POLICY NOTE

THE EARLY YEARS ASSISTANCE (BEST START GRANTS) (SCOTLAND) REGULATIONS 2018

SSI 2018/370

The above instrument will, if approved by the Scottish Parliament, be made in exercise of the powers conferred by section 32(2), 41(4)(a), 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.

Policy Objectives

Section 32 and schedule 6 of the Social Security (Scotland) Act make provision for Early Years Assistance and require that Scottish Ministers in making regulations must: -

- base entitlement on one or more of four primary eligibility criteria (see paragraph 1(2) of the schedule);
- define the meaning of responsibility for a child for the purposes of determining entitlement;
- set out the value of payments and any other assistance.

The Best Start Grants (BSG) will be 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.

When fully implemented, there will be 3 BSG payments available:

- **Pregnancy and Baby Payment** - £600 for a first child and £300 for any subsequent child – this will help with expenses in pregnancy or of having a new child, for example a pram or additional heating. This lessens the financial burden on lower income families when they are expecting or have a new child. The payment also provides support for people who have had a still birth.
- **Early Learning Payment** - £250 – this will help with costs with early learning at around the time a child may take up a nursery place, to support child development, for example travel costs, changes of clothes for messy play, trips out and toys for home learning.
- **School Age Payment** - £250 – this will help with the costs of preparing for primary school, for example educational toys and after school activities such as swimming or football.

The regulations provide detailed rules relating to the BSG Pregnancy and Baby payment only. They include provision for eligibility, including residence, what assistance is available, the value of the payments and when to apply. The regulations also include provision for timescales for the processing of redeterminations and certain issues of process relating to application dates. Further details will be set out in operational guidance. In due course, there will be 2 additional schedules of the Regulations, to provide for the Early

Learning and School Age Payments and the current draft instrument will be amended to include schedules for all 3 types of payment.

The intention to add further schedules results in the regulations having a structure in which, for example, schedule 1 applies to early years assistance generally, while schedule 2 applies to a specific form of such assistance, the pregnancy and baby grant. This looks slightly odd when there is only one form of assistance, but will accommodate more easily the 2 later forms into a single set of regulations. The Scottish Government thinks this approach is easier for users to follow than producing a set of regulations designed for a single form of assistance, then redesigning it for multiple forms of assistance. It will be more transparent if, in the light of initial experience, changes are proposed to the current regulations, are made. It will also avoid the need for renumbering of provisions that users are becoming used to working with.

Consultation

Early Years Assistance - Consultation on Best Start Grant Regulations
Between 23 March and 15 June we undertook a consultation on draft BSG regulations[1], which included details of all three proposed types of assistance. There were 51 responses and the independent consultation report[2] is available on the Scottish Government website. A detailed response to the consultation report by the Scottish Government is published alongside the regulations[3]. Following the consultation, policy on residence has been further developed, drawing on comments made in the responses, and those on a qualifying benefit will have to demonstrate only ordinary residence in Scotland, rather than habitual residence there.

In response to consultation responses outlining the advantages and disadvantages of 2 possible tests of responsibility for the child, the regulations set out a combined test. Proposals in the consultation on how young parents might qualify for the BSG were not supported. Policy has changed as a result and there will be a choice of routes for young parents to qualify for the BSG. The consultation set out proposed timescales for requesting and processing a re-determination. These were supported by the majority of respondents and are confirmed in the regulations.

In parallel with the consultation, work has been done to develop the processes for BSG and regulations have been added to allow for this, for example to provide for a "treat as made date for applications where the qualifying benefit is backdated. As the BSG is is the first benefit for which regulations have been developed under the Social Security (Scotland) Act 2018[4], the system has been developed in parallel with the policy. The Scottish Government anticipates that it may be necessary to re-visit regulations on process once the system is in operation. This might, for example, include additional provision for a determination to be made without an application if circumstances are found where that would be useful.

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

The Social Security Committee
The Committee took evidence on the BSG regulations on 10 May 2018, during the BSG consultation period. The Committee drew the attention of the then Minister for Social Security to the points made by stakeholders and the Minister responded to the Committee[5].

BSG Illustrative Regulations
Illustrative regulations for BSG were issued to the Social Security Committee and the Delegated Powers and Law Reform Committee of the Scottish Parliament on 28th September 2017, during the passage of the Social Security (Scotland) Bill and were subsequently published on the Scottish Parliament's website. They were also shared, with a request for feedback, with the BSG Reference Group, the Disability and Carers Benefit Expert Advisory Group (DACBEAG) and its Scrutiny Sub Group, the Scottish Parliament Social Security Expert Panel members and other stakeholders.

The BSG Reference Group
The BSG Reference Group was established in October 2016 to help gather evidence, bring a variety of informed perspectives and provide feedback on proposals. Membership and minutes of the meetings are available on the Scottish Government website[6].

Parents and Experience Panel
We have received, and are continuing to take, views from Experience Panel members and other parents, for example groups of bereaved parents, kinship carers and lone parents, on the design of the form and service to deliver BSG. A summary of research findings[7] was published in August 2018.

The Children's Parliament
The Children's Parliament was commissioned to work with children to seek their views during the consultation on the Best Start Grant Regulations[8].

Other stakeholders
The BSG has been developed with detailed consultation and engagement with other stakeholders.

A New Future for Social Security Consultation ran during summer 2016 (the report on BSG can be found on page 199 of the Consultation Report[9]). The BSG section sought views on key aspects of the assistance and received over 100 responses from both individuals and organisations. The views expressed helped shape the initial proposals for BSG discussed with the BSG Reference Group.

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[5] Minister for Social Security Response to Committee http://www.parliament.scot/S5_Social_Security/General%20Documents/20180529_MinisterSSecuritytoConvener_BSG_response.pdf
[6] Best Start Grant Reference Group https://beta.gov.scot/groups/best-start-grant-reference-group/
[7] Best Start Grant – Visual Summary of Research Findings https://www.gov.scot/Publications/2018/08/1898
[8] Children's Parliament 'A better start in life' Report https://www.childrensparliament.org.uk/our-work/past-work/best-start-grant/
[9] Analysis of Written Responses to the Consultation on Social Security in Scotland https://www.gov.scot/Resource/0051/00514351.pdf

Impact Assessments

Impact assessments for the BSG are for all 3 proposed payments. The following impact assessments have been completed and are attached:

- A Child Rights and Wellbeing Impact Assessment[10]
- An Equalities Impact Assessment[11]
- A Business Regulatory Impact Assessment[12]
- An Islands Screening Assessment[13]

A Data Protection Impact Assessment is being updated for the Social Security Programme to implement BSG will be published in due course.

Financial Effects

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.

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[10] Children's Rights and Wellbeing Impact Assessment https://www.gov.scot/isbn/9781787811997

[11] Equality Impact Assessment https://www.gov.scot/isbn/9781787811980

[12] A Business and Regulatory Impact Assessment https://www.gov.scot/isbn/9781787812000

[13] Islands Screening Assessment https://www.gov.scot/isbn/9781787812017