POLICY NOTE

THE CARER'S ASSISTANCE (MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS, REVOCATION, TRANSITIONAL AND SAVING PROVISIONS) (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 2018[1] 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 for 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 provided care for a certain period before they can continue to get support through Carer Support Payment when they have a temporary break from caring
- introduce a new 'determination without application' power to award Carer Support to carers already in receipt of Carer Support Payment on the coming into force date of these regulations
- amends provisions in relation to cross-border moves from Scotland to the rest of the UK and vice versa
- update rules on absence from the Common Travel Area to account for the introduction of Carer Additional Person Payment
- corrects the principal regulations in relation to how a carer's earnings affect their entitlement to Carer Support Payment
- makes savings, revocation and transitional provisions
- amendments consequential to this instrument.
- make other minor amendments.

Amendments are also being made to The Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 to extend eligibility for Young Carer Grant to 19-year olds.

[1] https://www.legislation.gov.uk/asp/2018/9/contents/enacted

Amendments are also being made 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 and those in receipt of Carer's Allowance except in certain circumstances (given the completion of case transfer and the introduction of the Scottish Carer Supplement).

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.

The principal regulations for Carer Support Payment, setting out eligibility criteria for the benefit which has replaced 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 transferred 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 nearly complete.

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. This includes new extra support for those receiving the benefit and caring for more than one person ('the Carer Additional Person Payment'), and extended support for carers after the loss of the person for whom they care. 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:

- provides for Scottish Ministers to award Carer Support to carers already in receipt of Carer Support Payment without the need for them to re-apply
- 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 ongoing entitlement to Carer's Allowance Supplement for carers in receipt of Carer Support Payment, given the introduction of the Scottish Carer Supplement
- corrects the principal regulations in relation to how a carer's earnings affect their entitlement to Carer Support Payment and
- amends provisions in relation to cross-border moves from Scotland to the rest of the UK and vice versa, including an "uplift" payment of Scottish Carer Supplement and Carer Additional Person Payment, if appropriate, when a carer moves to Scotland and applies for Carer Support after receiving the Carer's Allowance cross-border run-on

- updates rules on absence from the Common Travel Area to account for the introduction of Carer Additional Person Payment
- makes savings, revocation and transitional provisions
- makes amendments consequential to this instrument
- makes other minor amendments to the principal regulations.

Carer Support

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 Carer Support and each of its three constituent components. 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(11) 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 an additional cared for person. The additional cared for person must be in receipt of a qualifying disability benefit, and the carer must be caring for them for at least 20 hours per week. This care can be carried out concurrently with care for the person for whom the carer is entitled to Carer Support Payment, or any other additional cared for persons. The qualifying disability benefits that the additional cared for people must be in receipt of for the carer to be eligible for Carer Additional Person Payment mirror the qualifying disability benefits for Carer Support Payment.

Application of rules on absence from the Common Travel Area to Carer Additional Person Payment

Regulation 3(9) amends Regulation 7 of the principal regulations to provide for a carer to be treated as present in the Common Travel Area (CTA) where they are away with the additional cared for person for whom they claim Carer Additional Person Payment, in connection with their medical treatment, provided that the cared for person continues to be paid a qualifying disability benefit. This amendment would align Carer Additional Person Payment rules with existing Carer Support Payment rules.

Amendments are also made to Regulation 23 of the principal regulations which provide for 'temporary stops in entitlement'. These would mean that where a carer's award is ended as result of them being absent and no longer treated as present in the CTA, and they return to the

CTA within 26 weeks of their award ending, a determination without application to determine eligibility for Carer Support can be made without the need for a new Carer Support application. This would allow the Carer Support award to be reinstated so long as the carer meets the eligibility conditions in Regulation 3 of the principal regulations.

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

Regulation 3(12) amends regulation 16(4) of the principal regulations, which provides for an 8-week run on of Carer Support Payment following the death of the person being cared for. The amendment provides fora longer 12-week 'run-on' of support after the death of a cared for person and extends the run-on to cover all 3 components of Carer Support. Regulation 16(4A) also applies a separate run-on following the death of any additional cared for person(s) for whom the carer receives Carer Additional Person Payment within a Carer Support award. These amendments are intended to allow the carer more time to adjust following the loss of a cared for person within the award and provide further financial support for carers at this time.

