

SOCIAL SECURITY (SCOTLAND) BILL POLICY PAPER

EARLY YEARS ASSISTANCE (BEST START GRANT) ILLUSTRATIVE REGULATIONS AND POLICY NARRATIVE

Introduction

The Scotland Act 2016 devolved new social security powers to Scotland. Our paper *Creating a Fairer Scotland: A New Future for Social Security in Scotland*, which was published in March 2016, set out the Scottish Government's vision and key principles for the future of social security using these devolved powers and intention to establish an agency within the Scottish Government family to deliver the devolved benefits. The enabling legislation for this, the Social Security (Scotland) Bill, was laid before the Scottish Parliament on 20 June 2017 and is currently undergoing Stage 1 of the Parliamentary scrutiny process.

A series of position papers has been provided to the Committee, setting out current policy thinking on key matters to be examined during stage 1 of the Bill. Alongside these, illustrative regulations are being provided to give an idea of how we intend to use the powers in the Social Security Bill to take forward the Best Start Grant (BSG) (Early Years Assistance in the Bill). The illustrative regulations do not have any status beyond offering an example to inform the debate.

The position papers already provided can be found at:

<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/105188.aspx>

Consultation

The Social Security in Scotland Consultation ran from July to October 2016. The section on BSG received over 100 responses from both organisations and individuals. BSG policy and operational policy is being informed by the views of potential users, for example, we have talked to parents and involved them in user testing. Going forward, we will be taking in to account views from the Experience Panels. We have also established a Best Start Grant Reference Group that brings together a range of stakeholders from the public and third sector, to support and inform the development of the BSG.

The illustrative regulations reflect the product of discussions to date but are not the final position on BSG policy. The basic framework of the three BSG payments and the amounts of the payments are well established. We are still developing policy on the detail of the payments and how they will be implemented, although major changes that have an impact on financial planning would need careful consideration.

There will be a public consultation on a further set of BSG regulations, updated to reflect the impact of any changes to the Bill, stakeholder views and developments in the service design, in spring 2018.

Policy Objectives

Following the devolution of the Sure Start Maternity Grant (SSMG) in the Scotland Act 2016, Scottish Ministers will use powers to create new benefits set out in the Social Security Bill to introduce a more comprehensive benefit, the BSG.

The policy objectives of the BSG cash payments are to improve children's wellbeing and life chances, providing support to low income families at key transition points in early years. In combination with Healthy Start Vouchers (HSV), devolved alongside the SSMG, BSG will help mitigate the effects of child poverty and material deprivation. The support will help improve outcomes for children including reducing health inequalities and closing the attainment gap:

- **HSV** – will help to pay for milk, fruit and vegetables to help mothers and children get the nutrition they need.
- **Maternity and New Baby Payment** – 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 a child.
- **Nursery/Early Learning Payment** – will help with costs during nursery and early learning years to support child development, for example travel costs, changes of clothes for messy play, trips out and toys for home learning.
- **School Payment** – helps with the costs of preparing for school, for example a school bag, educational toys, after school activities such as swimming or football, or helping with the cost of school milk or school trips.

Prior to launch, there will be a detailed communication strategy, to ensure that applicants and the services that they come in to contact with and might seek support from are aware of the new benefit, their entitlement and how they can access it. BSG cash payments and HSV will be applied for on a single application form and administered alongside each other by the Agency. Where we refer to BSG in this document we mean the three cash payments – maternity and new baby, nursery and early learning and school payments. Regulations for HSV will be made separately under the Social Security Act 1988 so the Social Security Bill provisions will not apply to HSV. However, the regulations for HSV will seek to align with the relevant sections of cross cutting policy, for example residence etc so that they can be administered alongside each other with a seamless service to applicants.

Format of the Illustrative Regulations

The intention is that regulations will contain all relevant provisions for that type of assistance, including cross cutting provisions such as those for residence and re-determinations. In the case of the BSG, the illustrative regulations are set out in 3 Schedules, one for each of the BSG payments. This is to allow for the reader to identify the relevant grant and see all of the provisions for it in one place. Some aspects, for example residence, will be repeated across the schedules.

