
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

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

PART 3

Eligibility

Age criteria

4.—(1) Carer Support Payment may only be paid in respect of an individual who is 16 years of age or older.

(2) Where an individual was born on 29 February, the individual's birthday is to be taken to fall on 28 February in a year which is not a leap year.

Provision of care to a cared for person

5.—(1) Carer Support Payment may only be paid to an individual in respect of a period during which that individual provides regular and substantial care to a person to whom a qualifying disability benefit is normally payable (a "cared for person").

(2) For the purposes of paragraph (1), an individual shall only be treated as being regularly and substantially engaged in caring for a cared for person on every day in a week if they are, or are likely to be, regularly engaged for at least 35 hours in an award week in caring for that cared for person.

(3) No individual can be entitled to Carer Support Payment in respect of a cared for person where another individual is entitled to—

- (a) Carer Support Payment,
- (b) Carer's Allowance, or
- (c) the carer element of Universal Credit,

in respect of that cared for person.

(4) The care must not be provided by an individual—

- (a) under or by virtue of a contract, unless the contract is of a kind specified by regulations made under section 1(3)(a) of the Carers (Scotland) Act 2016⁽¹⁾ as not to be regarded as a contract for the purposes of that Act, or
- (b) as voluntary work done for a charity or other not-for-profit organisation for which no payment is received other than reasonable expenses.

(5) No individual can be entitled to more than one Carer Support Payment in respect of the same period.

(6) No individual can be entitled to Carer Support Payment in respect of a period during which they are in legal detention.

(1) 2016 asp 9.

(7) For the avoidance of doubt, an individual may be entitled to Carer Support Payment in respect of a cared for person where another individual is entitled to Young Carer Grant for that cared for person.

Residence and presence conditions

6.—(1) An individual satisfies the residence and presence conditions where on any day that individual—

- (a) is ordinarily resident in Scotland,
- (b) is habitually resident in the common travel area,
- (c) is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999⁽²⁾,
- (d) is present in the common travel area, and
- (e) has been present in the common travel area for a period of, or for periods amounting in the aggregate to, not less than 26 weeks of the 52 weeks immediately preceding that day.

(2) In this Part, “common travel area” has the meaning given in section 1(3) of the Immigration Act 1971⁽³⁾.

(3) The residence condition set out in paragraph (1)(a) does not apply where on any day the individual—

- (a) is habitually resident in Ireland,
- (b) has a genuine and sufficient link to Scotland, and
- (c) is 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⁽⁴⁾, as modified from time to time in accordance with any provision of it, applies, and
 - (ii) in respect of whom the United Kingdom is, as a result, competent for the payment of long term care benefits.

(4) The reference in paragraph (3)(b) to an individual’s link to Scotland being sufficient is to it being sufficiently close that if the individual were not entitled to Carer Support Payment, paragraph (3) would be incompatible with 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.

(5) Paragraph (1)(c) does not apply to a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 where the person—

- (a) is lawfully working in the United Kingdom and is a national of a state with which the United Kingdom has concluded an agreement which replaces in whole or in part an agreement under Article 217 of the Treaty on the Functioning of the European Union⁽⁵⁾ which has ceased to apply to, and in, the United Kingdom, providing, in the field of social security, for the equal treatment of workers who are nationals of the signatory state and their families,
- (b) is a member of the family of, and living with, a person specified in sub-paragraph (a), or

(2) 1999 c. 33, relevantly amended by S.I. 2020/1309.

(3) 1971 c. 77.

(4) 2019 CP 49.

(5) OJ C 202, 7.6.2016, p.146.

