

POLICY NOTE

THE CARER'S ASSISTANCE (YOUNG CARER GRANT AND CARER SUPPORT PAYMENT) (MISCELLANEOUS AMENDMENT AND SAVING PROVISION) (SCOTLAND) REGULATIONS 2025

SSI 2025/XXX

The above instrument will, if approved by the Scottish Parliament, be made in exercise of the powers conferred by sections 28(2), 41(4)(a), 43(5), 51(1), 52, 81(8) and 95 of the Social Security (Scotland) Act 2018¹ and all other powers enabling them to do so.

The instrument is subject to the *affirmative procedure*.

Summary Box

This instrument amends The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 ('the principal regulations') in order to make a series of improvements to Carer Support Payment, which is a form of assistance to provide support to people providing regular and substantial care to another individual who normally receives a certain rate of disability assistance. This includes making provision for a new Carer Additional Person Payment and Scottish Carer Supplement to be paid alongside Carer Support Payment as part of an overall award of Carer Support. The Scottish Carer Supplement will replace, for most carers, the Carer's Allowance Supplement currently paid under section 81 of the Social Security (Scotland) Act 2018.

This instrument also amends provision in the principal regulations to:

- extend the period a carer continues to get support after the death of a cared for person from 8 to 12 weeks
- remove the requirements for carers to have cared for a certain period before they can continue to get support through Carer Support Payment and Carer Additional Person Payment when they have a temporary break from caring
- make other minor amendments.

Amendments are also being made to The Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 to extend eligibility to Young Carer Grant to 19-year olds, to section 81 of the Social Security Scotland Act 2018 to remove entitlement to Carer's Allowance Supplement for carers in receipt of Carer Support Payment (given the introduction of the Scottish Carer Supplement) and to other legislation to make amendments consequential to this instrument.

Policy Objectives

Carer Support Payment is intended to improve outcomes for unpaid carers by providing financial assistance to those providing regular and substantial care to someone in receipt of a qualifying disability benefit. Carer Support Payment is an income-replacement benefit in recognition of the impact of caring on carers' ability to earn income through paid work. It is also intended to provide recognition of the vital caring role being provided, and the wider impact of this on carers, and to help support carers to access opportunities outside of caring.

¹ <https://www.legislation.gov.uk/asp/2018/9/contents/enacted>

The principal regulations for Carer Support Payment, setting out eligibility and rules for the benefit which is replacing Carer's Allowance in Scotland, came into force on 19 November 2023. Carer Support Payment has been available for new applications across the whole of Scotland since 4 November 2024. The principal regulations also provided for a 'case transfer' process which automatically transfers the benefits of Carer's Allowance clients, from the Department for Work and Pensions (DWP) to Carer Support Payment administered by Social Security Scotland. This process began in February 2024 and is due to complete in Spring 2025.

This instrument makes provision to deliver a series of priority improvements that the Scottish Government committed to bring forward once Carer Support Payment was available nationally and case transfer from Carer's Allowance was complete, including new extra support for those receiving the benefit and caring for more than one person ('the Carer's Additional Person Payment'), and extended support for carers after the loss of the person they care for. It also makes provision for the Scottish Carer Supplement which replaces, for most carers, the Carer's Allowance Supplement currently paid under section 81 of the Social Security (Scotland) Act 2018.

This instrument also:

- amends provision in the principal regulations to remove the requirement for carers to have cared for a certain period before they can continue to get support when they have a temporary break from caring
- amends The Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 to extend eligibility to Young Carer Grant to 19-year olds
- amends section 81 of the Social Security Scotland Act 2018 to remove entitlement to Carer's Allowance Supplement for carers in receipt of Carer Support Payment, given the introduction of the Scottish Carer Supplement
- makes other minor amendments to the principal regulations
- makes amendments consequential to this instrument.

Carer Support

In order to make provision for a new Carer Additional Person Payment, and for the Scottish Carer Supplement to be applied for and paid alongside Carer Support Payment, this instrument makes changes to the principal regulations so that all three can be awarded as separate components of an overall award of 'Carer Support'. The amendments also clarify the way in which the rules in the principal regulations will apply to each payment. This is intended to simplify the application, determination, change of circumstances, any re-determination and appeals, and payment processes – both for the carer and for Social Security Scotland.