PART 1 - INTRODUCTORY AND INTERPRETATION

This section specifies the date of commencement and definitions used in the regulations, such as the definition of a partner and how days will be counted. The full text is at Annex A. Interpretation also includes a section on applications.

Applications

Illustrative regulations:

When an application is to be treated as made

3.—(1) An application is to be treated as made on the day it is received by the Scottish Ministers.

(2) For the avoidance of doubt, a thing that purports to be an application is not an application unless it is—

(a) made in the form, and

(b) accompanied by the evidence,

required under section 20(1) of the Social Security (Scotland) Act 2018.

The aim is to make it as easy as possible for people who are entitled to BSG to take up their entitlement. In order to make the system accessible for people with a range of needs and preferences and to maximise take up, there will be multiple application channels for the BSG. Information on how to apply for devolved benefits will be fully and widely accessible in whatever form users need. The detail of these is still to be determined in conjunction with users. One of the key differences between our social security delivery and the existing system will be the strong local presence across Scotland. Local agency staff will provide pre-claims advice and support to people on the benefits it delivers and related support they may be entitled to.

In order to streamline the application process, the BSG and HSV will be promoted and be capable of being applied for together. Each BSG payment is treated as a one off grant, without any continuing entitlement which means that there is no requirement to notify the Agency of a change in circumstances under Section 31 of the Bill. Where the Agency has verified information from a previous application for HSV or BSG, the intention is that it should be used, where practical and with the applicant's permission, to inform any later determination on HSV or BSG payment. This is in order to reduce the burden of application. However, we anticipate that the time lapse between determinations on HSV and individual BSG payments will often mean that applicants are asked to make an updated declaration for each BSG payment.

Evidence Evidence requirements and processes to underpin collection to establish whether applicants meet eligibility conditions, are under development. This includes opportunities for using existing data sources, including data sharing with DWP and HMRC. Processes for requesting and collecting any additional evidence required to

make a decision will also be required. Evidence requirements will be specified on the form but we do not envisage that they will be set out in regulations. This enables the Agency to easily keep step with changes in technology, culture and practice and to amend the application process to take account of users' needs and preferences.

Valid Application There will be certain conditions that need to be met to determine that a valid claim has been made, for example the form in which it is made and evidence required to support the claim. Relevant processes for this and for situations where the form does not meet the requirements will be set out once service design is further progressed. We do not envisage that they will be included in regulations, to allow for a flexible and responsive system.

Second Application Section 20 of the Bill precludes two applications being made in respect of the same life event. We anticipate that there may be situations where two applications might legitimately be made for the same BSG payment (life event), for example where the applicant has applied at the beginning of an application window and does not meet the eligibility requirements but applies again later in the window, outside the allowed time to request a re-determination, and meets the criteria at that point. We are considering options for providing for this sort of situation.

Date of Application Applications will be assessed based on the eligibility of the applicant on the date of application. The date of application is the date on which a completed application is received by the Agency. For example, the date on which an online application is submitted and received, rather than started and the date on which a paper application is opened and logged rather than the date of signature or posting.

Once service design is further progressed, there may be some further regulations in this area that smooth application processes for applicants and increase efficiency of the social security system by reducing the need to handle applications repeatedly. For example, it may be possible to make provision for situations where an award of qualifying benefit is received after the date of the BSG application but backdated.

Notification of a Determination - Section 22 of the Social Security Bill sets out required content of a notice of determination:

- The determination,
- Reasons for it,
- The right to a re-determination
- The right to appeal to a tribunal

We do not propose to set out further detail on this in regulations. The policy intent is for applicants to have a lasting record of the determination on their application or re-determination that they can use e.g. to discuss with an adviser or to check their rights to re-determination. We need to do more work on the options for meeting this need and will engage with users and welfare rights organisations to come up with a final solution.

The Potential Role of the Charter

The Bill places a statutory duty on Scottish Ministers to develop a Social Security Charter that reflects the key principles set out in section 1 of the Bill. These principles are derived from key aspects of the human right to social security. This idea of a publicly accessible charter, communicating in clear terms what people are entitled to expect from the new system, received strong support both in response to the Consultation on Social Security in Scotland and in wider public and stakeholder engagement. We have since committed to developing the charter in partnership with the people of Scotland, starting from a 'blank sheet of paper' and have made express provision for this on the face of the Bill.