- (c) has been given leave to enter, or remain in, the United Kingdom by the Secretary of State upon an undertaking by another person or persons pursuant to the immigration rules, to be responsible for their maintenance and accommodation.
- (6) The past presence condition in paragraph (1)(e) does not apply where an individual—
- (a) has a terminal illness, or
 - (b) cares for a cared for person who—
 - (i) has a terminal illness,
 - (ii) is in receipt of Armed Forces Independence Payment or Constant Attendance Allowance at or above the normal maximum rate with Industrial Injuries Disablement Benefit, or at the basic (full day) rate with a War Disablement Pension, or
 - (iii) is not required to meet a past presence condition by virtue of an exception set out in—
 - (aa) regulation 2A(1) or 2C(1) of the Social Security (Attendance Allowance) Regulations 1991(6),
 - (bb) regulation 2A(1) or 2C(1) of the Social Security (Disability Living Allowance) Regulations 1991(7),
 - (cc) regulation 2A(1), 2B, 2C(1) or paragraph 5 of Schedule 2 of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(8),
 - (dd) regulation 22 or 23A(1) of the Social Security (Personal Independence Payment) Regulations 2013(9),
 - (ee) regulation 5(8), (10)(b), 5(10A) or 8 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021(10), or
 - (ff) regulation 15(7), 17(2), 18 or 19 of the Disability Assistance for Working Age People (Scotland) Regulations 2022(11).
- (7) For the purposes of paragraph (6), an individual or a cared for person has a terminal illness where they are entitled to—
- (a) Disability Living Allowance by virtue of regulation 2(4) of the Social Security (Disability Living Allowance) Regulations 1991,
 - (b) Disability Living Allowance by virtue of regulation 2(3) of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992,
 - (c) Attendance Allowance by virtue of section 66 of the 1992 Act,
 - (d) Attendance Allowance by virtue of regulation 2(3) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(12),
 - (e) Personal Independence Payment by virtue of regulation 21 of the Social Security (Personal Independence Payment) Regulations 2013,

(6) S.I. 1991/2740. Regulation 2A was inserted by S.I. 2013/389. Regulation 2C was inserted by S.I. 2017/1015 and amended by S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336 and S.S.I. 2023/149.

(7) S.I. 1991/2890. Regulation 2A was inserted by S.I. 2013/389. Regulation 2C was inserted by S.I. 2017/1015 and amended by S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336 and S.S.I. 2023/149.

(8) S.R. 1992 No. 32. Regulations 2A and 2B were inserted by S.R. 2016 No. 229 and regulation 2B was amended by S.I. 2019/129. Regulation 2C was inserted by S.R. 2017 No. 218 and amended by S.R. 2021 No. 269, S.R. 2022 No. 149, S.R. 2022 No. 230 and S.R. 2023 No. 80.

(9) S.I. 2013/377. Regulation 23A was inserted by S.I. 2017/1015 and amended by S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336 and S.S.I. 2023/149.

(10) S.S.I. 2021/174, amended by S.S.I. 2022/41, 2021/416, S.S.I. 2021/320, S.S.I. 2022/108, S.S.I. 2022/336 and S.S.I. 2023/149.

(11) S.S.I. 2022/54, amended by S.S.I. 2022/108, S.S.I. 2022/336 and S.S.I. 2023/149.

(12) S.R. 1992 No. 20, amended by S.R. 1997 No. 69, S.R. 2000 No. 71, S.R. 2005 No. 536, S.R. 2006 No. 359, S.R. 2016 No. 229, S.R. 2017 No. 218 and S.I. 2022/335.

- (f) Universal Credit by virtue of regulations 16(2), 28(5)(a) or 40(5) read with paragraph 1 of Schedule 9 of the Universal Credit Regulations 2013⁽¹³⁾,
 - (g) Employment and Support Allowance by virtue of regulations 7(1)(a), 16(1)(a), 31(1)(a), 45(2) or 85(2)(b) of the Employment and Support Allowance Regulations 2013⁽¹⁴⁾,
 - (h) Personal Independence Payment by virtue of regulation 21 of the Personal Independence Payment Regulations (Northern Ireland) 2016⁽¹⁵⁾,
 - (i) Child Disability Payment by virtue of regulation 15 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021,
 - (j) Adult Disability Payment by virtue of regulation 26 of the Disability Assistance for Working Age People (Scotland) Regulations 2022.
- (8) The habitual residence condition in paragraph (1)(b) and the past presence condition in paragraph (1)(e) do not apply where an individual is a person who—
- (a) has leave to enter or remain in the United Kingdom granted under the immigration rules by virtue of—
 - (i) the Afghan Relocations and Assistance Policy, or
 - (ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme),
 - (b) has been granted discretionary leave outside the immigration rules as a dependant of a person referred to in sub-paragraph (a),
 - (c) has leave granted under the Afghan Citizens Resettlement Scheme,
 - (d) has been granted refugee status or humanitarian protection under the immigration rules,
 - (e) has leave to enter or remain in the United Kingdom as the dependant of a person referred to in sub-paragraph (d),
 - (f) has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, has a right of abode in the United Kingdom within the meaning given in section 2⁽¹⁶⁾ of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where the individual—
 - (i) was residing in Ukraine immediately before 1 January 2022, and
 - (ii) left Ukraine in connection with the Russian invasion which took place on 24 February 2022, or
 - (g) has leave to enter or remain in the United Kingdom granted under or outside the immigration rules, has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where the individual—
 - (i) was residing in Sudan before 15 April 2023, and
 - (ii) left Sudan in connection with the violence which rapidly escalated on 15 April 2023 in Khartoum and across Sudan.
- (9) For the purposes of this regulation—
- (a) “immigration rules” means the rules laid before Parliament under section 3(2) of the Immigration Act 1971⁽¹⁷⁾,