Carer Additional Person Payment

Regulation 3 provides for regulation 14B to be inserted into the principal regulations to provide for the introduction of the Carer Additional Person Payment. This is a recognition payment of £10 per week paid to a carer for each additional person for whom they care, for every award week in which Carer Support Payment is payable. Carer Additional Person Payment is a payment for carers who care for more than one person and in recognition that these carers face greater impacts on their health, wellbeing and ability to work and access other opportunities.

There can only be one award of Carer Additional Person Payment for a cared for person. The additional cared for person must be in receipt of a certain rate of a qualifying disability benefit, and the carer must be caring for them for at least 20 hours of care per week. The qualifying disability benefits that the cared for people must be in receipt of for the carer to be eligible to claim Carer Additional Person Payment, mirror the qualifying disability benefits for the primary cared for person for whom the carer is entitled to Carer Support Payment. The care for additional cared for person(s) can be undertaken concurrently to that of the primary cared for person.

Extension of the period support continues to be paid after the death of a cared for person

Regulation 3(9) replaces regulation 16(4) of the principal regulations, which provides for an 8 week run on of Carer Support Payment, with a new version that provides for a longer 12 week 'run-on' to be paid after the death of a cared for person and extends the run-on to cover all 3 payments. This is intended to allow the carer more time to adjust following the loss of the cared for person and provide further financial support for carers to consider entry into work or education and to rebuild support networks.

If a carer is already receiving Carer Support Payment as part of an 8-week run-on after the death of the person they were caring for when this instrument comes into force, provision is also made so that their run-on will be extended so that they receive support for a total of 12 weeks rather than 8 weeks.

Scottish Carer Supplement

Regulation 3 makes provision to insert regulation 14A into the principal regulations to provide for Scottish Carer Supplement. This will replace Carer's Allowance Supplement for carers in receipt of Carer Support Payment. Carer's Allowance Supplement was introduced by section 81 of the Social Security (Scotland) Act 2018 as a temporary measure until the Scottish replacement for Carer's Allowance was in place. It was designed to be delivered as soon as possible by Social Security Scotland using data on entitlement to Carer's Allowance from the Department of Work and Pensions.

Section 81 of the Social Security (Scotland) Act 2018, therefore, sets out that Scottish Ministers must make a payment of Carer's Allowance Supplement in respect of two six-month periods each financial year, to anyone that is receipt of Carer's Allowance and currently Carer Support Payment, and is resident in Scotland on a set qualifying date. It, therefore, differs from other Scottish forms of social security assistance as it is not made under, or subject to, the framework of Part 2 of the Social Security (Scotland) 2018 Act.

Now that Carer Support Payment is available nationally, Scottish Carer Supplement is being introduced to bring the supplemental payment within the same framework as other forms of carer's assistance. A carer will be entitled to be paid Scottish Carer Supplement for every award week in which they are entitled to be paid Carer Support Payment. Determining entitlement, and making payments, alongside Carer Support Payment ensures carers regularly receive this additional support and ensures carers will not miss out on entitlement to Carer's Allowance Supplement for the whole of a 6 month qualifying period if they were not in receipt of Carer Support Payment on the specific qualifying date.

Ongoing entitlement to Carer's Allowance Supplement

Regulation 7 amends section 81 of the 2018 Act to remove entitlement to the Carer's Allowance Supplement for those in receipt of Carer Support Payment. Entitlement to Carer's Allowance Supplement will continue for a small number of carers living in, or with a sufficient link to, Scotland, who may continue to be paid Carer's Allowance administered by the Department for Work and Pensions after the completion of case transfer. This includes around 1,200 carers who are currently entitled to Carer's Allowance as a result of transitional protection.

Extension of eligibility for Young Carer Grant to 19-year-olds

Part 2 of these regulations provide for the extension of eligibility for Young Carer Grant to 19-year-olds. This means that young carers will be eligible for 4 payments of the grant in total, between the ages of 16 and 19, providing them with one additional payment.. Scottish Ministers anticipate that the extension of eligibility to 19-year-olds will extend financial support to up to 1,000 young carers, based on the most recent Young Carer Grant statistics². Recipients of Young Carer Grant will remain eligible for Carer Support Payment after getting Young Carer Grant if their caring role changes.

