

**LEGACY BENEFITS - THE CARER'S ASSISTANCE (CARER  
SUPPORT PAYMENT) (SCOTLAND) CONSEQUENTIAL  
AMENDMENTS 2023**

<b>Contents</b>	<b>Paragraphs</b>
Introduction	1
Background	2
Carer's Allowance	3
State Pension and Retirement Pension	
Deferring entitlement to State Pension/ Retirement Pension	
Lump sum payments	4
Increments	5
Income Support	
Prescribed category of person	6
Entitlement to premiums	7
Earnings	
Definition of sums to be disregarded	8 - 9
Income other than earnings	10
Claim for Category A or Category B Retirement Pension	
Definition	11
Jobseeker's Allowance	
Waiting days	12
Linked periods	13
Carers, remunerative work and joint claimants	14
Entitlement to premiums	15

Definition of sums to be disregarded in the calculation of earnings	16
Earnings	17
Definition of sums to be disregarded in the calculation of income other than earnings	18
Income other than earnings	19
Change of circumstances supersession where award of Carer Support Payment ends	
Definition of effective date	20 – 21
State Pension Credit	
Income other than earnings	22
Notional income	23
Additional amount for the severely disabled	24
Additional amount for carers	25
Social Fund Funeral Payment	26
Employment and Support Allowance	
First contribution condition	27
Waiting days	28
Definition of amounts	29
Amount of Employment and Support Allowance payable where entitlement is for less than a week	30
Entitlement to premiums	31
Income other than earnings	32
State Pension, Retirement Pension and Widowed Parent's Allowance	
Additional Pension and Engaged in caring	33
Additional Pension and Applications for National Insurance credits	34
Cross border movement from Scotland to another part of the United Kingdom	35
Annotations	
Contacts	

## INTRODUCTION

1. This memo provides guidance on the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023<sup>1</sup> which come into force on 19.11.23. This legislation follows on from the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023<sup>2</sup> and the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Modifications) Order 2023<sup>3</sup>.

*1 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23; 2 CA (CSP) (Scotland) Regs 23;*

*3 CA (CSP) (Scotland) Regs 2023 (Conseq Mods) Order 23*

## BACKGROUND

2. This order<sup>1</sup> makes changes to social security legislation to reflect the introduction of the Carer Support Payment which replaces Carer's Allowance in Scotland.

*1 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

## CARER'S ALLOWANCE

3. From 19.11.23 a claimant cannot have entitlement to both Carer's Allowance and Carer Support Payment for the same day<sup>1</sup>. Additionally, where two or more people are caring for the same severely disabled person, only one of them will be entitled to either Carer's Allowance or Carer Support Payment for any day. It will be up to them to choose and elect who will be entitled to Carer's Allowance or Carer Support Payment<sup>2</sup> by giving the decision maker a notice in writing signed by both carers specifying who should be entitled to Carer's Allowance or Carer Support Payment<sup>3</sup>. If there is no election the Department should be satisfied that one carer has the relevant entitlement to the benefit, following consultation with the Scottish decision maker<sup>4</sup>.

**Note:** When a decision maker encounters a rival carer situation, a structured consultation process with the Scottish decision makers, carefully considering all

key factors, should take place to ensure that the most appropriate carer is chosen.

*1 SS C&B (NI) Act 92, sec 70(7); 2 sec 70(7ZA), sec 70(7ZB), sec 70(7ZC);  
3 SS (ICA) Regs (NI), reg 7(1) & 7(1A); 4 SS C&B (NI) Act 92, sec 70(7ZA), sec 70(7ZB) & sec 70(7ZC)*

### **Example 1**

Mary and Sharon both care for Henry for at least 35 hours a week each. Mary lives in Northern Ireland and claims Carer's Allowance. Sharon lives in Scotland and claims Carer Support Payment. Only one of them will be entitled to benefit for caring for Henry. Mary and Sharon decide themselves that Mary should have entitlement. Therefore, Mary receives Carer's Allowance. Sharon is not entitled to Carer Support Payment for the period Mary is entitled to Carer's Allowance.

### **Example 2**

David and Eric both care for Susan for at least 35 hours a week each. David lives in Northern Ireland and claims Carer's Allowance. Eric lives in Scotland and claims Carer Support Payment. Only one of them will be entitled to benefit for caring for Susan. David and Eric both believe they should be entitled to claim and cannot decide between them who should be entitled. The decision maker should consult with the Scottish decision maker to determine which carer has the relevant entitlement.

## **STATE PENSION AND RETIREMENT PENSION**

### **Deferring entitlement to State Pension/Retirement Pension**

#### **Lump sum payments**

4. DMG 75405 et seq provides guidance on people entitled to a lump sum payment when they defer their Retirement Pension. The amount of Retirement Pension which would have been payable had it not been deferred does **not**

include any pension, where for all of an accrual period, a person has been in receipt of Carer Support Payment<sup>1</sup>.

