

---

STATUTORY INSTRUMENTS

---

**2023 No. 1218**

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

**Part 3**

**England and Wales and Scotland**

**Amendment of the Universal Credit Regulations 2013**

- 23.**—(1) The Universal Credit Regulations 2013<sup>(1)</sup> are amended as follows.
- (2) In regulation 2 (interpretation), after the definition of “carer element” insert—
- ““carer support payment” means carer’s assistance given in accordance with the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023;”.
- (3) In regulation 29 (award to include the carer element)—
- (a) in paragraph (1)—
- (i) for “paragraphs (2) to (4)” substitute “paragraphs (2) to (6)”;
- (ii) for “section 70(7)” substitute “section 70”;
- (iii) after “carer’s allowance” insert “or carer support payment”;
- (b) after paragraph (4) insert—
- “(5) Paragraph (6) applies where—
- (a) a person (A)—
- (i) has, or would have but for regulation 5(3) of the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023, an entitlement to carer support payment; or
- (ii) has, or would have but for section 70 of the Contributions and Benefits Act, an entitlement to carer’s allowance in respect of which the Scottish Ministers have the power to make decisions; and
- (b) another person (B) has, or would have but for this regulation, an entitlement to the carer element of universal credit for the same day in respect of the same severely disabled person; and
- (c) section 70 of the Contributions and Benefits Act does not apply to the decision in respect of B’s entitlement to universal credit.
- (6) The universal credit award of B shall not include a carer element unless—
- (a) A and B jointly elect that B shall have entitlement to the carer element and that A shall not have an entitlement mentioned in paragraph (5)(a) for that day in respect of that severely disabled person; or

---

<sup>(1)</sup> S.I. 2013/376; relevant amending instruments are S.I. 2015/1754, 2016/909, 2017/204 and 2017/422.

- (b) in default of such an election, the Secretary of State is satisfied, following consultation with the Scottish Ministers, that—
  - (i) Scottish Ministers have decided, or will decide, that A shall not have an entitlement mentioned in paragraph (5)(a); and
  - (ii) B shall have a carer element included in their award of universal credit, for that day in respect of that severely disabled person.”.
- (4) In regulation 30 (meaning of “regular and substantial caring responsibilities for a severely disabled person”)—
  - (a) for paragraph (1) substitute—

“(1) For the purposes of Part 1 of the Act and these Regulations, a person has regular and substantial caring responsibilities for a severely disabled person if—

    - (a) they satisfy the conditions for entitlement to a carer’s allowance or would do so but for the fact that—
      - (i) their earnings have exceeded the limit prescribed for the purposes of that allowance; or
      - (ii) they are—
        - (aa) resident, or treated as resident, in Scotland; or
        - (bb) resident outside of Great Britain and have a genuine and sufficient link to Scotland; or
    - (b) they are entitled to carer support payment.”;
  - (b) in paragraph (2), for “paragraph (1)” substitute “paragraph (1)(a)”;
  - (c) after paragraph (3) insert—

“(4) For the purposes of paragraph (1), “sufficient” has the meaning given in paragraph 3 of Schedule 1 to the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023.”.
- (5) In regulation 66 (what is included in unearned income?), after paragraph (1)(b)(iii) insert—

“(iiiia) carer support payment but only up to a maximum of the amount a claimant would receive if they had an entitlement to carer’s allowance,”.
- (6) In regulation 83(1) (exceptions - entitlement or receipt of certain benefits), after sub-paragraph (i) insert—

“(ia) a claimant, or a qualifying young person for whom a claimant is responsible, is entitled to carer support payment;”.
- (7) In regulation 89(1)(b) (claimants subject to no work-related requirements), after “carer’s allowance” insert “, or have entitlement to carer support payment;”.
- (8) After paragraph 16(2)(g) of Schedule 4 (no deduction for housing cost contributions in respect of certain non-dependants), insert—

“(ga) a person in receipt of carer support payment;”.