EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT, HOUSING BENEFIT AND STATE PENSION CREDIT (CARER'S ALLOWANCE REASSESSMENT CAPITAL DISREGARD) (AMENDMENT) REGULATIONS 2026

2026 No. 681

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Rt Hon Sir Stephen Timms, Minister for Social Security and Disability at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Andrew Latto, Deputy Director for Devolution, Pensioner Benefits & Carer's Allowance at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sarah Veal at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: capitaldisregardregs@dwp.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations make provision for the treatment in Universal Credit, Pension Credit and Housing Benefit of lump sum payments of Carer's Allowance, made by the Secretary of State, as a result of the reassessment exercise conducted in response to the Independent Review of Carer's Allowance Overpayments, the outcome of which was published on 21 July 2025[1]. They ensure that such lump sum payments are permanently disregarded as capital in the calculation of entitlement to those benefits.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is to be England and Wales, and Scotland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales and Scotland.

[1] https://www.gov.uk/government/publications/review-of-carers-allowance-overpayments/independent-review-of-carers-allowance-overpayments

5. Policy Context

What is being done and why?

5.1 This instrument provides that lump sum payments of Carer's Allowance, paid as a result of the reassessment exercise, will be disregarded as capital permanently when assessing awards of Universal Credit, Pension Credit or Housing Benefit.

5.2 The reassessment exercise was established by the Government in response to the Independent Review of Carer's Allowance Overpayments, conducted by Liz Sayce OBE. As part of its response to the Independent Review[2] the Government committed to reassessing those Carer's Allowance cases which may have been affected by faulty guidance on the averaging of irregularly fluctuating earnings which was in place between April 2015 and September 2025.

5.3 Carer's Allowance has a weekly earnings limit. Guidance correctly dealt with cases where weekly earnings were constant or where they fluctuated in a regular cycle. However, where there were irregular fluctuations in the weekly amounts, the guidance did not accurately reflect the statutory position. It should have guided Decision Makers to consider averaging earnings over a period of weeks in such cases. Instead, it instructed them not to consider averaging the earnings. The aim of the reassessment exercise is to identify those cases where consideration should have been given to averaging a carer's earnings over a number of weeks, and to recalculate the entitlement where it is decided that averaging should have been applied. This will result in some people receiving refunds of inaccurate overpayments as lump sums.

5.4 The Department expects around 25,000 cases will result in either lump sum payments or reductions in outstanding overpayments of Carer's Allowance. Around two thirds of people in receipt of Carer's Allowance are in a household which is also in receipt of one of these means-tested benefits, the majority of which are receiving Universal Credit.

5.5 Carer's Allowance is a devolved matter in Scotland. Legislative and executive competence for it were transferred to the Scottish Parliament and Government in April 2018. Between then and September 2025 it was delivered on behalf of the Scottish Ministers by the Department for Work and Pensions under an Agency Agreement[3]. Since the guidance applied on averaging of earnings in Carer's Allowance was the same as in England and Wales, at the request of the Scottish Ministers the reassessment exercise includes devolved cases between April 2018 and September 2025. It also includes cases in Scotland between April 2015 and March 2018, when Carer's Allowance was a reserved benefit. Universal Credit, Pension Credit and Housing Benefit are reserved benefits in Scotland.

What was the previous policy, how is this different?

5.6 Under current law, because Carer's Allowance is taken into account as income in the calculation of Universal Credit, Pension Credit and Housing Benefit, lump sums of arrears of Carer's Allowance fall to be taken into account as capital. This instrument makes an exception for lump sum payments made as a result of the reassessment

[2] https://www.gov.uk/government/publications/review-of-carers-allowance-overpayments/government-response-to-the-independent-review-of-carers-allowance-overpayments#chapter-6-processes-and-communication

[3] https://www.gov.uk/government/publications/carers-allowance-in-scotland-agency-agreement-and-service-level-agreement/carers-allowance-in-scotland-agency-agreement

exercise, meaning that they will not be taken into account as capital and so will have no effect on current or future awards of Universal Credit, Pension Credit or Housing Benefit.

6. Legislative and Legal Context

How has the law changed?

6.1 The current legislative schemes for Universal Credit, Pension Credit and Housing Benefit will treat payments of arrears of Carer's Allowance, arising from the reassessment exercise, as being capital that will be taken into account in the calculation of the award.

6.2 This instrument amends the relevant benefit regulations by introducing a specific disregard into each that prevents lump sum payments of Carer's Allowance made as a result of the reassessment exercise being treated as capital for the purposes of calculating current or future awards. This instrument does not alter the wider capital rules or the existing capital thresholds, nor does it create a new category of benefit or entitlement.

Why was this approach taken to change the law?

6.3 Legislation was required because the introduction of provisions that affect the calculation of a person's capital can only be achieved by exercising the power to make regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 The reassessment exercise is a response to the Independent Review of Carer's Allowance Overpayments. The Reviewer consulted current and former carers, stakeholders and Department for Work and Pensions staff during the preparation of the report and recommendations. One of the recommendations was to correct historical cases of Carer's Allowance where the faulty guidance on averaging of earnings may have been a factor in the calculation of an overpayment.

7.2 The Social Security Advisory Committee scrutinised the regulations on 8 June 2026 and has confirmed that it does not wish to take them on formal reference under the powers conferred by Section 173(1)(b) of the Social Security Administration Act 1992. Minutes will be published on the Social Security Advisory Committee website.[4]

7.3 With respect to Housing Benefit, formal targeted consultation regarding this instrument has been carried out with the Local Authority Associations[5] during June 2026. All responses received agreed with the instrument, no adverse comments have been received.

[4] https://www.gov.uk/government/collections/social-security-advisory-committee-minutes-of-meetings

[5] Four Local Authority Associations were consulted. London Councils, the Local Government Association, the Convention of Scottish Local Authorities and the Welsh Local Government Association.

8. Applicable Guidance

8.1 Amendments will be made to Universal Credit and Pension Credit internal operational guidance, products, and customer communications to ensure the consistent and accurate implementation of this instrument. These changes are intended to provide greater clarity on entitlement interactions in relation to the payments of these lump sums. Guidance will be issued before the regulations come into force on 16 July 2026.

8.2 Changes to the Housing Benefit regulations guidance will be issued to local authority staff before the regulations come into force on 16 July 2026 and will be published on GOV.UK[6].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no effect on businesses. The measure concerns the treatment of capital within the social security system and applies only to private households in receipt of Universal Credit, Pension Credit or Housing Benefit. It does not impose any regulatory requirements, costs or administrative burdens on businesses, nor does it affect business activity, competition, or market functioning.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant impact on business, charities or voluntary bodies. The measure applies only to private households in receipt of Universal Credit, Pension Credit or Housing Benefit.

9.3 The legislation has no impact on small or micro businesses.

9.4 The impact on the public sector is an Exchequer cost of £75 million over three years.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The lump sum payments arise from a discrete, finite exercise and there is therefore no need to review the legislation. However, the Department will monitor its implementation and make any necessary operational adjustments.

10.2 The instrument does not include a statutory review clause.

[6] https://www.gov.uk/government/collections/housing-benefit-for-local-authorities-circulars

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").