POLICY NOTE

THE SOCIAL SECURITY INFORMATION-SHARING (SCOTLAND) AMENDMENT REGULATIONS 2025

SSI 2025/XXX

The above Regulations will, if approved by the Scottish Parliament, be made in exercise of the powers conferred by section 85(5) of the Social Security (Scotland) Act 2018. These Regulations are subject to affirmative procedure.

Summary Box

These Regulations will amend the Social Security Information-sharing (Scotland) Regulations 2021 to provide a legal gateway for information-sharing by Social Security Scotland with Scottish local authorities. The data would be provided to enable local authorities to identify pupils in attendance at a school under the authority's management, whose parents or carers are in receipt of Scottish Child Payment in respect of that pupil. This will enable education authorities to use their power under section 53(3) of the Education (Scotland) Act 1980 to provide or secure the provision of free school meals to those pupils.

The new legal gateway will be utilised immediately upon commencement of these Regulations to support provision of free school meals to those in stages Primary 6 and 7 whose parents and carers are in receipt of Scottish Child Payment.

It is also intended that the legal gateway will be utilised in due course to support the Test of Change for the provision of free school meals to pupils in stages Secondary 1 to 3 whose parents and carers are in receipt of Scottish Child Payment in 8 local authority areas.

Policy Objectives

Free school lunch is a "passported benefit", where the entitlement depends on a child or young person being an eligible child or young person, where their parent(s) or the young person themselves, are in receipt of certain benefits as prescribed in section 53 of the Education (Scotland) Act 1980 ("the 1980 Act").

Section 53(3) of the 1980 Act provides that an education authority may also provide or secure the provision of a school lunch to pupils falling within section 53(7) or food or drink to other pupils. A school lunch is defined by section 53(12) of the 1980 Act.

The provision of free school meals on a universal basis in Primaries 1 to 5 and special schools has been achieved through agreement with local government. The next phase of the expansion programme will focus on targeted interventions, which increase the eligibility for free school meals but which are not as expansive as universal provision. It is the Scottish Government's policy to expand provision to those in receipt of Scottish Child Payment, which is available to those in receipt of certain benefits who are looking after a child up to the age of 16 years old.

These Regulations will establish a legal gateway for the sharing of data between Social Security Scotland (an executive agency of the Scottish Ministers), which administers the Scottish Child Payment, and Scottish local authorities. The data may be used by local authorities to identify children in Primary 6 and 7, in respect of whom an individual is in receipt of Scottish Child

Payment, in order for the authority to utilise its power under section 53(3) of the 1980 Act to offer free school meals to those children.

The legal gateway established by these Regulations extends to pupils in Secondary 1 to 3 for the purposes of enabling local authorities to identify those who may be offered free school meals as part of the Test of Change approach, which will be established in eight local authority areas, for the period of one year from August 2025. The Test of Change is likely to, initially, apply to some pupils in all eight authority areas, but not necessarily all pupils in the eight areas.

It is not intended that section 53(7) is amended at this time. However, this may be revisited in due course.

Information sharing related to the expansion to those in Primary 6 and 7 pupils
As is indicated above, it is expected that there will be a data share to support identification of those pupils in Primary 6 and 7 whose parents and carers are in receipt of Scottish Child Payment following the commencement of these Regulations._This will enable local authorities to accurately identify both the pupils and their parents and carers who are in receipt. To facilitate this it is expected that some pupils' information and some parents' and carers' information will be required to be shared. This includes

For children;
Their name and date of birth.

For parents or carers
Their name, their contact details and address and national insurance number.

The purpose of sharing the child's name and date of birth is to identify the child whose parents or carers have entitlement to SCP in order to confirm that the child should benefit from this expansion. Note that the Regulations refer to children who, having regard to their age, appear likely to attend Primary 6 or 7, or Secondary 1 to 3. This is because social security data does not indicate the yearly stage a child attends.

The purpose of sharing the parents or carers' name, contact details and address are to enable contact with the parent to confirm eligibility for free school meals, and to confirm that the child and parent belong to the authority providing meals. The national insurance number is the unique identifier which confirms that the parent is the correct person that should be contacted regarding entitlement to free school meals.

The purposes for which this information will be shared is limited to the provision of free school meals.