The specific nature and content of the charter will therefore be a product of this co-design process. Subject to the outcome of the co-design process, it is also possible that the commitments to be made in the charter might include specific matters such as various timeframes relating to processing claims and similar indicators.

SCHEDULE 1

Maternity and New Baby Payment

Illustrative regulations:

Eligibility conditions

1. An individual who applies for a maternity and new-baby grant in respect of a child is eligible for the grant if—

- (a) the application is made before the deadline set by paragraph 2;
- (b) no-one else has received, or is due to receive, a maternity and new-baby grant or sure start maternity grant in respect of the child (but see paragraph 3);
- (c) when the application is made, the individual is habitually and lawfully resident in Scotland;
- (d) at least one of these statements is true—
 - (i) when the application is made the individual is, or has been, more than 24 weeks pregnant with the child;
 - (ii) when the application is made the individual is the partner of an individual who is, or has been, more than 24 weeks pregnant with the child;
 - (iii) the individual has parental responsibility for the child on the day the application is made;
- (e) at least one of these statements is true—
 - (i) the individual or the individual's partner has (or they both have) been properly awarded, for the day on which the application is made, assistance of a kind mentioned in regulation 8,
 - (ii) when the application is made, the individual is under 18 years of age,
 - (iii) on the day that the application is made, either (or both) the individual or the individual's partner is 18 or 19 years of age and a dependent of an individual who has been properly awarded, for that day, assistance of a kind mentioned in regulation 8.

Eligibility will be determined via a series of tests carried out on the date of application. The eligibility conditions are:

- (a) The application is received within the relevant application window.
- (b) No equivalent payment of an SSMG or BSG has been or is due to be made.
- (c) The applicant is habitually resident in Scotland.
- (d) The applicant is or is the partner of someone who is going to or has had a baby, or/ meets the responsibility test for the child.
- (e) The applicant meets the test for financial circumstances i.e. an award of a qualifying benefit has been made or is a parent who is under the age of 18 or still a dependent of their parent who meets the test for financial circumstances.

These are explained below:

a) Application Windows – To be valid, the application date must be in the relevant window but it can fall at any point in that window. For the Maternity and New Baby Grant this is between the mother reaching 24 weeks of pregnancy to 6 months after the birth of child. This extends the application window by three months by comparison with DWP to allow more time for parents to apply. Where there is a

change of responsibility for the child during the first year of its life, the window is extended to 12 months.

b) No award has already been made - SSMG recipients are excluded from receiving a BSG Maternity or New Baby Grant for the same child. Each payment will only be made once per life event unless there is a change in the responsible person (for example the child moves to live with a kinship carer) to someone not named on the first claim, within the application window. In this case, a second payment can be made where the applicant meets the test of being responsible for the child. Usually, this will mean that, where parents split up, a second payment will not be made.

c) Residence - The current policy intention is that eligibility will depend on applicants being habitually resident in Scotland. This is in line with common practice in jurisdictions across the Common Travel Area (CTA) and in the European Union. We do not propose attaching any residency conditions to the child. This achieves consistency with DWP's approach and mitigates the possibility of gaps in eligibility or double claiming. In practice, residence conditions attached to each of the qualifying benefits may be sufficient to establish Scottish residence and we do not anticipate a significant evidence burden on applicants, especially where they are coming to Scotland from other CTA jurisdictions, in line with the reciprocal approach that is currently taken.

We are aware that some stakeholders believe that ordinary residence is the correct residency threshold for devolved benefits, especially those that are passported from a qualifying benefit. We are open to exploring the benefits and risks of this approach further.

d) Life events and responsibility

The applicant needs be:

- more than 24 weeks pregnant or have been more than 24 weeks pregnant (i.e. have already had the baby). There is no requirement in regulations to seek advice from a health professional as a condition of the grant but applicants will be encouraged to do so if they have not already. Where there is a still birth, a payment will be made regardless of whether the application was made before or after the date of the still birth, within the application window, in order to provide support for mothers who may have incurred expenses and are coping with the loss of a child;

Or/

- the partner of someone in the situation above. Partner and family is outlined in the Interpretation section;

Or/

- have taken on parental responsibility for the child at some point before the date of application.

