STATUTORY INSTRUMENTS

2018 No. 1138

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

SOCIAL SECURITY

The Social Security (Scotland) Act 2018 (Best Start Grants) (Consequential Modifications and Saving) Order 2018

Made - - - -	*29th October 2018*
Laid before Parliament	*5th November 2018*
Coming into force in accordance with article 1(2)	

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104 and 113(4) and (5) of the Scotland Act 1998(**a**).

PART 1

Introductory

Citation, commencement and extent

1.—(1) This Order may be cited as the Social Security (Scotland) Act 2018 (Best Start Grants) (Consequential Modifications and Saving) Order 2018.

(2) This Order comes into force immediately after the coming into force of the first Regulations made under section 32 of the Social Security (Scotland) Act 2018(**b**).

(3) Each amendment made by this Order has the same extent as the provision to which it relates.

(**a**) 1998 c.46; section 104 was amended by section 12 of the Scotland Act 2012 (c.11).
(**b**) 2018 asp 9. The draft Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 were laid before the Scottish Parliament on 11 September 2018.

PART 2

Amendments and saving in relation to Sure Start Maternity Grants

Interpretation

2. In this Part, "the 2005 Regulations" means the Social Fund Maternity and Funeral Expenses (General) Regulations 2005(**a**).

Amendment of the 2005 Regulations

3.—(1) The 2005 Regulations are amended as follows.

(2) In regulation 3A (provision against double payment: Sure Start Maternity Grants)—

(a) in paragraph (1)(b), after "Sure Start Maternity Grant", insert "or a Best Start Grant";

(b) for paragraph (1)(c), substitute—

"(c) "subsequent grant" is, in respect of C—

(i) a second or subsequent Sure Start Maternity Grant; or

(ii) if a Best Start Grant has been given, a first Sure Start Maternity Grant;

(d) "Best Start Grant" is a grant given to a qualifying individual under Regulations made under section 32 of the Social Security (Scotland) Act 2018 in connection with having, or expecting to have, a new baby in the family.";

(c) in paragraph (2), for "second" substitute "subsequent";

(d) in paragraph (3), for "second" substitute "subsequent".

(3) In the heading of Part 2, after "expenses" insert "in England and Wales".

(4) In regulation 5 (entitlement), after paragraph (5), insert—

"(6) The fifth condition is that the claimant lives in England or Wales.".

Saving in relation to the amendment of the 2005 Regulations

4.—(1) The amendments made to the 2005 Regulations in article 3 are of no effect in relation to a claim for Sure Start Maternity Grant made before the date on which the first Regulations made under section 32 of the Social Security (Scotland) Act 2018 come into force.

(2) In paragraph (1), "Sure Start Maternity Grant" has the meaning given in the 2005 Regulations.

PART 3

Amendments in relation to other benefits: disregards

Amendment of the Income Support (General) Regulations 1987

5.—(1) The Income Support (General) Regulations 1987(**b**) are amended as follows.

(**a**) S.I. 2005/3061; relevant amending instruments are S.I. 2010/2760, 2011/100, 2013/247, 2014/852, 2017/271.
(**b**) S.I. 1987/1967; relevant amending instruments are S.I. 2017/995 and 2018/872.

(2) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), after paragraph 81 insert—

"**82.** Any early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

(3) In Schedule 10 (capital to be disregarded), after paragraph 74 insert—

"**75.** Any early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

Amendment of the Jobseeker's Allowance Regulations 1996

6.—(1) The Jobseeker's Allowance Regulations 1996(**a**) are amended as follows.

(2) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings), after paragraph 77 insert—

"**78.** Any early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

(3) In Schedule 8 (capital to be disregarded), after paragraph 67 insert—

"**68.** Any early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

Amendment of the State Pension Credit Regulations 2002

7.—(1) The State Pension Credit Regulations 2002(**b**) are amended as follows.

(2) In regulation 15(1) (social security benefits which are not prescribed for the purposes of income as described in section 15(1)(e) of the State Pension Credit Act 2002), after sub-paragraph (ra) insert—

"(rb) early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018;".

(3) In Schedule V (capital disregarded for the purpose of calculating income), after paragraph 20(2)(q) insert—

"(r) early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

Amendment of the Housing Benefit Regulations 2006

8.—(1) The Housing Benefit Regulations 2006(**c**) are amended as follows.

(2) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings), after paragraph 68 insert—

"**69.** Any early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

(3) In Schedule 6 (capital to be disregarded), after paragraph 64 insert—

"**65.** Any early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

(**a**) S.I. 1996/207; relevant amending instruments are S.I. 2017/995 and 2018/872.
(**b**) S.I. 2002/1792; relevant amending instruments are S.I. 2002/3019, 2017/422 and 2018/872.
(**c**) S.I. 2006/213; relevant amending instruments are S.I. 2017/995 and 2018/872.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

9.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**a**) are amended as follows.

(2) In regulation 29 (meaning of "income"), after paragraph (1)(j)(xviib) insert—

"(xviic) early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018;".

(3) In Part 1 of Schedule 6 (capital to be disregarded generally), after paragraph 21(2)(p) insert—

"(q) early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

Amendment of the Employment and Support Allowance Regulations 2008

10.—(1) The Employment and Support Allowance Regulations 2008(**b**) are amended as follows.

(2) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings), after paragraph 69 insert—

"**70.** Any early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

(3) In Schedule 9 (capital to be disregarded)

(a) the second paragraph numbered 61 is renumbered as paragraph 62;

(b) after paragraph 62 (as so renumbered) insert—

"**63.** Any early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018.".

Amendment of the Universal Credit Regulations 2013

11.—(1) The Universal Credit Regulations 2013(**c**) are amended as follows.

(2) In Schedule 10 (capital to be disregarded), after paragraph 20 insert—

"**21.** Any early years assistance given within the past 12 months in accordance with section 32 of the Social Security (Scotland) Act 2018.".

David Mundell
Secretary of State
29th October 2018 Office of the Secretary of State for Scotland

(**a**) S.I. 2006/214; relevant amending instruments are S.I. 2014/3255, 2017/422 and 2018/872.
(**b**) S.I. 2008/794; relevant amending instruments are S.I. 2017/422, 2017/870 and 995 and 2018/872.
(**c**) S.I. 2013/376; amended by S.I. 2017/422; there are other amending instruments but none are relevant.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends social security legislation as a consequence of sections 24 and 32 of, and Schedule 6 to, the Social Security (Scotland) Act 2018 (asp 9), and regulations made under section 32 of that Act, which make provision for the payment by Scottish Ministers of early years assistance, including maternity and new-baby grants, to qualifying individuals.

Article 1(2) provides that this Order comes into force immediately after the coming into force of the first Regulations made under section 32 of the Social Security (Scotland) Act 2018. The draft Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 were laid before the Scottish Parliament on 11 September 2018 and are the first Regulations the Scottish Ministers propose to make under section 32.

Part 2 contains consequential amendments to the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (S.I. 2005/3061) so that recipients of a maternity and new-baby grant are not also eligible to receive a Sure Start Maternity Grant under these Regulations. Part 2 also contains a saving provision in relation to claims for Sure Start Maternity Grant made before the date on which maternity and new-baby grants become available under the Social Security (Scotland) Act 2018.

Part 3 provides for early years assistance to be disregarded as income or capital when determining a claimant's entitlement to benefits under the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214), the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) and the Universal Credit Regulations 2013 (S.I. 2013/376).

A full impact assessment has not been produced for this instrument as little or no impact on the private, voluntary or public sectors is foreseen.

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