

**2024 No. 282**

**SOCIAL SECURITY**

**The Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2024**

<i>Made</i>	- - - -	<i>4th March 2024</i>
<i>Laid before Parliament</i>		<i>5th March 2024</i>
<i>Coming into force</i>	- -	<i>26th March 2024</i>

The Secretary of State makes this Order in exercise of the powers conferred by sections 104, 112(1) and 113(2) and (3) of the Scotland Act 1998(a).

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2024.

(2) This Order comes into force on 26th March 2024.

(3) This Order extends to England and Wales and Scotland.

**Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988**

**2.**—(1) Regulation 5 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(b) (offsetting prior payment against subsequent award) is amended as follows.

(2) In paragraph (2), after Case 5 insert—

“*Case 6: Carer Support Payment* Where a person has been paid carer support payment for a period in respect of which any overlapping benefit is subsequently determined to be payable.”.

(3) After paragraph (2A) insert—

“(2B) In paragraph (2), for the purposes of Case 6—

“carer support payment” means carer’s assistance given in accordance with the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(c);

“overlapping benefit” means a benefit specified in paragraph (2C).

(2C) The following are overlapping benefits for the purposes of paragraph (2B)—

(a) state pension or retirement pension;

(b) incapacity benefit;

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(a) 1998 c. 46. Section 104 was amended by section 12 of the Scotland Act 2012 (c. 11) and section 10 of the Scotland Act 2016 (c. 11).

(b) S.I. 1988/664. There are amending instruments but none are relevant.

(c) S.S.I. 2023/302.

- (c) severe disablement allowance;
- (d) unemployability supplement that is paid with industrial injuries disablement benefit or war pension;
- (e) widowed parent's allowance, widowed mother's allowance or widow's pension, excluding additional pension;
- (f) bereavement allowance;
- (g) war pension;
- (h) maternity allowance;
- (i) industrial death benefit;
- (j) contribution-based jobseeker's allowance;
- (k) contributory employment and support allowance; and
- (l) training allowance.

(2D) For the purposes of paragraph (2C)—

“the 2003 Act” means the Income Tax (Earnings and Pensions) Act 2003(a);

“bereavement allowance” means an allowance referred to in section 39B of the Contributions and Benefits Act(b), subject to the transitional provisions specified in article 4 of the Pensions Act 2014 (Commencement No. 10) Order 2017(c);

“contribution-based jobseeker's allowance” means an allowance under the 1995 Act, as amended by the provisions of Part 1 of Schedule 14 to the 2012 Act that remove references to an income-based allowance, and a contribution-based allowance under the 1995 Act, as that Act has effect apart from those provisions;

“contributory employment and support allowance” means an allowance under Part 1 of the 2007 Act, as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the 2012 Act that remove references to an income-related allowance, and a contributory allowance under Part 1 of the 2007 Act, as that Part has effect apart from those provisions;

“incapacity benefit” means a benefit referred to in section 30A of the Contributions and Benefits Act(d);

“industrial death benefit” means a benefit referred to in Part VI of Schedule 7 to the Contributions and Benefits Act;

“maternity allowance” means an allowance referred to in sections 35 and 35B(e) of the Contributions and Benefits Act;

“Personal Injuries Scheme” means any scheme made under the Personal Injuries (Emergency Provisions) Act 1939(f) or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(g);

“retirement pension” means a pension payable under Part II and Part III of the Contributions and Benefits Act, excluding any additional pension or graduated retirement benefit;

“Service Pensions Instrument” means any instrument described in paragraph (a) or (b) below in so far, but only in so far, as the pensions or other benefits provided by that instrument are not calculated or determined by reference to length of service, namely—

- (a) any instrument made in exercise of powers—

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(a) 2003 c. 1.

(b) Section 39B is repealed by section 56(1) of the Pensions Act 2014 (c. 19).

(c) S.I. 2017/297 (C. 27).

(d) Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

(e) Section 35B was inserted by S.I. 2014/606.

(f) 1939 c. 82.

(g) 1939 c. 83.

- (i) referred to in section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977<sup>(a)</sup> (pensions or other benefits for disablement or death due to service in the armed forces of the Crown); or
- (ii) under section 1 of the Polish Resettlement Act 1947<sup>(b)</sup> (pensions and other benefits for disablement or death due to service in certain Polish forces); or
- (b) any instrument under which a pension or other benefit may be paid to a person (not being a member of the armed forces of the Crown) out of public funds in respect of death or disablement, wound, injury or disease due to service in any nursing service or other auxiliary service of any of the armed forces of the Crown, or in any other organisation established under the control of the Defence Council or formerly established under the control of the Admiralty, the Army Council or the Air Council;

“state pension” means a pension payable under Part 1 of the Pensions Act 2014<sup>(c)</sup>;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise or the Welsh Ministers;
- (b) to a person (“P”) for P’s maintenance or in respect of a member of P’s family; and
- (c) for the period, or part of the period, during which P is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to P or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise or the Welsh Ministers,

but it does not include an allowance paid by any Government department to or in respect of P by reason of the fact that P is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973<sup>(d)</sup> or section 2 of the Enterprise and New Towns (Scotland) Act 1990<sup>(e)</sup>, or is training as a teacher;

“unemployability supplement” includes an increase on account of unemployability under any Personal Injuries Scheme or a Service Pensions Instrument;

“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the 2003 Act;

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow or surviving civil partner under an instrument specified in section 639(2) of the 2003 Act in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or surviving civil partner under an instrument specified in section 639(2) of the 2003 Act in respect of the death or disablement of any person;

“widowed mother’s allowance” means an allowance referred to in section 37 of the Contributions and Benefits Act;

“widowed parent’s allowance” means an allowance referred to in section 39A of the Contributions and Benefits Act<sup>(f)</sup>;

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(a) 1977 c. 5.

(b) 1947 c. 19.

(c) 2014 c. 19.

(d) 1973 c. 50.

(e) 1990 c. 35.

(f) Section 39A was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 (c. 30).

“widow’s pension” means a pension referred to in section 38 of the Contributions and Benefits Act.”.

Signed by authority of the Secretary of State for Work and Pensions

4th March 2024

*Younger*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023 (S.S.I. 2023/302) introduce arrangements for the payment of carer’s assistance in the form of carer support payment. Carer support payment replaces carer’s allowance as the benefit paid to those in Scotland with eligible caring responsibilities for a disabled person.

This instrument makes consequential amendments to social security legislation in England and Wales and Scotland. In particular, it amends the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (S.I. 1988/664) to provide that carer support payments are offset against payments of social security benefits.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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