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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 6**

**Re-consideration of entitlement to Carer Support Payment: determination without application**

**Determination following official error - underpayments**

**37.—(1)** The Scottish Ministers are to make a determination of an individual's entitlement to Carer Support Payment, without receiving an application, where—

- (a) they have previously made a determination of the individual's entitlement to Carer Support Payment ("the original determination"),
  - (b) they establish that, due to an official error, the original determination was incorrect resulting in the individual—
    - (i) not being given an award of Carer Support Payment, or
    - (ii) being given a lower award than that,to which the individual was entitled,
  - (c) the Scottish Ministers are not considering a request for a re-determination of the individual's entitlement to Carer Support Payment, and
  - (d) the individual has not appealed to the First-tier Tribunal for Scotland against the Scottish Minister's determination of the individual's entitlement to Carer Support Payment.
- (2) In making a determination required by paragraph (1) the Scottish Ministers are to use—
- (a) any information—
    - (i) provided in the application that led to the original determination,
    - (ii) they have obtained in connection with that application, and
  - (b) any other information they have obtained in connection with the individual's entitlement to Carer Support Payment.

(3) In this regulation "official error" means an error made by someone acting on behalf of the Scottish Ministers or on behalf of a Minister of the Crown that was not materially contributed to by anyone else.