⁽¹³⁾ S.I. 2013/376, amended by S.I. 2022/60 and S.I. 2014/597.

⁽¹⁴⁾ S.I. 2013/379, amended by S.I. 2022/60.

⁽¹⁵⁾ S.R. 2016 No. 217.

⁽¹⁶⁾ 1971 c. 77, amended by section 39 of the British Nationality Act 1981 (c. 61) and S.I. 2019/745.

⁽¹⁷⁾ 1971 c. 77.

- (b) “the Afghan Citizens Resettlement Scheme” means the scheme announced by the United Kingdom Government on 18 August 2021(18).

Temporary absence from the common travel area

7.—(1) Where an individual is temporarily absent from the common travel area, the individual is to be treated as present in the common travel area during the first—

- (a) 4 weeks of any period of absence,
 - (b) 13 weeks of any period of absence where that period of absence, or any extension to that period of absence, is for the specific purpose of caring for a cared for person who is also absent from the common travel area and where that cared for person is paid a qualifying disability benefit during that period, or
 - (c) 26 weeks of any period of absence where—
 - (i) that period of absence, or any extension to that period of absence, is for the specific purpose of caring for a cared for person and is in connection with arrangements made for the medical treatment of the cared for person for a disease or bodily or mental disablement which commenced before leaving the common travel area and where that cared for person is paid a qualifying disability benefit during that period, and
 - (ii) the arrangements relate to medical treatment—
 - (aa) outside the common travel area,
 - (bb) during the period when the cared for person is temporarily absent from the common travel area, and
 - (cc) by, or under the supervision of, a person appropriately qualified to carry out that treatment.
- (2) For the purposes of paragraph (1)—
- (a) an individual is “temporarily absent” if, at the beginning of the period of absence, that absence is unlikely to exceed 52 weeks, and
 - (b) “medical treatment” means medical, surgical, psychological or rehabilitative treatment (including any course or diet regimen).

Serving members of His Majesty’s forces, civil servants and their family members

8.—(1) A relevant individual is to be treated as meeting the residence and presence conditions set out in regulations 6(1)(a), (b) and (d) where on any day that individual is outside the common travel area—

- (a) by reason of their capacity mentioned in paragraph (3)(a) provided that the individual satisfied the residence and presence conditions set out in regulation 6(1)(a), (b) and (d) immediately prior to the start of their employment mentioned in paragraph (3)(a), or
 - (b) by reason of being a person mentioned in paragraph (3)(b) living with an individual to whom paragraph (3)(a) applies.
- (2) The past presence condition set out in regulation 6(1)(e) does not apply to a relevant individual.
- (3) A “relevant individual” in paragraph (1) and (2) means an individual who is—
- (a) outside of the common travel area in their capacity as a—
 - (i) serving member of His Majesty’s forces, or

- (ii) civil servant, or
- (b) living with a person mentioned in sub-paragraph (a) and—
 - (i) is the child, step-child or child in care of that person,
 - (ii) is the parent, step-parent or parent-in-law of that person, or
 - (iii) is married to or in a civil partnership with that person, or is living together with that person as if they were married or in a civil partnership.