Scottish Carer Supplement

Regulation 3(11) 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.

Changes in entitlement to Carer's Allowance Supplement

Schedule 2, Paragraph 2 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 carers who are currently entitled to Carer's Allowance due to transitional protection, a small

number of whom are in payment in Scotland at present, and carers with exported Carer's Allowance cases and a genuine and sufficient link to Scotland.

Savings provisions for Carer's Allowance Supplement

Regulation 6 makes a transitional/savings provision for section 81 of the Social Security (Scotland) 2018 Act so that carers receiving Carer Support Payment because of a bereavement or cross-border run-on on 14 March 2026 can still receive Carer's Allowance Supplement.

Powers to award Carer Support to carers already in receipt of Carer Support Payment

Regulation 34A introduces Schedule 1A to the principal regulations to provide for new 'determination without application' powers to award Carer Support to carers already in receipt of Carer Support Payment on the coming into force date of these amendment regulations. This will not apply to carers getting Carer Support Payment as a result of a cross-border or bereavement run on, or where their award is suspended. These carers will remain on Carer Support Payment until the end of their award or the end of the suspension.

Where existing Carer Support Payment clients have reported changes of circumstances that have not yet been taken into account on the coming into force date, this will not be taken into consideration for the initial determination of their entitlement to Carer Support but provision is made so that a further determination without application will be made as soon as practicable thereafter. The updated provisions also allow for an award of Carer Support Payment that had previously been temporarily stopped or suspended to be reinstated as an award for Carer Support where the client re-enters eligibility following the coming into force date.

Savings provisions for Carer Support Payment

Part 5 introduces savings provisions to preserve the provisions as before 14 March 2026 for application to cases where decisions need to be made on this period. For example, Regulation 5(2) amends Regulation 16(4) of the principal regulations to provide for carers who are already on a Carer Support Payment cross-border or bereavement run-on on the coming into force date of these regulations to remain on Carer Support Payment. These provisions ensure that they will be paid the full run-on of Carer Support Payment to which they are entitled.

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.

This regulation is also amended so that 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.

Cross-border moves to Scotland and missed case transfers

Regulation 3(26), (27) and (28) amends 41, 41A and 41B of the principal regulations to update the rules for cross-border moves from the rest of the UK to Scotland and for missed case transfer cases, to recognise the introduction of Carer Support. Where the date of the move, or the date Scottish Ministers become aware the carer's award should have transferred to Carer Support Payment but did not, is after the coming into force date of these regulations, and carers apply for Carer Support within 26 weeks of the date of their move, they will be awarded Carer Support starting from the award week in which Carer's Allowance entitlement ceased, or from 15 March 2026, whichever is the later date.

Uplift payment

Where carers apply for Carer Support within 26 weeks of the date they move to Scotland, they will also receive an "uplift" payment of Scottish Carer Supplement and, where relevant, Carer Additional Person Payment which matches the amount they would have received during the time they were living in Scotland on or after 15th March 2026 had they been in receipt of Carer Support rather than Carer's Allowance.

Where carers apply for Carer Support within 26 weeks of the date on which the Scottish Ministers become aware that the individual's previous entitlement to Carer's Allowance was not transferred to an entitlement to Carer Support Payment, they will also receive an "uplift" payment of Scottish Carer Supplement and, where relevant, Carer Additional Person Payment which matches the amount they would have received during the time they were living in Scotland on or after 15th March 2026 had they been in receipt of Carer Support rather than Carer's Allowance.

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 can be eligible for 4 payments of the grant in total, between the ages of 16 and 19. 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 statistics[2]. Recipients of Young Carer Grant will remain eligible for Carer Support Payment after getting Young Carer Grant if their caring role changes.

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[2] https://www.socialsecurity.gov.scot/reporting/publications/young-carer-grant-high-level-statistics-to-31-march-2024

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

Regulation 3(21)(b) and 3(22)(c) 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.