*1 SS (Def RP) Regs (NI), reg 3(1)(a)(v)*

## **Increments**

5. DMG 75349 et seq provides guidance on people entitled to increments when they defer their Retirement Pension. DMG 74501 et seq provides guidance on people entitled to increments when they defer their State Pension.

When a person is deferring their

1. Retirement Pension<sup>1</sup> **or**
2. State Pension<sup>2</sup>

they will not be entitled to increments for any day in a period of deferment when they are in receipt of Carer Support Payment.

*1 SS (WB & RP) Regs (NI), reg 4(1)(b)(v); 2 SP Regs (NI), reg 11(2)(a)(via)*

## **INCOME SUPPORT**

### **Prescribed category of person**

6. People are entitled to Income Support if they meet the conditions of entitlement, including where they are in a prescribed category<sup>1</sup> (see DMG 20081 et seq). This includes people who care for another person and are entitled to Carer's Allowance<sup>2</sup>. From 19.11.23, the category includes people who care for another person and are entitled to Carer Support Payment<sup>3</sup>.

*1 SS C&B (NI) Act 92, sec 124(1)(e); 2 IS (Gen) Regs (NI), Sch 1B, para 4(b);*

*3 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

## **Entitlement to premiums**

7. When considering entitlement to any premiums, where there are references to a Carer's Allowance, there shall be a reference to a Carer Support Payment<sup>1</sup>.

*1 IS Gen Regs (NI), Sch 2*

## **Earnings**

### **Definition of sums to be disregarded**

8. From 19.11.23 the definition of sums to be disregarded in the calculation of earnings<sup>1</sup> will also include a Carer Support Payment carer's assistance given in accordance with these regulations<sup>2</sup>.

*1 IS (Gen) Regs (NI), Sch 8, para 6A(1), Sch 9, para 87;*

*2 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

9. The disregard of £20 applied to a carer's earnings where the claimant's applicable amount includes a Carer Premium and the carer is in receipt of Carer's Allowance also applies where the claimant is in receipt of Carer Support Payment.

*IS (Gen) Regs (NI), Sch 8, para 6A(1)*

## **Income other than earnings**

10. Disregard any amount of Carer Support Payment that is in excess of the amount the claimant would receive if they had an entitlement to Carer's Allowance.

*IS (Gen) Regs (NI), Sch 9, para 87*

## **CLAIM FOR A CATEGORY A OR CATEGORY B RETIREMENT PENSION**

### **Definition**

11. From 19.11.23 neither a claim to, nor an award of, Carer Support Payment prevents the Department from notifying the beneficiary that a claim for Category A or Category B Retirement Pension is not required<sup>1</sup>.

*1 SS (C&P) Regs (NI), reg 3A(6)(a)*

## **JOBSEEKER'S ALLOWANCE**

### **Waiting days**

12. DMG 20902 - DMG 20903 gives guidance on when a Jobseeker's Allowance claimant or a joint-claim couple do not have to serve waiting days, including where entitlement to Jobseeker's Allowance begins within 12 weeks of the end of entitlement to specified benefits<sup>1</sup>. From 19.11.23, Carer Support Payment<sup>2</sup> is added to the list of qualifying benefits.

*1 JSA Regs (NI), reg46(1)(a) & (d); 2 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

### **Linked periods**

13. DMG 21027 gives guidance on linked periods. From 19.11.23 a linked period will include when a claimant is entitled to a Carer Support Payment<sup>1</sup>.

*1 JSA Regs (NI), reg 48(2); SS C&B (NI) Act 92, sec 70; CA (CSP) (Scotland) Regs 23*

### **Carers, remunerative work and joint claimants**

14. For the purpose of whether a Jobseeker's Allowance claimant is

1. in remunerative work where they are a carer<sup>1</sup> (see DMG 20252) or

2. a member of a joint claim couple who does not have to satisfy the conditions of entitlement<sup>2</sup> because they are a carer<sup>3</sup> (see DMG 20017)

Carer Support Payment<sup>4</sup> is added to the list of qualifying benefits from 19.11.23. See Chapter 20 (JSA conditions of entitlement) for further details.

*1 JSA Regs (NI), reg 51(3)(c)(iii); 2 JS (NI) Order, art 3(2B)(b); 3 JSA Regs (NI), Sch A1, para 3(b);*

*4 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

## **Entitlement to premiums**

15. When considering entitlement to any premiums, where there are references to a Carer's Allowance, there shall be a reference to a Carer Support Payment<sup>1</sup>.