(4) In this regulation—

“child in care” means—

- (a) under the law of Scotland, a child in respect of whom a relevant individual listed in paragraph (3)(a)—
 - (i) is a foster carer within the meaning of regulation 2 of the Looked After Children (Scotland) Regulations 2009⁽¹⁹⁾,
 - (ii) is a kinship carer within the meaning of regulation 2 of the Looked After Children (Scotland) Regulations 2009,
 - (iii) has a kinship care order within the meaning of section 72 of the Children and Young People (Scotland) Act 2014⁽²⁰⁾, or
- (b) under the law of England and Wales and Northern Ireland, a child in respect of whom a person listed in paragraph (3)(a) has a relationship equivalent to those listed under the law of Scotland,

“civil servant” has the meaning given by section 1(4) of the Constitutional Reform and Governance Act 2010⁽²¹⁾, and

“serving member of His Majesty’s forces” means a member of a regular force or a reserve force (“M”) as defined, in each case, by section 374 (definitions applying for purposes of the whole Act) of the Armed Forces Act 2006⁽²²⁾, unless—

- (a) M is under the age of 16,
- (b) M is committing an offence under section 8 of the Armed Forces Act 2006 (desertion),
- (c) the force concerned is one of His Majesty’s naval forces which M locally entered at an overseas base without—
 - (i) previously being an insured person under the National Insurance Act 1965⁽²³⁾, or
 - (ii) paying or having previously paid one or more of the following classes of contributions under the Social Security Act 1975⁽²⁴⁾ or the 1992 Act—
 - (aa) primary Class 1,
 - (bb) Class 2, or
 - (cc) Class 3, or
- (d) the force concerned is one of His Majesty’s military forces or His Majesty’s air forces which M entered, or was recruited for, outside the United Kingdom and—
 - (i) where that force is one of His Majesty’s military forces, the depot for M’s unit is outside the United Kingdom, or

⁽¹⁹⁾ S.S.I. 2009/210.

⁽²⁰⁾ 2014 asp 8.

⁽²¹⁾ 2010 c. 25.

⁽²²⁾ 2006 c. 52. Section 374 was relevantly amended by section 44(3) of the Defence Reform Act 2014 (c. 20).

⁽²³⁾ 1965 c. 51.

⁽²⁴⁾ 1975 c. 14.

- (ii) where that force is one of His Majesty's air forces, M is liable under the terms of M's engagement to serve only in a specified area outside the United Kingdom.

Aircraft workers, mariners and continental shelf operations

9.—(1) An individual is to be treated as meeting the presence conditions set out in regulation 6(1)(d) and (e) for any period where that individual is—

- (a) outside the common travel area in their capacity as an aircraft worker or a mariner, or
- (b) in employment prescribed for the purposes of section 120 (employment at sea (continental shelf operations)) of the 1992 Act⁽²⁵⁾ in connection with continental shelf operations.

(2) In this regulation—

“aircraft worker” means a person who is, or has been, employed under a contract of service either as a pilot, commander, navigator or other member of the crew of any aircraft, or in any other capacity on board any aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mail carried on that aircraft, and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight,

but does not include a person so far as that employment is as a serving member His Majesty's forces, and

“mariner” means a person who is, or has been, in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passenger or cargo or mail carried by the ship or vessel, and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on voyage,

but does not include a person in so far as that employment is as a serving member of His Majesty's forces.

Persons residing in the United Kingdom to whom a relevant EU regulation applies

10.—(1) The past presence condition set out in regulation 6(1)(e) (residence and presence conditions) does not apply where on any day the individual is—

- (a) ordinarily resident in Scotland,
- (b) habitually resident in the United Kingdom,
- (c) an individual—
 - (i) to whom the rules set out in a relevant EU regulation apply by virtue of—
 - (aa) Title III of Part 2 of the EU withdrawal agreement,
 - (bb) 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⁽²⁶⁾ (“the 2020 Act”),

⁽²⁵⁾ Section 120 was relevantly amended by paragraph 30 of schedule 4 of the Petroleum Act 1998 (c. 17), paragraph 26 of schedule 3 and paragraph 8 of schedule 7 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), paragraph 70 of schedule 7 of the Social Security Act 1998 (c. 14), and section 12(2) to (4) of the National Insurance Contributions Act 2014 (c. 7).