It is intended that the same information will be provided for those authorities who agree to take part in the Test of Change approach. The Test of Change will also undergo formal impact assessment, including at very least DPIA, EQIA, CRWIA.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility
In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view,

the Social Security Information-sharing (Scotland) Amendment Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration
This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

The Scottish Ministers have through joint agreement with COSLA established a programme of work to expand the provision of free school meals (lunches) on a universal basis across Primary ages and stages. Currently provision is made on a universal basis for pupils in Primary 1 to 5 and for all pupils in attendance at a special school. Benefit-related eligibility criteria set out within section 53(7) of the 1980 Act also remain in force, and in practice apply to pupils in Primary 6 to Secondary 6. The provision of free school meals to Primary 6 and 7 pupils on the basis of Scottish Child Payment is the next phase in this programme of expansion.

There is a further commitment to a Test of Change focussed on the provision of free school meals to pupils in Secondary 1 to 3 in eight local authority areas, for the period of one year from August 2025 for which this legal gateway will also be utilised.

Consultation
The amendments made by these Regulations facilitate the offer of a free school meal to those in receipt of Scottish Child Payment at Primary 6 and 7 stage. It is a requirement to consult the Information Commissioner's Office (ICO) on these Regulations, which has been undertaken. There has also been engagement with the Scottish Social Security Commissioner. There has been ongoing engagement with COSLA, ADES and meal providers in local authorities through the governance arrangements in place for this joint work. There has not otherwise been public consultation on these Regulations.

There is a further commitment to a Test of Change focussed on the provision of free school meals to pupils in Secondary 1 to 3 in eight local authority areas, for the period of one year from August 2025 to which this legal gateway will also apply. The Scottish Government will continue to engage with key stakeholders in the development of any further use of this legal gateway in due course. The Scottish Government will also remain cognisant of the requirements of data protection law in the use of this legal gateway in due course.

Impact Assessments
An Equality Impact Assessment and a Children's Rights and Wellbeing Impact Assessment have been completed in respect of these Regulations. They have focussed on the use of the legal gateway for the use of data for the expansion of free school meals to pupils in Primary 6 and 7 on the basis of Scottish Child Payment, as this information will be shared, shortly after the commencement of the Regulation, if agreed by Parliament. The Equality Impact Assessment identified positive impacts on the basis of advancing equality of opportunity, across all relevant protected characteristics. The legislation will support the provision of benefits for Primary 6 and 7 pupils whose families are in receipt of Scottish Child Payment. No negative impacts were identified.

The CRWIA confirmed positive impact on children's rights for those to whom the data sharing legislation will apply, in particular in relation to articles 24 and 29. Further the CRWIA identified that the policy will contribute to the wellbeing indicators of Healthy and Achieving.

While the sharing of information about the children in respect of whom SCP is paid engages the child's right to privacy protected by article 16 UNCRC, we have concluded that the interference with those children's privacy is limited, targeted to a specific purpose which advances other rights of those children, and is proportionate. The Regulations and the steps taken to support their implementation, including data protection measures put in place by SSS and education authorities such as data sharing agreements, updated privacy notices and associated actions ensure that the impact on children's privacy is limited, targeted and proportionate.

An Island Communities Impact Assessment was considered. It was concluded that there were no unique impacts, barriers or wider impacts which affect Island communities and therefore an Islands Communities Impact assessment was not necessary.

A Data Protection Impact Assessment is being developed. This focusses on the necessary arrangements which are required in practice to ensure that the data sharing between Social Security Scotland and Scottish Local Authorities will meet the necessary legal requirements of data protection legislation to secure that children's and their parents' data is shared, stored and used only for the intended purpose provided for in line with the legal gateway provided for by the Amendment Regulations.

Impact Assessments have also begun to be undertaken for the Test of Change, and these will be published in due course. It is not expected that there will be different impacts identified for those included within the Test of Change, but the outcome of impact assessments will be confirmed in due course, ahead of its establishment in August 2025.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been considered, it was concluded that a BRIA was not required.

Funding to meet the costs of this expansion of free school meals which is supported by these Regulations is contained within the budget for 2025-26. The costs of establishing the data share are met from within existing resources.

Scottish Government
Directorate for Learning
March 2025