
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

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

PART 1

Introductory and interpretation

Citation and commencement

1.—(1) These Regulations may be cited as the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023.

(2) Subject to paragraph (3), these Regulations come into force on 19 November 2023.

(3) Regulation 13(2) and (3) come into force on 1 October 2024.

Interpretation

2. In these Regulations—

“the 2018 Act” means the Social Security (Scotland) Act 2018,

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992⁽¹⁾,

“Adult Disability Payment” means disability assistance for adults given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022⁽²⁾,

“Armed Forces Independence Payment” means a payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011⁽³⁾,

“Attendance Allowance” means an attendance allowance under—

(a) section 64 of the 1992 Act, or

(b) the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992⁽⁴⁾,

“award week” means a period of 7 days beginning on a Sunday and ending on a Saturday,

“cared for person” is a person described in regulation 5(1),

“carer element of Universal Credit” means the amount awarded by virtue of—

(a) section 12(2)(c) of the Welfare Reform Act 2012⁽⁵⁾, or

(b) article 17(2)(c) of the Welfare Reform (Northern Ireland) Order 2015⁽⁶⁾,

“Carer's Allowance” means a benefit for carers given under—

(1) 1992 c. 4.

(2) S.S.I. 2022/54.

(3) S.I. 2011/517.

(4) S.I. 1992/20, amended by S.I. 1997/69, S.I. 2000/71, S.I. 2005/536, S.I. 2006/359, S.I. 2016/229, S.I. 2017/218 and S.I. 2022/335.

(5) 2012 c. 5, amended by section 16 of the Welfare Reform Act 2016 (c. 7).

(6) S.I. 2015/2006, amended by S.I. 2016/999.

- (a) section 70 (carer's allowance) of the 1992 Act(7), or
- (b) section 70 (carer's allowance) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(8),

“Carer Support Payment” means carer's assistance given in accordance with these Regulations, “Child Disability Payment” means disability assistance for children and young people given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021(9),

“Constant Attendance Allowance” means an allowance under—

- (a) section 104 of the 1992 Act, or
- (b) article 8 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(10),

“couple” has the meaning given by section 39 of the Welfare Reform Act 2012(11),

“determination” or “determination of entitlement” has the meaning in section 25 of the 2018 Act,

“Disability Living Allowance” means a disability living allowance under—

- (a) section 71 of the 1992 Act, or
- (b) section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(12),

“EEA state” means—

- (a) any member state of the European Union, or
- (b) any other state that is party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992(13), together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993(14), as modified or supplemented from time to time,

“Industrial Injuries Disablement Benefit” means a benefit payable under Part V and section 103 of the 1992 Act,

“legal detention” means detention in legal custody within the meaning of section 295 of the Criminal Procedure (Scotland) Act 1995(15),

“Personal Independence Payment” means personal independence payment under—

- (a) Part 4 of the Welfare Reform Act 2012, or
- (b) Article 82 of the Welfare Reform (Northern Ireland) Order 2015(16),

“qualifying disability benefit” means—

- (a) the daily living component of Adult Disability Payment at the standard or enhanced rate,
- (b) the daily living component of Personal Independence Payment,
- (c) the care component of Child Disability Payment at the middle or highest rate,
- (d) the care component of Disability Living Allowance at the middle or highest rate,

(7) Section 70 was relevantly amended by [S.S.I. 2021/174](#) and [S.S.I. 2022/54](#).

(8) 1992 c. 7, amended by [S.I. 1994/370](#), [S.I. 2002/321](#), [S.I. 2011/356](#), [S.I. 2016/228](#), [S.I. 2016/236](#), [S.I. 2021/1301](#) and [S.I. 2022/332](#).

(9) [S.S.I. 2021/174](#).

(10) [S.I. 2006/606](#), relevantly amended by [S.I. 2009/706](#).

(11) 2012 c. 5, amended by [S.I. 2014/3229](#) and [S.I. 2019/1458](#).

(12) 1992 c. 7.

(13) Command Paper 2073 and OJ L 1, 3.1.1994, p.3.

(14) Command Paper 2183 and OJ L 1, 3.1.1994, p.572.

(15) 1995 c. 46, amended by section 24(2) of the Criminal Justice (Scotland) Act 2003 ([asp 7](#)).

(16) [S.I. 2015/2006](#).

- (e) Attendance Allowance,
- (f) Armed Forces Independence Payment, or
- (g) Constant Attendance Allowance—
 - (i) at or above the normal maximum rate with Industrial Injuries Disablement Benefit, or
 - (ii) at the basic (full day) rate with a War Disablement Pension,

“relevant EU Regulation” means—

- (a) one of the following Regulations—
 - (i) Council Regulation (EC) No 1408/71 of 14 June 1971⁽¹⁷⁾ 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⁽¹⁸⁾ on the coordination of social security systems, or
- (b) in relation to an individual to whom 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⁽¹⁹⁾ applies, a Regulation mentioned in paragraph (a) of this definition as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018⁽²⁰⁾,

“War Disablement Pension” means—

- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under the Air Force (Constitution) Act 1917⁽²¹⁾, the Personal Injuries (Emergency Provisions) Act 1939⁽²²⁾, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939⁽²³⁾, the Polish Resettlement Act 1947⁽²⁴⁾, or Part VII or section 151 of the Reserve Forces Act 1980⁽²⁵⁾,
- (b) without prejudice to paragraph (a) of this definition, any retired pay or pension to which any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003⁽²⁶⁾ applies, and

“Young Carer Grant” means a grant paid under the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019⁽²⁷⁾.

(17) OJ L 28, 30.1.1997, p.1, relevantly amended by Council Regulation (EC) No 118/97 of 2 December 1996 amending and updating Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71.

(18) OJ L 166, 30.4.2004, p.1.

(19) S.I. 1974/555.

(20) 2018 c. 16, relevantly amended by section 25(2) of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(21) 1917 c. 51.

(22) 1939 c. 82.

(23) 1939 c. 83.

(24) 1947 c. 19.

(25) 1980 c. 9.

(26) 2003 c. 1, amended by section 19 of the Finance Act 2005 (c. 2) and schedule 1 of the Statute Law (Repeals) Act 2008 (c. 12).

(27) S.S.I. 2019/324.