Breaks in care

Regulation 40 of the principal regulations provides that a carer can continue to be paid support during a temporary break in care where they have been providing care for 14 of the past 26 weeks, or would have provided care for 22 weeks, if either they, or the primary cared for person had not been undergoing medical or other treatment as a hospital in-patient or a similar institution. This limits the number of weeks of temporary breaks from caring for which a carer can continue to be paid to 12 in any 26 week period, of which up to 4 weeks, can be for any reason, and up to 12 weeks can be due to the carer or cared for person been undergoing medical or other treatment as a hospital in-patient or a similar institution.

These regulations also amend regulation 40A in to the principal regulations, to apply to any stops in care after [CIF date]. This will have the effect that after [CIF date] there will no longer be a requirement for carers to have been providing care for at least 14 or 22 of the past 26 weeks to become entitled to continue to be paid during a temporary break in care. This means carers can be paid during temporary breaks in care even where they have not yet provided either 14 or 22 weeks of care. This is intended to remove barriers to breaks in care for carers. Provision is also made to apply the same breaks in care rules to the payment of Carer Additional Person Payment for any breaks in care for the additional cared for person.

Minor amendments to the principal regulations

Further minor amendments to the principal regulations are also included to clarify existing provisions:

Effective dates where a determination without application is needed following case transfer

² [Social Security Scotland - Young Carer Grant: high level statistics to 31 March 2024](#)

Regulation 3(14)(b) and 3(15)(d) amend regulations 27 and 28 of the principal regulations to include specific effective dates for situations where a determination without application is made under regulation 36(f) and (g) where, after an individual's benefits have been transferred from Carer's Allowance to Carer Support Payment, Scottish Ministers become aware of a change to the Carer's Allowance award they were entitled to before transfer. This provides that the effective date of any change should be the day after the day on which Carer's Allowance stopped being paid in respect of that individual.

Determination without application to award additional backdated support

Regulation 3(17)(d) amends regulation 36(e) of the principal regulations which provides for a determination without application to award additional backdated support to an individual after an initial determination of entitlement. Current provisions allow for an additional 13 weeks of support to be provided where an individual notifies Scottish Ministers and meets the eligibility criteria. Updated provisions will allow for the individual to be awarded all of the backdated support to which they are entitled, where the individual notifies Scottish Ministers within 13 weeks of the original decision, or later where it is considered they have a good reason for not making a request within 13 weeks.

Revocation of provisions for the initial period of applications

Regulation 6(3) revokes provision at Part 11, Part 12, and Part 1 and paragraph 9 of Schedule 1. This provision sets out the dates on which Carer Support Payment became available for applications in different local authorities in Scotland as part of the phased roll out of the benefit, and is no longer required now the benefit is available across Scotland. Regulation 6(4) saves these provisions so they continue to have effect where relevant for those entitled to extended backdating as a result of being resident in a local authority area to which Carer Support Payment became available later, under regulations 18A and 18B. Regulations 18A and 18B are designed to ensure carers who are entitled to Carer Support Payment but not Carer's Allowance do not miss out on support as a result of being resident in an area to which Carer Support Payment became available after the initial pilot phase.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

[statement to be added prior to laying]

EU alignment considerations

This legislation is not relevant to the Scottish Government's policy to maintain alignment with the EU, because each EU member state has its own social security laws. EU rules coordinate these separate social security systems between member states to support freedom of movement, but this legislation is not relevant to social security co-ordination specifically.

Consultation

Between 28 February 2022 and 23 May 2022, the Scottish Government undertook a public consultation on how our replacement benefit for Carer's Allowance could work better for carers, from launch, and in future³. The consultation received around 200 responses from

³ [Scottish Carer's Assistance: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/2022/02/28/Scottish-Carer's-Assistance-consultation-gov.scot)

individuals and stakeholder organisations. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website. During the consultation period officials attended Carers Scotland's Annual Carers Summit and nine engagement events were undertaken to hear from a wide and diverse range of carers. Specific research was also carried out with Social Security Scotland Experience Panels, with 242 members responding to a survey, and 16 follow up interviews. This took place between March and July 2022. Following the consultation period, a series of workshops to take feedback on proposals in light of the consultation responses were held with the Carer Benefits Advisory Group (CBAG).

An analysis of the responses to the consultation was published on 08 November 2022⁴. A summary report from the research with experience panel members was published on 09 November 2022, prior to the publication of the full Scottish Government response to the public consultation on 24 March 2023⁵.