Parental responsibility for the child - The definition of responsibility for a child is set out in the Interpretation section. We have sought to align with DWP's approach so that the two systems work well together. We considered an alternative approach using a transfer of parental rights and responsibilities in order to simplify the regulations but our initial assessment is that the complexity of family situations does not make this a good fit and that it would be difficult to align with DWP's approach.

Illustrative regulations:

Meaning of parental responsibility

7.—(1) An individual is to be regarded as having parental responsibility for a child on a day if—

(a) one of the following statements is true—

(i) the individual is a parent of the child;

(ii) either the individual or the individual's partner is (or both of them are), on the day in question, an appointed guardian of the child;

(iii) the child is, on the day in question, placed with the individual or the individual's partner (or both of them) by an adoption agency (as defined by section 119 of the Adoption and Children (Scotland) Act 2007);

(iv) either the individual or the individual's partner has (or both of them have) responsibilities for the child on the day in question by virtue of an order of a kind mentioned in paragraph (2);

(b) paragraph (3) or (4) applies to the individual on the day in question; and

(c) on the day in question the child is not being looked after by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995.

(2) The following are the kinds of order referred to in paragraph (1)(a)(iv) —

(a) an adoption order under section 28 of the Adoption and Children (Scotland) Act 2007;

(b) a kinship care order within the meaning of section 72(1) of the Children and Young People (Scotland) Act 2014;

(c) a parental order under section 54 of the Human Fertilisation and Embryology Act 2008;

(d) any order granted in a part of the United Kingdom other than Scotland which is equivalent in effect to an order mentioned in sub-paragraphs (a) to (c).

(3) This paragraph applies to an individual if—

(a) the individual; or

(b) the individual's partner,

is in receipt of child benefit in respect of the child.

(4) This paragraph applies to an individual if—

(a) the child normally lives with the individual; and

(b) either—

(i) no-one is in receipt of child benefit in respect of the child; or

(ii) the statement in paragraph (1)(a)(iv) is true.

(5) An individual is to be taken to have acquired parental responsibility for a child on the first day that the individual can be regarded as having parental responsibility for the child in accordance with paragraph (1).

Our intention is to provide a BSG to adoptive parents and kinship carers. The effect of the illustrative regulations is that, while adoptive parents and those who have been awarded a kinship care order can qualify for the BSG, kinship carers who have not sought to formalise the arrangement do not. Kinship carers who have an order in place will not be required to be in receipt of child benefit.

Guardians and people who have taken on responsibility for a child via parental orders in relation to surrogacy arrangements and orders under human fertilization and embryology legislation will also qualify.

While we understand that some children living with other family members who do not have an order in place may benefit from a BSG payment and will continue to look at how individual groups can be reached as our system develops, we need a simple robust check that the applicant is responsible for the child.

We do not propose to pay a BSG to children where relevant costs are met by the local authority, either in residential accommodation or where they are placed with foster parents. Responsibility for the child is a developing area of policy and we will keep it under review as the National Review of Care Allowances and Independent Care Review progresses.

e) Financial Circumstances

As a proxy for being on a low income, BSG payments will be made to people who have been correctly awarded a qualifying DWP or HMRC payment:

Illustrative regulations:

Meaning of references to specified kinds of assistance

8. References to a kind of assistance specified in this regulation are to the following—

- (a) income support;
- (b) state pension credit;
- (c) income-based jobseeker's allowance;
- (d) working tax credit;
- (e) child tax credit;
- (f) income-related employment and support allowance;
- (g) universal credit;
- (h) housing benefit.

These are listed in the Interpretation section and, while based on DWP eligibility for SSMG, simplify tax credit entitlement and allow for working people to apply for their BSG payment before a child is born rather than waiting until they are in receipt of a child tax credit after the child is born. The monthly variations in UC may mean that it

is not clear to the applicant whether they are in receipt of UC in the current month at the time that they apply for the BSG. We are considering possible solutions for this.

