, the individual—
- (a) was in receipt of a carer's allowance under section 70 of the Social Security Contributions and Benefits Act 1992,
 - (b) was an individual—
 - (i) to whom a relevant EU Regulation applied, and
 - (ii) in respect of whom the United Kingdom was competent for payment of sickness benefits in cash for the purposes of Chapter 1 of Title III of the Regulation in question,
 - (c) was resident in—

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- (i) Switzerland, or
 - (ii) an EEA State other than the United Kingdom, and
 - (d) had a genuine and sufficient link to Scotland.
- (10) The reference in subsection (9)(d) to an individual's link to Scotland being sufficient is to it being sufficiently close that if the individual were not entitled to the carer's allowance supplement this section—
- (a) would be incompatible with EU law, or
 - (b) would have been incompatible with EU law immediately before IP completion day.
- (11) An individual met the eligibility conditions referred to in subsection (2A)(b) on a given date if, on that date, the individual—
- (a) was in receipt of a carer's allowance under section 70 of the Social Security Contributions and Benefits Act 1992,
 - (b) was an individual—
 - (i) to whom the rules set out in a relevant EU regulation applied by virtue of—
 - (A) Title III of Part 2 of the EU withdrawal agreement,
 - (B) Part 3 or Article 23(4) of the Swiss citizens' rights agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020),
 - (C) Title III of the EEA EFTA separation agreement (as defined in that section), or
 - (D) the agreement constituted by the exchange of letters set out in the schedule of the Family Allowances, National Insurance and Industrial Injuries (Gibraltar) Order 1974 (S.I. 1974/555) between the United Kingdom and Gibraltar, and
 - (ii) in respect of whom the United Kingdom is, as a result, competent for payment of sickness benefits in cash,
 - (c) was resident in—
 - (i) Switzerland,
 - (ii) an EEA State, or
 - (iii) Gibraltar, and
 - (d) had a genuine and sufficient link to Scotland.
- (12) The reference in paragraph (d) of subsection (11) to an individual's link to Scotland being sufficient is to it being sufficiently close that if the individual were not entitled to the carer's allowance supplement this section would be incompatible with the applicable agreement mentioned in paragraph (b)(i) of that subsection.
- (13) An individual met the eligibility conditions referred to in subsection (2A)(c) on a given date if, on that date, the individual—
- (a) was in receipt of a carer's allowance under section 70 of the Social Security Contributions and Benefits Act 1992,
 - (b) was an individual—
 - (i) to whom the convention on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland signed at Dublin on 1 February 2019, as modified from time to time in accordance with any provision of it, applied, and

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- (ii) in respect of whom the United Kingdom is, as a result, competent for payment of long term care benefits,
 - (c) was resident in Ireland, and
 - (d) had a genuine and sufficient link to Scotland.
- (14) The reference in paragraph (d) of subsection (13) to an individual’s link to Scotland being sufficient is to it being sufficiently close that if the individual were not entitled to the carer’s allowance supplement, this section would be incompatible with the convention mentioned in paragraph (b) of that subsection.
- (15) In this section—
- “EEA State” means—
 - (a) a member State of the European Union, or
 - (b) any other State that is a party to the agreement on the European Economic Area signed at Oporto on 2 May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993, as modified or supplemented from time to time, “EU law” has the meaning given by subsection (9) of section 126 of the Scotland Act 1998, or if that subsection has been repealed, the meaning given by that subsection immediately before its repeal,
 - “relevant EU Regulation” means—
 - (a) one of the following Regulations—
 - (i) Council Regulation (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community,
 - (ii) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, or
 - (b) in relation to an individual to whom the exchange of letters mentioned in subsection (11)(b)(i)(D) applies, a Regulation mentioned in paragraph (a) as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018.]

Textual Amendments

- F1** S. 81(1A) inserted (24.12.2020) by [The Carer’s Allowance Supplement and Young Carer Grants \(Residence Requirements and Procedural Provisions\) \(EU Exit\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/475\)](#), reg. 1, [sch. 1 para. 2](#)
- F2** Words in s. 81(2) substituted (24.12.2020) by [The Carer’s Allowance Supplement and Young Carer Grants \(Residence Requirements and Procedural Provisions\) \(EU Exit\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/475\)](#), reg. 1, [sch. 1 para. 3](#)
- F3** S. 81(2A) inserted (24.12.2020) by [The Carer’s Allowance Supplement and Young Carer Grants \(Residence Requirements and Procedural Provisions\) \(EU Exit\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/475\)](#), reg. 1, [sch. 1 para. 4](#)
- F4** Words in s. 81(4) inserted (16.11.2021) by [Carer’s Allowance Supplement \(Scotland\) Act 2021 \(asp 20\)](#), [ss. 1\(a\)](#), 3(1)
- F5** S. 81(4B) inserted (16.11.2021) by [Carer’s Allowance Supplement \(Scotland\) Act 2021 \(asp 20\)](#), [ss. 1\(b\)](#), 3(1)

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- F6** S. 81(9)-(15) inserted (24.12.2020) by [The Carer's Allowance Supplement and Young Carer Grants \(Residence Requirements and Procedural Provisions\) \(EU Exit\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/475\)](#), reg. 1, **sch. 1 para. 5**

Commencement Information

- I1** S. 81 in force at 3.9.2018 by [S.S.I. 2018/250](#), **reg. 2(1)** (with reg. 3)

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