

*Regulations made by the Scottish Ministers laid before the Scottish Parliament under paragraph 7(4)(a) of schedule 1 of the Coronavirus (Scotland) (No. 2) Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account periods of dissolution or recess for more than 4 days.*

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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 188**

**SOCIAL CARE**

**The Social Care Staff Support Fund  
(Coronavirus) (Scotland) Regulations 2020**

*Made* - - - - *at 4.37 p.m. on 24th*  
*Laid before the Scottish* *June 2020*  
*Parliament* - - - - *25th June 2020*  
*Coming into force in accordance with regulation 1(2)*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 2 and 7, and paragraph 7(3) of schedule 1, of the Coronavirus (Scotland) (No. 2) Act 2020<sup>(1)</sup> and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020.

(2) These Regulations come into force immediately after they are made.

(3) In these Regulations—

“expected income” means the greater of—

- (a) the remuneration to which a relevant social care worker would have been contractually entitled if their ability to undertake contracted health and care work was not restricted for a reason relating to coronavirus, and
- (b) the remuneration which under section 62 of the Employment Rights Act 1996<sup>(2)</sup> an employee, who is permitted to take time off under section 61 of that Act, is entitled to be paid by his employer for that time,

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(1) 2020 asp 10. Section 9(1) provides that this Act expires on 30 September 2020 unless the expiry date is altered by regulations made under section 9 or 10 of that Act.

(2) 1996 c.18.

“the Fund” means the Social Care Staff Support Fund to be established under paragraph 7(1) of schedule 1 of the 2020 Act,

“integration authority” has the meaning given by section 59 of the Public Bodies (Joint Working (Scotland) Act 2014<sup>(3)</sup>,

“relevant care service” means “a care home service”, “a housing support service”, “an offender accommodation service” or “a support service”, all as defined by section 47(1) and schedule 12 of the Public Services Reform (Scotland) Act 2010<sup>(4)</sup>,

“relevant social care worker” means an individual directly employed by a relevant care service on or after 23 March 2020,

“sick pay” means—

- (a) statutory sick pay as defined by section 151 of the Social Security Contributions and Benefits Act<sup>(5)</sup>,
- (b) payment which a worker is entitled to receive under a contract of employment when they are absent from work due to illness or suspected illness, and

“2020 Act” means the Coronavirus (Scotland) (No. 2) Act 2020<sup>(6)</sup>.

### **Establishment, maintenance and administration of the Fund**

2.—(1) The Fund is established.

(2) The Fund is to be maintained and administered in accordance with regulations 2 to 5.

(3) The Scottish Ministers must maintain the Fund for the duration of the period when Part 1 of the 2020 Act is in force<sup>(7)</sup>.

(4) The Scottish Ministers may appoint an integration authority or a local authority to administer the Fund on their behalf.

(5) The Scottish Ministers may pay such administration fees as they think fit to any person who they may appoint under paragraph (4).

### **Eligibility criteria to receive financial assistance deriving from the Fund**

3.—(1) A relevant social care worker is entitled to financial assistance from the Fund if all of the conditions in paragraphs (2) to (5) are met.

(2) The first condition is that the relevant social care worker’s ability to undertake contracted health and care work is, or has been, restricted for a reason relating to coronavirus.

(3) The second condition is that as a result of that restriction, the worker’s income is, or has been, reduced.

(4) The third condition is that consequently the worker would experience, or is experiencing, financial hardship during the period when Part 1 of the 2020 Act is in force.

(5) The fourth condition is that the worker is, or was—

- (a) unable to attend work as a result of having coronavirus, or
- (b) self-isolating in accordance with relevant public health guidance.

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<sup>(3)</sup> 2014 asp 9. Section 59 was amended by S.S.I. 2014/342.

<sup>(4)</sup> 2010 asp 8.

<sup>(5)</sup> 1992 c.4. Section 151 was amended by paragraph 34 of schedule 1 of the Social Security (Incapacity for Work) Act 1994 (c.18) and paragraph 9 of schedule 1 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and was modified by section 41(1) of the Coronavirus Act 2020 (c.7).

<sup>(6)</sup> 2020 asp 10.

<sup>(7)</sup> Section 16 makes provision for the Act to come into force on the day after Royal Assent. The Act came into force on 27 May 2020.

#### **Requirements for claim on the Fund by relevant social care workers**

4. In order to make a claim on the Fund, a relevant social care worker must provide evidence satisfactory to the Scottish Ministers, to them, or to such person appointed by the Scottish Ministers in accordance with regulation 2(3), that all the conditions set out in regulation 3 are met.

#### **Amount of financial assistance to be paid from the Fund**

5.—(1) Subject to paragraph (2), the maximum amount to be paid from the Fund to each relevant social care worker in respect of each period that the worker meets all the conditions in regulation 3 is the difference between—

- (a) that worker's expected income from health and care work in respect of that period, and
- (b) their actual income from health and care work (including any sick pay) in respect of that period.

(2) A relevant social care worker is not entitled to payment of an amount under paragraph (1) to the extent to which they have received a payment in respect of reduction in income for that period from any public body or other person.

#### **Reimbursement of employers of payments to relevant social care workers**

6.—(1) Subject to paragraph (2), an employer who pays a relevant social care worker an amount described in regulation 5 is entitled to reimbursement from the Fund, together with payment of such administration costs (if any) as the Scottish Ministers think fit.

(2) An employer must provide evidence satisfactory to the Scottish Ministers, to them, or to such person as they may appoint to administer the Fund, that—

- (a) the relevant social care worker has met all of the conditions set out in regulation 3,
- (b) the worker was entitled to the amount sought to be reimbursed, and
- (c) the employer has paid to the worker that amount.

(3) An employer of a relevant social care worker is not entitled to reimbursement to the extent to which they have received a payment from any public body or other person in reimbursement of that amount.

St Andrew's House,  
Edinburgh  
At 4.37 p.m. on 24th June 2020

*JEANE FREEMAN*  
A member of the Scottish Government

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the establishment, maintenance and administration of the Social Care Staff Support Fund (“the Fund”).

Regulation 1 provides that the Regulations will come into force as soon as they are made and provides definitions of key terms in the Regulations.

Regulation 2 provides that the Scottish Ministers establish the Fund, and as to maintenance and administration of the Fund.

Regulation 3 sets out the eligibility criteria that a worker must satisfy to receive assistance.

Regulation 4 makes provision as to the making of claims on the Fund by a relevant social care worker.

Regulation 5 makes provision as to the amount that can be paid from the Fund.

Regulation 6 makes provision as to reimbursement of an employer who pays sums to which a worker is entitled from the Fund.