POLICY NOTE

THE EARLY YEARS ASSISTANCE (BEST START GRANTS) (SCOTLAND) AMENDMENT (No. 1) REGULATIONS 2019

SSI 2019/XXX

The above instrument will be made, if approved, in exercise of the powers conferred by sections 32(2), 43(5) and 52 of the Social Security (Scotland) Act 2018. The instrument is subject to affirmative procedure. Section 98 of that Act disapplies any requirement to consult with the Scottish Commission on Social Security before laying the draft instrument.

These regulations will make amendments to the current Best Start Grants regulations (S.S.I. 2018/370) to clarify detail or to ensure that the regulations deliver the policy intent and, following the completion of service design for that grant scheme, to extend provision for determination without application in certain situations.

POLICY OBJECTIVES

The Best Start Grants (BSG) are a form of early years asssistance, intended to support lower income families with children by offering financial support at key transition points in the early years, intended to improve children's wellbeing and life chances. Regulations for the pregnancy and baby grant were made on 9 December 2018. **These regulations will make amendments to clarify detail or ensure that the current regulations deliver the policy intent and, following the completion of service design for the BSG, to extend provision for determination without application in certain situations.**

These include amendments to:

- align the deeming of an application date in the rule on late award of qualifying benefit with the start of the window for application for the pregnancy and baby grant (regulation 5);
- make changes on dependency and responsibility for a child which will improve access for kinship carers (regulation 6). These anticipate changes which come in to effect in Feburary 2019 to introduce a child element for pension credit and amend the test that establishes that a young parent is dependent on a parent or carer to include kinship carers;
- make provision for timescales for re-determination where there is a late request for re-determination (regulation 7);
- extend provision for determinations to be made without an application being required (regulation 8; see explanation below);
- clarify that Sure Start Maternity Grant recipients are not also eligible for the BSG;
- adjust rules to restrict the circumstances in which multiple awards can be made where there is a change of responsibility for a child within a family; and
- adjust a residence rule should the UK leave the European Economic Area (regulation 9).

As the BSG is the first benefit for which regulations have been developed under the Social Security (Scotland) Act 2018[1], the delivery system has been developing in parallel with the policy. Now that the service is in operation and following further discussions with stakeholders, the need for additional provision for determinations to be made without an application has been identified. Amendments are therefore proposed to allow for such determinations where:

- it is necessary to correct an official error made in a determination. Where the Agency notices it has made an error in making a determination that has resulted in the individual being paid less BSG (including no BSG) than the person should have received, had the determination been made correctly, Ministers are to make a new determination. If an individual notices an error at the time it is made, they can request a redetermination and have appeal rights. The duty to correct will cover situations where no such request or appeal has been made or any appeal has been concluded without an award.
- an award of a qualifying benefit follows an appeal. If the award comes to Ministers attention, and they have established that it would change a determination to refuse a BSG, then Ministers are to make a new determination.

CONSULTATION

Early Years Assistance - Consultation on Best Start Grant Regulations
Between 23 March and 15 June the Scottish Government undertook a consultation on draft BSG regulations[2], which included details of all three proposed types of assistance. There were 51 responses and the independent consultation report[3] is available on the Scottish Government website. A detailed response to the consultation report by the Scottish Government is published alongside the regulations[4]. No separate consultation has been undertaken on these draft regulations, as they do not change the policy in a significant manner. Rather, they respond to points identified by stakeholders and others from introduction of the first type of grant.

FINANCIAL IMPACTS

A partial Business and Regulatory Impact Assessment (BRIA) has been completed. The impact of this policy on business is limited and no quantifiable financial effects have been identified.

Scottish Government
Social Security Directorate
January 2019

[1] Social Security (Scotland) Act 2018 http://www.legislation.gov.uk/asp/2018/9/contents/enacted
[2] Early Years Assistance, Consultation on BSG Regulations https://www.gov.scot/Publications/2018/03/2016
[3] Early Years Assistance: Analysis of Consultation Responses on BSG
https://www.gov.scot/isbn/9781787811942
[4] Scottish Government Response to the Consultation on Best Start Grant Regulations
https://www.gov.scot/isbn/9781787812024