*1 JSA Regs (NI), Sch 1*

## **Definition of sums to be disregarded in the calculation of earnings**

16. From 19.11.23 the sums to be disregarded in the calculation of earnings<sup>1</sup> will also include a Carer Support Payment carer's assistance given in accordance with these regulations<sup>2</sup>.

*1 JSA Regs (NI), Sch 5 para 7; 2 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

## **Earnings**

17. The disregard of £20 applied to a carer's earnings where the claimant's applicable amount includes a Carer Payment and the carer is in receipt of Carer's Allowance also applies where the claimant is in receipt of Carer Support Payment<sup>1</sup>.

*1 JSA Regs (NI), Sch 5, para 7; Sch 5A, para 2*



## **Definition of sums to be disregarded in the calculation of income other than earnings**

18. From 19.11.23 the sums to be disregarded in the calculation of income other than earnings<sup>1</sup> will also include a Carer Support Payment carer's assistance given in accordance with these regulations<sup>2</sup>.

*1 JSA Regs (NI), Sch 5, para 7; 2 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

## **Income other than earnings**

19. From 19.11.23 disregard any amount of Carer Support Payment that is in excess of the amount the claimant would receive if they had an entitlement to Carer's Allowance<sup>1</sup>.

*1 JSA Regs (NI), Sch 6, para 74*

## **CHANGE OF CIRCUMSTANCES SUPERSESSION WHERE AWARD OF CARER SUPPORT PAYMENT ENDS**

### **Definition of effective date**

20. From 19.11.23 the definition of date from which a decision superseded under Article 11 takes effect<sup>1</sup> will also include a Carer Support Payment carer's assistance given in accordance with these regulations<sup>2</sup>.

*1 SS & CS (D&A) Regs (NI), reg 7(2)(bc); 2 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

21. Where

1. the claimant is a disabled person or a disabled person's partner **and**
2. a decision awarding benefit is superseded to the claimant's advantage **and**

3. the reason for the supersession is that payment of an award of Carer Support Payment in respect of that disabled person has ended

the superseding decision is effective from the day after the last day that Carer Support Payment was paid to a person other than the claimant or the claimant's partner<sup>1</sup>. DMG 02010 (main heading) and DMG 04226 are affected.

<sup>1</sup> SS & CS (D&A) Regs (NI), reg 7(2)(bc)

## **STATE PENSION CREDIT**

### **Income other than earnings**

22. Carer Support Payment is a social security benefit and is taken into account as income other than earnings<sup>1</sup>. Disregard any amount of Carer Support Payment that is in excess of the amount the claimant would receive if they had an entitlement to Carer's Allowance<sup>2</sup>.

<sup>1</sup> SPC Regs (NI), reg 15(1); <sup>2</sup> Sch 4, para 19

### **Notional income**

23. DMG 85447 explains that where a claimant to whom DMG 85441 applies is in receipt of an overlapping benefit or allowance the amount of Retirement Pension income they shall be treated as having is the Retirement Pension they are entitled to minus the amount of the benefit or allowance in payment<sup>1</sup>. From 19.11.23 Carer Support Payment is included as such an overlapping benefit or allowance<sup>2</sup>.

<sup>1</sup> SPC Regs (NI), reg 18(1CA); <sup>2</sup> CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23

### **Additional amount for the severely disabled**

24. DMG 78030 and 78610 gives guidance that when considering entitlement to an additional amount for claimants who are severely disabled, no amount is payable in respect of a claimant if someone is in receipt of

1. Carer's Allowance **or**
2. the carer element of Universal Credit

in respect of caring for them<sup>1</sup>. From 19.11.23 Carer Support Payment is included in the list of qualifying benefits<sup>2</sup>.

*1 SPC Regs (NI), Sch 1, para 1(1) & Sch 3, para 1(10)(d);*

*2 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

### **Additional amount for carers**

25. DMG 78100 and 78620 gives guidance that an additional amount for carers may be awarded for each claimant who is entitled to Carer's Allowance. From 19.11.23 that also includes those claimants entitled to Carer Support Payment<sup>1</sup>.

*1 SPC Regs (NI), Sch 1, para 4*

### **SOCIAL FUND FUNERAL PAYMENT**

26. ADM L3408 and Appendix 1 of ADM Chapter L3 gives guidance on arrears of benefits payable to the deceased not being counted as assets of the deceased when considering deductions from the amount of award of funeral payment. From 19.11.23 arrears of Carer Support Payment payable to the deceased as at the date of death are excluded from the assets of the deceased<sup>1</sup>.