Correction to Carer Support Payment earnings provisions

Regulation 3(10) amends Regulation 14 of the principal regulations to correct the way that the earnings provisions operate so that a carer's earnings in any given week will affect entitlement in the following week. This brings the regulations into alignment with the approach to Carer Allowance and the system design.

Determination without application to award additional backdated support

Regulation 3(24)(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 5(5) revokes Regulations 18A and 18B. 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 of Carer Support Payment in 2023. The last relevant date for this backdating was in February 2025, as a result these provisions are no longer needed.

Regulation 5(6) makes savings for Regulations 20 and 21, which are revoked, to allow for backdating of Carer Support Payment to before the coming into force date of the principal regulations in November 2023, in cases where a carer applies for Carer Support after the person they care for has received a heavily backdated disability benefit award.

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

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Carer's Assistance (Miscellaneous and Consequential Amendments, Revocation, Transitional and Saving Provisions) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

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 future[3]. The consultation received around 200 responses from 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 2022 [4]. 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 2023[5].

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 28 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 28 February 2025. A further provision was referred to SCoSS on 4 March 2025 and SCoSS responded via an addendum to their initial report on 28

[3] https://www.gov.scot/publications/scottish-carers-assistance-consultation/
[4] https://www.gov.scot/publications/scottish-carers-assistance-independent-analysis-responses-consultation/
[5] https://www.gov.scot/publications/social-security-scottish-carers-assistance-consultation-scottish-government-response/

March 2025. Following further amendments, final provisions were shared with SCoSS on 23 July 2025. A response was received on 25 August 2025, noting 2 further observations and 5 technical areas for clarification. Overall, SCoSS made 17 recommendations and 9 observations in relation to the draft regulations. Following consideration of the SCoSS responses, the draft priority improvements regulations have been updated to:

a. take account of SCoSS recommendations, including minor changes and to add provision to clarify for the avoidance of doubt that the care provided to the additional cared for person can be concurrent to that provided for the primary cared for person;

b. account for the change to our legislative timetable, meaning the draft Social Security (Cross-border Provision, Case Transfer and Miscellaneous Amendments) (Scotland) Regulations 2025, also amending the 2023 Regulations, were laid first;

c. introduce a new determination without application power to move existing awards from Carer Support Payment to Carer Support;

d. take account of a further review of the way various provisions in the 2023 Regulations will apply to the overall Carer Support award versus the individual components, including updates to the rules on temporary absence from the common travel area as they apply to the additional cared for person;

e. include further savings, revocation and transitional provisions;

f. include further consequential amendments.

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 Assessment[6], Island Communities Impact Assessment [7], Fairer Scotland Duty Impact Assessment [8], Business and Regulatory Impact Assessment [9], Data Protection 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

[6] https://www.gov.scot/publications/carer-support-payment-equality-impact-assessment/
[7] https://www.gov.scot/publications/carer-support-payment-island-communities-impact-assessment/
[8] https://www.gov.scot/publications/carer-support-payment-fairer-scotland-duty-assessment-summary/pages/2/
[9] https://www.gov.scot/publications/carer-support-payment-business-regulatory-impact-assessment/pages/6/
[10] https://www.gov.scot/publications/carer-support-payment-data-protection-impact-assessment/pages/12/
[11] https://www.gov.scot/publications/carer-support-payment-child-rights-wellbeing-impact-assessment/pages/4/

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. As above an update to the BRIA will be published and laid, but 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".

The SFC has reviewed these regulations and concluded that a costing of policy produced at the previous fiscal event is appropriate to be used to accompany the legislation. The SFC's May 2025 forecast for Carer Support reflects the Scottish Government's intent to deliver the payment under the updated priority improvements detailed in the current regulations. SFC forecasts the spending for Carer Support, which includes Carer Support Payment, Scottish Carer Supplement, and Carer Additional Person Payment at £516 million in 2025-26 and £674 million in 2030-31.

Scottish Government

Social Security Directorate

September 2025