Young Parents Parents who are themselves under the age of 18 will not be required to meet the condition of being in receipt of a qualifying benefit. Where the applicant is 18 or 19 and still in approved education or training they will be treated as a dependent of their parent, as set out in the interpretation section. They can apply in their own right but use their parent's qualifying benefit award as evidence of low income.

PART 2 – ASSISTANCE TO BE GIVEN

Illustrative regulations:

Value of grant

4. The value of a maternity and new-baby grant is—

- (a) the amount specified in paragraph 5, and
- (b) any amount that falls to be added to that by way of a multiple-pregnancy supplement (see paragraph 6).

The basic amount

5.—(1) The amount referred to in paragraph 4(a) is—

- (a) £600 if sub-paragraph (2) applies in relation to the child in respect of whom the grant is to be given, or
- (b) £300 if it does not.

(2) This sub-paragraph applies in relation to the child (subject to sub-paragraph (3)) if, on the day the application for the grant is made—

(a) there is no-one under 16 years of age living in the same household as the individual to whom the grant is to be given; or

(b) if there is, that person is (or all of those persons are) one of the following—

- (i) the child;
- (ii) a sibling of the child born as a result of the same pregnancy that resulted in the child's birth;
- (iii) a parent of the child.

(3) Where more than one child is born, or is to be born, as a result of the same pregnancy—

- (a) sub-paragraph (2) applies in relation to only one of the children; and
- (b) it is for the Scottish Ministers to decide which.

Value of Grant

For the maternity and new child payment, the value will be £600 to a first child and £300 to second and subsequent children

Second and subsequent children

In order to determine whether a child is a first or a subsequent child in a family, we propose the same approach as for the SSMG. That is, where there is a child in the family of 16 or under, any other child born in to the family will be treated as a subsequent child. Subsequent children will be paid a £300 birth payment rather than

£600. Where the parent is themselves a child, they are excluded from this rule e.g. where a 15 year old is living with her mother and becomes pregnant, she would be entitled to a £600 payment.

There will be no upper limit on the number of children who can receive a BSG in any one family.

Illustrative regulations:

Multiple pregnancy supplement

- 6.—(1) A supplement of £300 is to be added to the value of a maternity and new-baby grant in respect of a child born, or to be born, as a result of a multiple pregnancy.
- (2) But sub-paragraph (1) is subject to sub-paragraphs (3) and (4).
- (3) The supplement is to be added to the grant in respect of only one of the children born, or to be born, as a result of the pregnancy, and it is for the Scottish Ministers to decide which child's grant to supplement.
- (4) Sub-paragraph (1) does not apply if the individual to whom the grant is to be given—
- (a) has not applied for a maternity and new-baby grant in respect of all of the children born, or to be born, as a result of the pregnancy; or
- (b) is not eligible for a maternity and new-baby grant in respect of any of those children.

Multiple Pregnancy Supplement

For multiple births, the normal BSG award is made and, in addition, there is a multi-birth supplement to recognise the additional costs of a multiple birth. This table illustrates the effect:

No. of children in multiple birth	BSG Payment	BSG Multi Birth Supplement	Total
2	£600 (first birth) £300 (second birth)	£300	£1200
3	£600 (first birth) £300 (second birth) £300 (third birth)	£300	£1500
2 but where there is already a child within the family	£300 (second birth) £300 (third birth)	£300	£900

Form in which the Grant is Given

Illustrative regulations:

Form in which grant is given

7.—(1) A maternity and new-baby grant is to be given as money (subject to sub-paragraph (2)).

(2) If—

(a) the Scottish Ministers offer to give an individual some or all of the value of a maternity and new-baby grant in a form other than money; and

(b) the individual accepts the offer,

the grant is to be given in the form offered.

We anticipate that the majority of payments will be made in the form of a payment in to a bank or credit union account. The intention is that no other form of payment will be imposed on an applicant without their consent but the applicant cannot choose an alternative to cash unless it is offered.

Appointees There are likely to be some situations where the Agency will want to make an appointee to act on behalf of an applicant, for example where the applicant is under the age of 16 or does not have capacity to act on their own behalf. We are looking at how this can be achieved.