*1 SFMFE (Gen) Regs (NI), reg 10(1A)(ca)*

### **EMPLOYMENT AND SUPPORT ALLOWANCE**

#### **First contribution condition**

27. DMG 41032 gives guidance on relaxation of the first contribution condition<sup>1</sup> where specified conditions are met, including where the Employment and Support Allowance claimant is entitled to Carer's Allowance in the last complete tax year immediately before the relevant benefit year in which the first day of

limited capability for work occurred<sup>2</sup>. From 19.11.23 this includes where the claimant is entitled to Carer Support Payment<sup>3</sup>.

*1 WR Act (NI) 07, Sch 1, Part 1, para 1(4)(b); 2 ESA Regs (NI), reg 8(2)(a);*

*3 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

## **Waiting days**

28. DMG 41103 gives guidance on when an Employment and Support Allowance claimant does not have to serve waiting days, including where entitlement to Employment and Support Allowance begins within 12 weeks of the end of entitlement to specified benefits<sup>1</sup>. From 19.11.23, Carer Support Payment<sup>2</sup> is added to the list of qualifying benefits.

*1 ESA Regs (NI), reg 144(2)(a); 2 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

## **Definition of amounts**

29. From 19.11.23 the amounts<sup>1</sup> will also include a Carer Support Payment carer's assistance given in accordance with these regulations<sup>2</sup>.

*1 ESA Regs (NI), Sch 4; 2 CA (CSP) (Scotland) Regs 2023 (Conseq Amdts) Order 23*

## **AMOUNT OF EMPLOYMENT AND SUPPORT ALLOWANCE PAYABLE WHERE ENTITLEMENT IS FOR LESS THAN A WEEK**

30. When calculating the amount of Employment and Support Allowance payable, where there are references to a Carer's Allowance, there shall be a reference to a Carer Support Premium<sup>1</sup>.

**Note:** See guidance at DMG 46072, 46062, 46092, 46112 and 46121.

*1 ESA Regs (NI), reg 165(3) & 167(d)*

## **Entitlement to premiums**

31. When considering entitlement to any premiums, where there are references to a Carer's Allowance, there shall be a reference to a Carer Support Payment<sup>1</sup>.

*1 ESA Regs (NI), Sch 4*

## **Income other than earnings**

32. From 19.11.23 disregard any amount of Carer Support Payment that is in excess of the amount the claimant would receive if they had an entitlement to Carer's Allowance<sup>1</sup>.

*1 ESA Regs (NI), Sch 8, para 69*

## **STATE PENSION, RETIREMENT PENSION AND WIDOWED PARENT'S ALLOWANCE**

### **Additional Pension and engaged in caring**

33. DMG 75549 et seq and 63062 et seq provides guidance that a person who is engaged in caring can receive a class 3 credit towards satisfying the single contribution condition. This will include a person engaged in caring for a period of up to 12 weeks

1. before they become entitled to Carer Support Payment<sup>1</sup> **or**
2. after they cease to be entitled to Carer Support Payment<sup>2</sup>.

However, **2.** does not apply if a claimant continues to be entitled to a credit after entitlement to Carer Support Payment ends<sup>3</sup>.

*1 SS (CC P & C) Regs (NI), reg 7(1)(a); 2 reg 7(1)(b); 3 reg 7(2)*

## **Additional Pension and applications for National Insurance credits**

34. See DMG 75556 and 63069 for guidance on applications for National Insurance credits when engaged in caring. National Insurance credits cannot be awarded in respect of claims to Carer Support Payment, or the Carer Credit, for any period where the person was a married woman who had elected to pay a reduced rate of National Insurance contributions (Married Woman's Reduced Rate Election)<sup>1</sup>.

*1 SS (CC P & C) Regs (NI), reg 10(2)*

## **CROSS BORDER MOVEMENT FROM SCOTLAND TO ANOTHER PART OF THE UNITED KINGDOM**

35. A claimant who is a recipient of Carer Support Payment and who subsequently moves from Scotland to another part of the United Kingdom, retains entitlement to Carer Support Payment for a period of 13 weeks beginning with the date of the move from Scotland<sup>1</sup>. In that circumstance they are to be treated as though they meet the residence and presence conditions of being resident in Scotland for that period of 13 weeks<sup>2</sup>.

*1 CA (CSP) (Scotland) Regs 23, reg 42; 2 reg 42(1)*

## **ANNOTATIONS**

The number of this memo should be annotated against the following paragraphs of the DMG:

20017, 20027, 20081, 20252, 20902, 20903, 21027, 23062, 23200, 23247, 26111, 29111, 41032, 41103, , 44084, 44111, 44166, 44177, 46072, 46121, 46062, 46092, 46112, 60025, 60026, 63064, 63069, 75351, 75414, 75551, 75282, 74521, 75556, 78030, 78100, 78105, 78610, 78620, 85103 and 85447

## **CONTACTS**

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