

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.
SOCIAL SECURITY

The Social Security Assistance (Funeral Expense Assistance and Young Carer Grants) (Up-rating and Miscellaneous Provisions) (Scotland) Regulations 2020

Made - - - - *2020*

Coming into force - - *1 April 2020*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 28, 34 and 95 of the Social Security (Scotland) Act 2018(a) and all other powers enabling them to do so.

In accordance with section 96(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 97(2) of that Act, the Scottish Ministers have informed the Scottish Commission on Social Security of their proposals, notified the Scottish Parliament that they have done so and made their proposals publicly available by such means as the Ministers consider appropriate.

Citation and commencement

1. These Regulations may be cited as the Social Security Assistance (Funeral Expense Assistance and Young Carer Grants) (Up-rating and Miscellaneous Provisions) (Scotland) Regulations 2020 and come into force on 1 April 2020.

Interpretation

2. In these Regulations—

“the Young Carer Grants Regulations” means the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019(b), and

(a) 2018 asp 9.

(b) S.S.I. 2019/324.

“the Funeral Expense Assistance Regulations” means the Funeral Expense Assistance (Scotland) Regulations 2019(a).

Amendment of the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019

3.—(1) The Young Carer Grants Regulations are amended as follows.

(2) In regulation 7 (further eligibility conditions: non-entitlement to Young Carer Grant while subject to immigration control), omit paragraph (7).

(3) In regulation 12 (amount and form of young carer grants) in paragraph (1), for “£300” substitute “£305.10”.

Saving provision: the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019

4.—(1) Where paragraph (2) applies, regulation 12(1) of the Young Carer Grants Regulations continues to have effect on and after 01 April 2020 in relation to the amount of assistance to be given to that individual as it did immediately before that date.

(2) This paragraph applies where the individual’s application for a young carer grant was made before 1 April 2020.

(3) In this regulation, reference to the individual’s application being made is to be construed in accordance with regulation 4 of the Young Carer Grants Regulations.

Amendment of the Funeral Expense Assistance (Scotland) Regulations 2019

5.—(1) The Funeral Expense Assistance Regulations are amended as follows.

(2) In regulation 11 (estate of deceased person) in paragraph (3), after “burial club,” insert “pre-paid funeral plan.”.

(3) In regulation 13 (amount of funeral expense assistance)—

- (a) in paragraph (1)(b) for “£700” substitute “£1000”,
- (b) in paragraph (4)(b) for “£20” substitute “£20.35”, and
- (c) in paragraph (6)—
 - (i) in the opening words, for “£120” substitute “£122.05”, and
 - (ii) for sub-paragraph (a) substitute—

“has left in place a pre-paid funeral plan.”.

(4) In regulation 14 (Deductions from an award of funeral expense assistance) in paragraph 1(b)—

- (a) omit “pre-paid funeral plan,” and
- (b) omit “plan,” where it occurs later in the paragraph.

Saving and transitional provision: the Funeral Expense Assistance (Scotland) Regulations 2019

6.—(1) Where paragraph (2) applies to an individual—

- (a) regulation 13(1)(b) and (4)(b) the Funeral Expense Assistance Regulations continue to have effect on and after 01 April 2020 in relation to the amount of assistance to be given to that individual as they did immediately before that date, and

(a) S.S.I. 2019/292.

(b) regulation 13(6) has effect as if only regulation 5(1) (2), (3)(c)(ii) and (4) of these Regulations is in force.

(2) This paragraph applies where the individual's application for funeral expense assistance was made before 1 April 2020.

(3) In this regulation, reference to the individual's application being made is to be construed in accordance with regulation 3 of the Funeral Expense Assistance Regulations.

Name

A member of the Scottish Government

St Andrew's House,

Edinburgh

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 (S.S.I. 2019/324) ("the Young Carer Grants Regulations") and the Funeral Expense Assistance (Scotland) Regulations 2019 (S.S.I. 2019/292) ("the Funeral Expense Assistance Regulations").

The Regulations fulfil the duty on the Scottish Ministers to bring forward legislation under section 78(1) of the Social Security (Scotland) Act 2018 ("the Act") to increase the amount of social security assistance (that is payable each year under Chapter 2 of the Act) to an amount which is at least as high as if the existing amounts were adjusted in line with price inflation.

Regulation 2 increases the amount of the Young Carer Grant so that it is in line with price inflation.

There are three amounts of Funeral Expense Assistance payable under the Funeral Expense Assistance Regulations. Regulation 5(3)(b) and (3)(c)(i) increases in line with price inflation the amount of assistance which are payable towards funeral costs if the deceased has left in place a pre-paid funeral plan and towards a fee for removing an active implantable medical device from the deceased. Regulation 5(3)(a) increases the flat-rate amount of assistance that is available towards funeral costs (where the deceased has not left in place a pre-paid funeral plan) to an amount which is higher than if the amount was adjusted in line with price inflation.

The Regulations also make more substantive adjustments to the Young Carer Grants Regulations and the Funeral Expense Assistance Regulations

Regulation 3(2) removes the exclusion from entitlement to Young Carer Grant for young people subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 (1999 c.33).

Regulation 5(2) amends regulation 11(3) (estate of deceased person) to provide that when determining whether a person ("the applicant") is eligible for funeral expense assistance because the assets of the deceased person are insufficient or unavailable to meet the costs of the funeral, the Scottish Ministers can regard lump sums due under a funeral plan as among the deceased person's assets.

Regulation 5(3)(ii) amends regulation 13(6)(a) to provide that entitlement to a payment via a pre-paid funeral plan is the only circumstance which reduces the sum payable as a flat rate contribution towards funeral costs. Regulation 5(3)(c)(ii) also narrows the circumstances in which the reduction applies: the reduction only applies where a payment from a pre-paid funeral plan contributes towards meeting the costs of a funeral, and not where such a contribution is made via an insurance policy, occupational pension scheme or burial club.

Regulation 5(4) ensures that any funds or contributions that are available towards meeting the expense of the funeral from a pre-paid funeral plan are not deducted from the amount of funeral expense assistance a person is eligible for.

Regulations 4 and 6 make saving and transitional provision so that individuals who make an application for a Young Carer Grant or Funeral Expense Assistance before 01 April 2020 receive the amount of assistance that was payable immediately before the rates of assistance were increased.

Business and Regulatory impact assessments were prepared in respect of the Young Carer Grants and Funeral Expense Assistance Regulations. These Regulations do not alter the outcome of those assessments. Accordingly no new Business and Regulatory Impact Assessments are required.