SCHEDULES 2 AND 3

Nursery and Early Learning Grant and School Age Grant

Schedules 2 and 3 follow the same pattern as the first schedule but with the relevant dates and amounts for the payments. For the Nursery and Early Learning Payment, the payment - £250 and the application window is the day of the child's second birthday to 6 months after its third birthday. The long nursery and early learning window is to capture the two common ages for starting nursery, depending on whether parents qualify for a funded nursery place when the child is 2 or 3. Where a child is not taking up a place at nursery, it allows a parent to take up the payment at a point relevant to their child's development and any other childcare arrangements.

For the School Age Payment, the payment is £250 and the application window is the 1st of June in the year that the child would normally start school (start of Autumn term) until the end of February in the year following the date of normally starting school.

There is no requirement to take up a place at nursery or school to qualify for the payments. While it will not suit every case, we do not propose to vary the dates for the school payment where a parent decides to defer the school start date, in order to avoid further complexity.

CROSS CUTTING POLICY AREAS

Redeterminations

The policy intent for re-determinations is to provide a right for individuals to challenge a determination, should they disagree with it. The re-determination process will see the Agency put aside the original determination and a different officer will go through the entire process of making a new determination rather than just examining whether the original decision was right or not. The individual will be able to ask for a re-determination without having to supply further evidence, but the Agency will take into consideration any new evidence provided. If the individual is still dissatisfied with the re-determination outcome, they are able to take their claim to the First-tier Tribunal.

The re-determinations approach is to focus on getting the decision right, have clearly published procedures and timescales for challenging decisions with meaningful redress as well as having processes in place for the Agency to put things right quickly where there has been an error. However, the detailed service design and modelling work to co-design the new processes for challenging decisions; working with Experience Panels, users and stakeholders is still to be undertaken. Once this has been done, we will be in a position to share relevant timescales for requesting and processing re-determinations as set out in Section 24 of the Bill.

Deductions, Fraud and Overpayments

Policy on deductions, overpayment and fraud for BSG will follow wider policy for the Social Security Agency. We are considering whether there are any specific requirements in relation to BSG.

We are taking a considered approach to overpayment recovery. This approach will ensure the individual's rights are respected throughout the process, while also ensuring the proper stewardship of public funds by making certain that the right payments are made at the right time to the right people. This will be done by minimising errors and detecting and correcting any errors that do occur quickly. However, it is reasonable to anticipate some errors will be made by both the Agency and individuals in receipt of assistance.

Where overpayments are made as a result of agency error, they will not be pursued unless under exceptional circumstances, such as a very large and obvious overpayment. Also, before overpayment recovery is pursued, officials must have regard to the individual's financial circumstances, but they will also take account of other circumstances they consider relevant. The key principles guiding recovery decisions will be that no-one is placed into undue hardship and that people should at all times be treated with dignity and respect. We are currently considering safeguards, such as the concept of a 'minimum income floor', which would determine whether Ministers would seek recovery of an overpayment.

We have been clear that a zero-tolerance approach to social security fraud will be taken. Equally important, however, is that individuals will be treated with dignity and respect. Therefore, while suspicions of fraud will be treated sensitively under a presumption of innocence, action should be taken when fraud has actually occurred.

IMPACT ASSESSMENTS

Relevant impact assessments are being developed for the BSG and will be consulted on alongside draft regulations early next year.

The BSG is likely to have a significant positive impact on children and on equalities groups because of the increase in value of the maternity payment and the introduction of the two additional £250 payments. In combination with action to increase take up, for example extending application windows, simplifying eligibility criteria and integrating administration with HSV. This could mean that nearly 60,000 more Scottish children benefit each year from a BSG payment than do from the SSMG.

BSG will help parents and people who have become responsible for a child to buy, for example, the equipment they need and to support their child's transition to early learning and childcare and school. This in turn will help decrease the financial pressures on the household, which can have negative effects on maternal health, mental health, parenting skills and family relationships, as well as have potential to decrease material deprivation.

