Draft Regulations laid before the Scottish Parliament under section 96(2) of the Social Security (Scotland) Act 2018, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2025 No.

SOCIAL SECURITY

The Social Security (Miscellaneous Amendment) (Scotland) Regulations 2025

Made - - - -	*2025*
Coming into force - -	*23rd June 2025*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 13 of the Social Security Act 1988(**a**), section 175(4) of the Social Security Contributions and Benefits Act 1992(**b**), sections 30(2), 32(2), 34(2), 79, 85(5) and 95 of the Social Security (Scotland) Act 2018(**c**) and all other powers enabling them to do so.

In accordance with section 13(2) of the Social Security Act 1988, they have consulted with the Welsh Ministers(**d**).

In accordance with section 96(2) of the Social Security (Scotland) Act 2018, a draft of these Regulations 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 they consider appropriate.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendment) (Scotland) Regulations 2025 and come into force on 23 June 2025.

(2) These Regulations extend to Scotland only.

(**a**) 1988 c. 7. Section 13 was substituted by section 185(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) and amended by section 27(5) of the Scotland Act 2016 (c. 11) ("the 2016 Act"). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46) as read with section 32 of the 2016 Act.

(**b**) 1992 c. 4. Section 175(4) was amended by paragraph 29(4) of schedule 3 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(**c**) 2018 asp 9. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(**d**) Functions conferred or imposed on the National Assembly for Wales immediately before the first appointment of a First Minister under section 46 of the Government of Wales Act 2006 (c. 32) by an enactment contained in an Act were transferred to the Welsh Ministers by paragraph 30(2)(c) of schedule 11 of that Act.

Amendment of the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018

2.—(1) The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018(**a**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 10(1A)(a)(i) (meaning of "dependant"), omit "child tax credit,".

(3) In regulation 11 (meaning of references to specified kinds of assistance), omit paragraphs (a) and (g).

(4) In schedule 1 (procedural matters), in paragraph 6(3)(a) (multiple applications in respect of the same child), omit "child tax credit,".

Amendment of the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019

3.—(1) The Welfare Foods (Best Start Foods) (Scotland) Regulations 2019(**b**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (general interpretation), omit the definition of "child tax credit".

(3) In regulation 5(2)(a)(i) (meaning of "dependant"), omit "child tax credit,".

(4) In regulation 6(4) (entitlement – general), for "10(1)(a)" substitute "10(1)(c)".

(5) In regulation 10 (kinds of assistance)—

(a) in paragraph (1), omit sub-paragraphs (a) and (b),

(b) in paragraph (3), omit the definition of "working tax credit".

Amendment of the Funeral Expense Assistance (Scotland) Regulations 2019

4.—(1) The Funeral Expense Assistance (Scotland) Regulations 2019(**c**) are amended in accordance with paragraph (2).

(2) In regulation 10(1) (qualifying benefits), omit sub-paragraphs (d) and (e).

Amendment of the Scottish Child Payment Regulations 2020

5.—(1) The Scottish Child Payment Regulations 2020(**d**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 12(2)(a)(i) (meaning of "dependant"), omit "child tax credit,".

(3) In regulation 14 (meaning of references to specified kinds of assistance), omit paragraphs (a) and (g).

(4) In the schedule (procedural matters)—

(a) in paragraph 5(4)(a) (multiple determinations involving the same child), omit "child tax credit,",

(b) for paragraph 22 (first-tier tribunal's power to determine entitlement) substitute—

"**First-tier Tribunal's power to determine entitlement**

22.—(1) In an appeal under paragraph 19 (right to appeal to the First-tier Tribunal against determination) against a determination of an individual's entitlement to a Scottish child payment, the First-tier Tribunal may—

(a) uphold the determination, or

(b) make its own determination of the individual's entitlement to a Scottish child payment.

(**a**) S.S.I. 2018/370, relevantly amended by S.S.I. 2019/110 and S.S.I. 2021/494.
(**b**) S.S.I. 2019/193, relevantly amended by S.S.I. 2023/371.
(**c**) S.S.I. 2019/292, to which there are amendments not relevant to these Regulations.
(**d**) S.S.I. 2020/351, relevantly amended by S.S.I. 2021/494 and S.S.I. 2022/41.

(2) In exercising its power under sub-paragraph (1), the First-tier Tribunal—

(a) must not take into account any circumstances which did not exist at the relevant time, but

(b) may take into account circumstances which existed but were not known at the relevant time.

(3) In sub-paragraph (2), "the relevant time" means the time at which the individual's entitlement fell to be determined by the Scottish Ministers in making the original determination under paragraph 3 (duty to make a determination of entitlement) in relation to that entitlement.".

Amendment of the Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020

6.—(1) The Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020(**a**) are amended in accordance with paragraph (2).

(2) In schedule 2 (procedural matters: carer's allowance supplement), for paragraph 12 (first-tier tribunal's power to determine entitlement) substitute—

"First-tier Tribunal's power to determine entitlement

12.—(1) In an appeal under paragraph 9 (right to appeal to the First-tier Tribunal against determination) against a determination of an individual's entitlement to a carer's allowance supplement, the First-tier Tribunal may—

(a) uphold the determination, or

(b) make its own determination of the individual's entitlement to a carer's allowance supplement.

(2) In exercising its power under sub-paragraph (1), the First-tier Tribunal—

(a) must not take into account any circumstances which did not exist at the relevant time, but

(b) may take into account circumstances which existed but were not known at the relevant time.