Respondents were broadly supportive of the policy proposals, and in general, the approach outlined in the consultation paper was perceived to be more sympathetic, flexible, and person-centred. The response to the consultation has informed the development of policy for Carer Support Payment, including the support for the introduction of Carer Additional Person Payment, extending the run-on of support after a cared for person dies, and the proposed changes to the Carer's Allowance Supplement. In the response to the consultation the Scottish Government confirmed their priority, following the completion of case transfer, would be to introduce new support for those caring for more than one person and increase the 'run on' of support after a cared for person dies from 8 to 12 weeks.

[Scottish Commission on Social Security - scrutiny of the amendment regulations

Under section 97 of the Social Security (Scotland) Act 2018, the Scottish Commission on Social Security (SCoSS) was asked to provide a scrutiny report on a draft of these regulations. On XX November 2024, the Scottish Government provided SCoSS with the draft regulations and an accompanying policy note. The Scottish Government considered it appropriate to request SCoSS' scrutiny of the entirety of the draft Regulations, rather than limiting the request to the specific regulations that fall under section 97 of the 2018 Act. SCoSS published its scrutiny report on XX, making X recommendations and X observations in relation to the draft regulations. The Scottish Government's response to the recommendations contained in that report is laid before Parliament with this instrument and is available on the Scottish Government's website.]

Impact Assessments

An Equality Impact Assessment⁶, Island Communities Impact Assessment⁷, Fairer Scotland Duty Impact Assessment⁸, Business and Regulatory Impact Assessment⁹, Data Protection

⁴ [Scottish Carer's Assistance: consultation analysis - gov.scot \(www.gov.scot\)](http://www.gov.scot)

⁵ [Social security - Scottish Carer's Assistance consultation: Scottish Government response - gov.scot \(www.gov.scot\)](http://www.gov.scot)

⁶ [Carer Support Payment: equality impact assessment - gov.scot \(www.gov.scot\)](http://www.gov.scot)

⁷ [Carer Support Payment: island communities impact assessment - gov.scot \(www.gov.scot\)](http://www.gov.scot)

⁸ [Background, Policy Aims and Proposed Rules - Carer Support Payment: fairer Scotland duty assessment - summary - gov.scot \(www.gov.scot\)](http://www.gov.scot)

⁹ [Options - Carer Support Payment: business and regulatory impact assessment - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Impact Assessment ¹⁰, and Children's Rights and Wellbeing Impact Assessment ¹¹, were published at the same time as the principal regulations, and The Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019. An update to the Equality Impact Assessment, Islands Community Impact Assessment, Business and Regulatory Impact Assessment, and a Fairer Scotland Duty Assessment alongside a full Children's Rights and Wellbeing Impact Assessment are to be published with laid regulations. An update to the Data Protection Impact Assessment was not undertaken because the impacts of this legislation on the use of personal data are covered by considerations in the previously published assessment.

The impact assessments and updates indicate that the commencement of the amendments to Carer Support Payment and Young Carer Grant will have a broadly positive impact on a range of groups with protected characteristics, particularly women and people with disabilities, island communities, the realisation of children's rights and improvements to their wellbeing and the reduction of the impact of socio-economic disadvantage.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) was completed for the principal regulations and covers consideration of the impact of Carer Support Payment on the competitiveness of Scottish companies and the third sector within Scotland, the UK, and elsewhere in Europe and the rest of the world, and on local authorities and health boards, and on the Legal Aid budget. We do not consider there will be any differential impact from the provisions in this instrument.

The Scottish Fiscal Commission (SFC) has a statutory duty to provide independent and official forecasts of Scottish Gross Domestic Product (GDP), devolved tax revenues and devolved social security expenditure. Under the Scottish Fiscal Commission Act 2016, the SFC may also produce forecasts on other "fiscal factors", defined as "anything which the Scottish Ministers use to ascertain the amount of resources likely to be available for the purposes of sections 1 to 3 of the Public Finance and Accountability (Scotland) Act 2000".

The Protocol for engagement between the Scottish Fiscal Commission and the Scottish Government notes that the SFC may produce forecasts where it considers the policy, or policies, to have a "non-negligible impact on receipts or expenditure".

[to be updated following next forecasting rounds and further discussions with the SFC]

Scottish Government

Social Security Directorate

Date/Month/2025

¹⁰ Annex E: Article 36(4) form - Carer Support Payment: data protection impact assessment - gov.scot (www.gov.scot)

¹¹ Background, Policy Aims and Proposed Rules - Carer Support Payment: child rights and wellbeing impact assessment - gov.scot (www.gov.scot)