The proposed eligibility for BSG is effective in reaching groups who share equalities characteristics. The qualifying benefits capture:

- almost 90% of people in the bottom three income deciles, both in and out of work
- 97% of workless households
- More than 80% of households with no full time work (i.e. one or more working part time)
- Potentially more than 90% of lone parent households
- More than half of families with three or more children.

In addition to ensure that vulnerable children are supported, the policy proposal:

- introduces an exception to the requirement to be on a qualifying benefit for young parents under the age of 18, potentially removing a barrier to application for young people who are in need of support.
- has not placed a limit on the number of children who can qualify in any one family. Larger families have been harder hit by welfare reforms and are more likely to be in poverty. Black and ethnic minority families are more likely to have larger families.

- Includes payments to qualifying kinship carers and allows for a second payment for the same life event if the child is adopted or moves to live with a kinship carer within an application window.

We are continuing to look at how we can improve the reach of the BSG to vulnerable children for example the children of young care leavers and of women prisoners, where they are being cared for by someone else in their mother's absence. Good communication, building on third sector networks will be particularly important to reach groups who are not always in touch with mainstream services.

FINANCIAL EFFECTS AND IMPLEMENTATION

Current estimates are that, in steady state, around 63,000 BSG payments will be made each year, benefiting around 50,000 families at a cost of around £20m.

The transfer of the social security powers will require the implementation of new infrastructure and systems to support their delivery. Administrative costs form part of wider financial planning for the new Agency. To ensure a safe and secure transition, the Scottish Government will implement the various benefits on a phased basis, with BSG the first to be delivered, by Summer 2019.

Scottish Government
Social Security Directorate
28 September 2017

These illustrative regulations have been prepared to assist the Parliament in considering SP Bill 18 Social Security (Scotland) Bill [as introduced] Session 5 (2017). The terms of this draft do not reflect settled Scottish Government policy. A further draft will be prepared for consultation purposes.

ILLUSTRATIVE SCOTTISH STATUTORY
INSTRUMENTS

2019 No.

SOCIAL SECURITY

**The Early Years Assistance (Best Start Grants) (Scotland)
Regulations 2019**

Made - - - - ***
Coming into force - - ***

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These illustrative regulations have been prepared to assist the Parliament in considering SP Bill 18 Social Security (Scotland) Bill [as introduced] Session 5 (2017). The terms of this draft do not reflect settled Scottish Government policy. A further draft will be prepared for consultation purposes.

PART 1 — Eligibility

PART 2 — Assistance to be given

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 15 of the Social Security (Scotland) Act 2018 and all other powers enabling them to do so.

In accordance with section 55 of that Act, a draft of these Regulations has been laid before and approved by a resolution of the Scottish Parliament.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2019 and come into force on *** 2019.

Overview

2.—(1) Part 2 makes provision about the interpretation of the schedules.

(2) Schedule 1 makes provision about the early years assistance that is to be given in connection with having, or expecting to have, a new baby in the family (referred to in these Regulations as “maternity and new-baby grant”).

(3) Schedule 2 makes provision about the early years assistance that is to be given in connection with a child aged between 2 and 3½ years (referred to in these Regulations as “nursery and early learning grant”).

(4) Schedule 3 makes provision about the early years assistance that is to be given in connection with a child reaching the age at which children in Scotland usually start school (referred to in these Regulations as “school-age grant”).

PART 2

Interpretation

When an application is to be treated as made

3.—(1) An application is to be treated as made on the day it is received by the Scottish Ministers.

(2) For the avoidance of doubt, a thing that purports to be an application is not an application unless it is—

- (a) made in the form, and
- (b) accompanied by the evidence,

required under section 20(1) of the Social Security (Scotland) Act 2018.

Calculations involving months

4.—(1) Where a day (“day 1”) is described as falling a specified number of months before or after another day (“day 2”), the date of day 1 is to be calculated as follows.

(2) Count backwards or forwards (as the case may be) the specified number of months from the month in which day 2 falls.

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- (3) If the month arrived at in accordance with paragraph (2) has—
- (a) more days; or
 - (b) the same number of days,

as the month in which day 2 falls, day 1 falls on the same day of the month as day 2.

