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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2023 No.**

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

**PART 5**

**Suspensions**

**Circumstances in which assistance may be suspended**

**29.**—(1) The Scottish Ministers may decide that an individual who has an ongoing entitlement to Carer Support Payment in respect of a period by virtue of regulation 25 (continuing eligibility) is not to become entitled to be given some or all of that assistance at the time at which the individual otherwise would in accordance with that regulation, as read with regulation 22 (time of payment) (referred to in these Regulations as a decision to suspend the individual's Carer Support Payment).

(2) Where such a decision is made in respect of an individual, payments of Carer Support Payment to that individual are to be suspended until such a time as the Scottish Ministers decide that the individual is once again to become entitled to be given Carer Support Payment.

(3) The Scottish Ministers may decide to suspend an individual's Carer Support Payment only in the circumstances where—

- (a) section 54(1A) of the 2018 Act<sup>(1)</sup> applies, or
- (b) the Scottish Ministers have made arrangements (whether under section 85B of the 2018 Act<sup>(2)</sup> or otherwise) for a person to receive Carer Support Payment on the individual's behalf, and the Scottish Ministers consider that it is necessary to suspend the Carer Support Payment—
  - (i) in order to protect the individual from the risk of financial abuse, or
  - (ii) because the person with whom the Scottish Ministers have made arrangements is unable to continue to receive the Carer Support Payment.
- (c) In this regulation "financial abuse" includes—
  - (i) having money or other property stolen,
  - (ii) being defrauded,
  - (iii) being put under pressure in relation to money or other property,
  - (iv) having money or other property misused.

**Having regard to financial circumstances**

**30.** The Scottish Ministers must have regard to an individual's financial circumstances prior to making a decision to suspend payment to the individual of some or all of Carer Support Payment.

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(1) 2018 asp 9, amended by section 12(3) of the Social Security Administration and Tribunal Membership (Scotland) Act 2020 (asp 18) ("the 2020 Act").

(2) Section 85B was inserted by section 2(4) of the 2020 Act.

### Information to be given following suspension

**31.**—(1) Having made a decision to suspend an individual's Carer Support Payment, the Scottish Ministers must inform the individual of—

- (a) their decision to suspend the individual's Carer Support Payment,
- (b) the reasons for their decision,
- (c) any steps which might be taken by the individual in order for the Scottish Ministers to consider ending the suspension, and
- (d) the individual's right under regulation 32 (right to review suspension) to require the Scottish Ministers to review their decision.

(2) The Scottish Ministers must fulfil their duty under paragraph (1) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

### Right to review suspension

**32.**—(1) An individual may require the Scottish Ministers to review a decision to suspend that individual's Carer Support Payment.

(2) The Scottish Ministers must—

- (a) complete a review mentioned in paragraph (1) within 31 days beginning with the day on which they received notice from the individual requiring them to review their decision,
- (b) inform the individual of the outcome of the review including the reasons for it.

(3) The Scottish Ministers must fulfil their duty under paragraph (2)(b) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

### Ending a suspension

**33.** The Scottish Ministers are to make a decision to end a suspension where—

- (a) the individual provides the information requested under section 54(1) of the 2018 Act<sup>(3)</sup> and the Scottish Ministers consider that they do not require to make a determination without application,
- (b) regulation 29(3)(a) (circumstances in which assistance may be suspended) applies and the Scottish Ministers make a determination without application under regulation 35 (consideration of entitlement after specified period), 36 (determination following change of circumstances, etc.), 37 (determination following official error – underpayments), 38 (determination following error – overpayments) or 39 (determination to effect a deduction decision),
- (c) the Scottish Ministers make a determination under section 54(2)(4) of the 2018 Act,
- (d) the circumstances mentioned in regulation 29(3)(b) (circumstances in which assistance may be suspended) no longer apply, or
- (e) the Scottish Ministers consider it appropriate in the circumstances, including having regard to the financial circumstances of the individual.

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(3) Section 54(1) was amended by section 12(3)(a) of the Social Security Administration and Tribunal Membership (Scotland) Act 2020 (asp 18) ("the 2020 Act").

(4) Section 54(2) was amended by section 12(3)(c) of the 2020 Act.

### **Effect of suspension ending**

**34.** When—

- (a) the suspension of an individual's Carer Support Payment ends, and
- (b) under the latest determination of the individual's entitlement to Carer Support Payment relating to the period of the suspension the individual would have become entitled to be given Carer Support Payment during that period,

the individual is immediately to be given the Carer Support Payment that the individual would have become entitled to be given under the determination during the period of suspension.