⁽²⁶⁾ 2020 c. 1.

(cc) Title III of the EEA EFTA separation agreement (as defined in section 39(1) of the 2020 Act), or

(dd) 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⁽²⁷⁾,

(ii) in respect of whom the United Kingdom is, as a result, competent for payment of sickness benefits in cash.

(2) An individual to whom a relevant EU regulation applies is not entitled to Carer Support Payment for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of the relevant EU regulation in question.

Persons residing outside the United Kingdom to whom a relevant EU regulation applies

11.—(1) The residence and presence conditions set out in regulation 6(1) (residence and presence conditions) do not apply in relation to Carer Support Payment where on any day the individual satisfies the conditions in paragraph (2).

(2) The conditions referred to in paragraph (1) are that the individual must—

(a) be an individual—

(i) to whom the rules set out in a relevant EU regulation apply by virtue of—

(aa) Title III of Part 2 of the EU withdrawal agreement,

(bb) 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 ("the 2020 Act"),

(cc) Title III of the EEA EFTA separation agreement (as defined in section 39(1) of the 2020 Act), or

(dd) 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, and

(ii) in respect of whom the United Kingdom is, as a result, competent for payment of sickness benefits in cash,

(b) be habitually resident in—

(i) Switzerland,

(ii) an EEA state, or

(iii) Gibraltar, and

(c) have a genuine and sufficient link to Scotland.

(3) The reference in paragraph (2)(c) to an individual's link to Scotland being sufficient is to it being sufficiently close that if the individual were not entitled to Carer Support Payment, paragraph (2) would be incompatible with the applicable agreement mentioned in sub-paragraph (a) (i) of that paragraph.

(4) An individual to whom a relevant EU regulation applies is not entitled to Carer Support Payment for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of the relevant EU regulation in question.

(27) S.I. 1974/555.

Entitlement to other benefits

12.—(1) An individual is not entitled to Carer Support Payment in respect of a cared for person for any period that they are entitled to—

- (a) Carer's Allowance,
- (b) the carer element of Universal Credit in respect of a different cared for person, or
- (c) Young Carer Grant.

(2) An individual may be entitled to Carer Support Payment in respect of a cared for person where they have previously been entitled to Young Carer Grant.

Individuals in education

13.—(1) An individual who has not reached the age of 20 will not be entitled to Carer Support Payment if they are—

- (a) undertaking a course of full-time education, which is not advanced education and which is not provided by virtue of their employment or any office held by them, or
 - (b) being provided with "appropriate full-time education" in England within the meaning of section 4 (appropriate full-time education or training) of the Education and Skills Act 2008⁽²⁸⁾, which is not—
 - (i) a course in preparation for a degree, a diploma of higher education, a higher national certificate, a higher national diploma, a teaching qualification, any other course which is of a standard above ordinary national diploma, a national diploma, or national certificate of Edexcel, a general certificate of education (advanced level), or Scottish national qualifications at higher or advanced higher level,
 - (ii) provided by virtue of their employment of any office held by them,
 - (c) undertaking approved training that is not provided by means of a contract of employment.
- (2) This regulation does not apply to an individual if they are—
- (a) without parental support,
 - (b) entitled to disability living allowance, child disability payment, adult disability payment or personal independence payment and, on a date before the date on which the individual starts receiving education—
 - (i) it has been determined that they have limited capability for work or limited capability for work and work-related activity on the basis of an assessment under Part 5 of the Universal Credit Regulations 2013⁽²⁹⁾ or under Part 4 or 5 of the Employment and Support Allowance Regulations 2013⁽³⁰⁾, or
 - (ii) they are treated as having limited capability for work under schedule 8 of the Universal Credit Regulations 2013 or limited capability for work and work-related activity under schedule 9 of the Universal Credit Regulations 2013,
 - (c) responsible for a child or a qualifying young person,
 - (d) single and is a foster parent with whom a child is placed,
 - (e) a member of a couple—
 - (i) and the other member of the couple is not undertaking a course of education, or
 - (ii) both of whom are receiving education, and the other member of the couple falls within one of the exceptions set out in paragraph (2)(a) to (d).