(3) In sub-paragraph (2), "the relevant time" means the time at which the individual's entitlement fell to be determined by the Scottish Ministers in making the original determination under regulation 5 (determination of entitlement to a carer's allowance supplement for individuals resident outside Scotland) in relation to that entitlement.".

Amendment of the Social Security Information-sharing (Scotland) Regulations 2021

7.—(1) The Social Security Information-sharing (Scotland) Regulations 2021(**b**) are amended in accordance with paragraph (2).

(2) In regulation 4(3)(g)(i) (use of information supplied by the Scottish Ministers), for "regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 (provision of additional financial assistance towards meeting housing costs)" substitute "Part 5 of the Social Security (Scotland) Act 2018 (discretionary housing payments)".

(**a**) S.S.I. 2020/475, to which there are amendments not relevant to these Regulations.
(**b**) S.S.I. 2021/178, to which there are amendments not relevant to these Regulations.

Amendment of the Winter Heating Assistance (Low Income) (Scotland) Regulations 2023

8.—(1) The Winter Heating Assistance (Low Income) (Scotland) Regulations 2023(**a**) are amended in accordance with paragraph (2).

(2) In regulation 4(3) (eligibility rules for winter heating payment), omit sub-paragraph (d).

Amendment of the Winter Heating Assistance (Pension Age) (Scotland) Regulations 2024

9.—(1) The Winter Heating Assistance (Pension Age) (Scotland) Regulations 2024(**b**) are amended in accordance with paragraph (2).

(2) In regulation 2 (interpretation)—

(a) omit the definition of "child tax credit",

(b) in the definition of "relevant benefit" omit paragraph (f), and

(c) omit the definition of "working tax credit".

Saving and transitional provisions

10. Despite regulation 2, the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 continue to have effect on and after 23 June 2025 as they did immediately before that date for the purpose of determining entitlement under those Regulations in respect of a date prior to 23 June 2025.

11. Despite regulation 3, the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019 continue to have effect on and after 23 June 2025 as they did immediately before that date for the purpose of determining entitlement under those Regulations in respect of a period prior to 23 June 2025.

12. Despite regulation 4, the Funeral Expense Assistance (Scotland) Regulations 2019 continue to have effect on and after 23 June 2025 as they did immediately before that date for the purpose of determining entitlement under those Regulations in respect of a date prior to 23 June 2025.

13. Despite regulation 5, the Scottish Child Payment Regulations 2020 continue to have effect on and after 23 June 2025 as they did immediately before that date for the purpose of determining entitlement under those Regulations in respect of a period prior to 23 June 2025.

14.—(1) Paragraph (2) applies where the First-tier Tribunal for Scotland has heard evidence in an appeal under paragraph 19 of the schedule of the Scottish Child Payment Regulations 2020 at a hearing before 23 June 2025 and adjourns or continues that hearing to a date on or after 23 June 2025.

(2) Despite the coming into force of regulation 5(4)(b), paragraph 22 of that schedule as it applied immediately before 23 June 2025 continues to apply for the purposes of—

(a) that appeal under paragraph 19 of that schedule,

(b) any onward appeal against the decision of the First-tier Tribunal in that appeal.

15.—(1) Paragraph (2) applies where the First-tier Tribunal for Scotland has heard evidence in an appeal under paragraph 9 of schedule 2 of the Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 at a hearing before 23 June 2025 and adjourns or continues that hearing to a date on or after 23 June 2025.

(2) Despite the coming into force of regulation 6(2), paragraph 12 of that schedule as it applied immediately before 23 June 2025 continues to apply for the purposes of—

(**a**) S.S.I. 2023/16, to which there are amendments not relevant to these Regulations.
(**b**) S.S.I. 2024/351, to which there are amendments not relevant to these Regulations.

(a) that appeal under paragraph 9 of that schedule,

(b) any onward appeal against the decision of the First-tier Tribunal in that appeal.

16. In regulations 14 and 15, "hearing" has the same meaning as in rule 1 of the First-tier Tribunal for Scotland Social Security Chamber Rules of Procedure 2018(**a**).

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

(**a**) The First-tier Tribunal for Scotland Social Security Chamber Rules of Procedure 2018 are set out in the schedule of S.S.I. 2018/273 to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulations 2, 3, 4, 5(2), 5(3), 5(4)(a), 8 and 9 make miscellaneous amendments to the following instruments:

- the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018,
- the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019,
- the Funeral Expense Assistance (Scotland) Regulations 2019,
- the Scottish Child Payment Regulations 2020,
- the Winter Heating Assistance (Low Income) (Scotland) Regulations 2023,
- the Winter Heating Assistance (Pension Age) (Scotland) Regulation 2024.

These Regulations remove from these instruments any:

- definitions of child tax credit and working tax credit,
- reference to a person who has been awarded child tax credit as being regarded as a dependent of another individual,
- reference to child tax credit and working tax credit as being benefits which confer entitlement,
- references to child tax credit in relation to procedural matters.

Regulations 5(4)(b) and 6(2) make amendments to the Scottish Child Payment Regulations 2020 and the Carer's Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020 to provide for the First-tier Tribunal's powers when determining appeals.

Regulation 7 amends the Social Security Information-sharing (Scotland) Regulations 2021 to reflect that discretionary housing payments are payable under Part 5 of the Social Security (Scotland) Act 2018, which Part was commenced on 1 April 2024.

Regulations 10 to 13 make saving provisions to account for any individual who receives a backdated child tax credit or working tax credit.

Regulations 14 and 15 make saving provisions in connection with regulations 5(4)(b) and 6(2).

Regulation 16 provides a definition of "hearing" for the purposes of regulations 14 and 15.

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