POLICY NOTE

THE BEST START GRANTS AND SCOTTISH CHILD PAYMENT (MISCELLANEOUS AMENDMENTS) REGULATIONS 2021

SSI 2021/XXX

The above instrument is to be made in exercise of the powers conferred by section 32(2) and section 79 of the Social Security (Scotland) Act 2018 ("the 2018 Act"). The amending regulations aend two separate principal insgruments. For the purpose of this policy note, "the SCP regulations" means the Scottish Child Payment Regulations 2020 and "the BSG regulations" means the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018. The instrument is subject to the affirmative procedure. As required by section 97(2) of the 2018 Act, the Scottish Ministers have consulted the Scottish Commission on Social Security and a response to the Commission's report on the proposals is published along with the draft instrument.

Summary Box

This instrument amends the SCP regulations and the BSG regulations which set out the rules and eligibility criteria for Scottish Child Payment (SCP) for children under 6 and for Best Start Grant (BSG) respectively. This instrument inserts new rules to the SCP and BSG regulations which Scottish Ministers must apply when faced with competing applications for SCP and BSG. This will ensure the relevant payment is made to the person responsible for the child.

Policy Objectives

Although unintended, the SCP and BSG regulations are currently leading to determinations against awards of Scottish Child Payment and Best Start Grant in respect of children who are looked after by someone who ought to be entitled to receive an award but who cannot lawfully be given it because a previous applicant has already made a successful claim and currently takes priority over the new applicant.

These regulations make minor technical amendments to the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 and the Scottish Child Payment Regulations 2020 by modifying the current hierarchy and inserting a hierarchy into BSG.The amendments ensure that, where there is a competing claim, Scottish Child Payment and Best Start Grant entitlement is aligned to our original policy intent ensuring the payment is made to the person who is responsible for the child.

The amendments ensure that, when faced with a competing claim, but the rules to dermine who is entitled do not operate, or where one of the individuals is in receipt of a qualifying benefit but the other is a kinship carer, the Scottish Ministers must have regard to the circumstances of the child. We have not specified in legislation the types of circumstances that would be taken into account when making a decision; instead this will be provided for in detailed operational guidance used by Social Security Scotland.

The overarching policy intent remains the same, and these amendments reflect our commitment to continuously improve how Scottish Child Payment and Best Start Grant operate, and interact with reserved benefits, to achieve the best outcomes for our clients.

Consultation

The Scottish Commission on Social Security

As required by section 97(2) of the 2018 Act, the Scottish Ministers have consulted the Scottish Commission on Social Security (SCoSS). SCoSS shared their scrutiny report on 08 November 2021. The Scottish Government's response will accompany these regulations. This follows extensive scrutiny[1] by SCoSS of both the SCP and BSG regulations, with a number of changes made in response.

Stakeholder engagement

Extensive stakeholder engagement was udertaken on both sets of principal regulations. The draft regulations were shared with key stakeholders via the Five Family Payments Reference Group, which comprises third sector, NHS and local government representation. We received written feedback from two stakeholders which we shared with SCoSS.

Impact Assessments

It is not considered necessary to carry out impact assessments for this instrument. These Regulations do not seek to change the policy intent of the regulations, instead the amendments seek to achieve the policy intent that the individual responsible for the child receives the relevant award of assistance. The following Impact Assessments[2] have been completed for the principal SCP regulations, and apply to these regulations:

- A Child Rights and Wellbeing Impact Assessment
- An Equalities Impact Assessment
- A Business and Regulatory Impact Assessment
- An Islands Screening Assessment
- A Fairer Scotland Duty Impact Assessment

Similarly, the following Impact Assesments have been completed for the principal BSG regulations, and apply to these regulations:

- A Child Rights and Wellbeing Impact Assessment[3]
- An Equalities Impact Assessment[4]
- A Business and Regulatory Impact Assessment[5]
- An Islands Screening Assessment[6]

---

[1] https://www.gov.scot/collections/scottish-commission-on-social-security-publications/
[2] https://www.legislation.gov.uk/sdsi/2020/9780111046395/resources
[3] Best Start Grant: children's rights and wellbeing impact assessment - gov.scot (www.gov.scot)
[4] Best Start Grant: equality impact assessment - gov.scot (www.gov.scot)
[5] Best Start Grant: business and regulatory impact assessment - gov.scot (www.gov.scot)
[6] Best Start Grant: island screening assessment - gov.scot (www.gov.scot)

- A Fairer Scotland Duty Impact Assessment[7]

There are no significant equalities or rights impacts that require further consideration in relation to the commencement of these regulations.

Financial Effects

Business and Regulatory Impact Assessments (BRIA) have been completed for the principal regulations of both SCP and BSG. The impact of these policies on business is limited and no additional quantifiable financial effects have been identified.

Scottish Government
Social Security Directorate
November 2021

[7] Best Start Grant: Fairer Scotland Duty assessment - gov.scot (www.gov.scot)