⁽²⁸⁾ 2008 c. 25, amended by schedule 3 of the Children and Families Act 2014 (c. 6).

⁽²⁹⁾ S.I. 2013/376.

⁽³⁰⁾ S.I. 2013/379.

(3) For the purposes of paragraph (2)(a), an individual is without parental support if they are not being looked after by a local authority and—

- (a) has no parent,
- (b) cannot live with their parents because—
 - (i) the individual is estranged from them, or
 - (ii) there is a serious risk to the individual's physical or mental health, or that individual would suffer significant harm if the individual lived with them,
- (c) is living away from their parents, and neither parent is able to support the individual financially because that parent—
 - (i) has a physical or mental impairment,
 - (ii) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court, or
 - (iii) is prohibited from entering or re-entering Great Britain.

(4) For the purposes of this regulation—

“advanced education” means full-time education (which is not school education within the meaning of the Education (Scotland) Act 1980(31)) for the purposes of—

- (a) a course in preparation for a degree, a diploma of higher education, a higher national certificate, a higher national diploma, or a teaching qualification, or
- (b) any other course which is of a standard above ordinary national diploma, a national diploma or national certificate of Edexcel, a general certificate of education (advanced level), or Scottish national qualifications at higher or advanced higher level,

“approved training” means arrangements made by the Government—

- (a) in relation to Wales, known as “Traineeships” or “Foundation Apprenticeships”,
- (b) in relation to Scotland, known as “No One Left Behind”, or
- (c) in relation to Northern Ireland, known as “PEACE IV Children and Young People 2.1”, “Training for Success”, or “Skills for Life and Work”,

“arrangements made by the Government” means arrangements—

- (a) in relation to England and Wales, made by the Secretary of State under section 2 of the Employment and Training Act 1973(32),
- (b) in relation to Scotland, made—
 - (i) by the Scottish Ministers under section 2 of the Employment and Training Act 1973,
 - (ii) by Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(33), or
- (c) in relation to Northern Ireland, made by the Department for Communities or the Department for the Economy under sections 1 and 3 of the Employment and Training Act (Northern Ireland) 1950(34),

(31) 1980 c. 44. Section 1(5)(a) was amended by schedule 3 of the Standards in Scotland's Schools etc. Act 2000 (asp 6), schedule 3 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) and schedule 5 of the Children and Young People (Scotland) Act 2014 (asp 8).

(32) 1973 c. 50. Section 2 was amended by section 25 of the Employment Act 1988 (c. 19), section 29 of the Employment Act 1989 (c. 38) and section 47 of the trade Union reform and Employment Rights Act 1993 (c.19).

(33) 1990 c. 35. Section 2 was amended by section 47 and schedule 10 of the Trade Union Reform and Employment Rights Act 1993 (c. 19), schedule 26 of the Equality Act 2010 (c. 15) and S.I. 1999/1820.

(34) 1950 c. 29. Section 1 was amended by sections 20 and 21 and schedule 1 of the Employment Act (Northern Ireland) 2016 (c. 15) and S.I. 2016/76. Section 3 was amended by S.I. 2016/76.

“foster parent” means—

- (a) under the law of Scotland, a foster carer or kinship carer with whom a child is placed under the Looked After Children (Scotland) Regulations 2009⁽³⁵⁾, or
- (b) under the law of England and Wales and Northern Ireland, a person with whom a child is placed who has an equivalent relationship with the child to those listed under the law of Scotland,

“full-time education”—

- (a) is education undertaken in pursuit of a course, where the average time spent during term time in receiving tuition, engaging in practical work, or supervised study, or taking examinations exceeds 21 hours per week, and
- (b) in calculating the time spent in pursuit of the course, no account is taken of time occupied by meal breaks or spent on unsupervised study, and

“qualifying young person” has the same meaning as regulation 5 of the Universal Credit Regulations 2013.

Earnings limit

14.—(1) An individual is not entitled to Carer Support Payment in any award week in which their earnings in respect of that award week exceed £139.

- (2) Earnings are to be calculated in accordance with schedule 2.