(4) If the month arrived at in accordance with paragraph (2) has fewer days than the month in which day 2 falls, day 1 falls on the last day of the month arrived at.

Meaning of birthday, for children born on 29th February

5. In a non-leap year, the birthday of a child born on 29th February is to be taken to be 28th February.

Meaning of partner

6. An individual is to be regarded as the partner of another individual on a day if, on that day, they are members of the same household and—

- (a) married to each other;
- (b) in a civil partnership with each other; or
- (c) living together as though they were married to each other.

Meaning of parental responsibility

7.—(1) An individual is to be regarded as having parental responsibility for a child on a day if—

- (a) one of the following statements is true—
 - (i) the individual is a parent of the child;
 - (ii) either the individual or the individual's partner is (or both of them are), on the day in question, an appointed guardian of the child;
 - (iii) the child is, on the day in question, placed with the individual or the individual's partner (or both of them) by an adoption agency (as defined by section 119 of the Adoption and Children (Scotland) Act 2007);
 - (iv) either the individual or the individual's partner has (or both of them have) responsibilities for the child on the day in question by virtue of an order of a kind mentioned in paragraph (2);
- (b) paragraph (3) or (4) applies to the individual on the day in question; and
- (c) on the day in question the child is not being looked after by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995.

(2) The following are the kinds of order referred to in paragraph (1)(a)(iv) —

- (a) an adoption order under section 28 of the Adoption and Children (Scotland) Act 2007;
- (b) a kinship care order within the meaning of section 72(1) of the Children and Young People (Scotland) Act 2014;
- (c) a parental order under section 54 of the Human Fertilisation and Embryology Act 2008;
- (d) any order granted in a part of the United Kingdom other than Scotland which is equivalent in effect to an order mentioned in sub-paragraphs (a) to (c).

(3) This paragraph applies to an individual if—

- (a) the individual; or
- (b) the individual's partner,

is in receipt of child benefit in respect of the child.

(4) This paragraph applies to an individual if—

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- (a) the child normally lives with the individual; and
- (b) either—
 - (i) no-one is in receipt of child benefit in respect of the child; or
 - (ii) the statement in paragraph (1)(a)(iv) is true.

(5) An individual is to be taken to have acquired parental responsibility for a child on the first day that the individual can be regarded as having parental responsibility for the child in accordance with paragraph (1).

Meaning of references to specified kinds of assistance

8. References to a kind of assistance specified in this regulation are to the following—

- (a) income support;
- (b) state pension credit;
- (c) income-based jobseeker's allowance;
- (d) working tax credit;
- (e) child tax credit;
- (f) income-related employment and support allowance;
- (g) universal credit;
- (h) housing benefit.

Meaning of dependent

9. An individual ("person A") is to be regarded as the dependent of another individual ("person B") on a day if—

- (a) person B has been awarded, for that day, a kind of assistance specified in regulation 8; and
- (b) the assistance awarded to person B for that day was awarded on the basis that person A is a dependent of person B.

Name

A member of the Scottish Government

St Andrew's House,
Edinburgh
*** 2019

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SCHEDULE 1

Regulation 2(2)

Maternity and new-baby grant

PART 1

Eligibility

Eligibility conditions

1. An individual who applies for a maternity and new-baby grant in respect of a child is eligible for the grant if—

- (a) the application is made before the deadline set by paragraph 2;
- (b) no-one else has received, or is due to receive, a maternity and new-baby grant or sure start maternity grant in respect of the child (but see paragraph 3);
- (c) when the application is made, the individual is habitually and lawfully resident in Scotland;
- (d) at least one of these statements is true—
 - (i) when the application is made the individual is, or has been, more than 24 weeks pregnant with the child;
 - (ii) when the application is made the individual is the partner of an individual who is, or has been, more than 24 weeks pregnant with the child;
 - (iii) the individual has parental responsibility for the child on the day the application is made;
- (e) at least one of these statements is true—
 - (i) the individual or the individual's partner has (or they both have) been properly awarded, for the day on which the application is made, assistance of a kind mentioned in regulation 8,
 - (ii) when the application is made, the individual is under 18 years of age,
 - (iii) on the day that the application is made, either (or both) the individual or the individual's partner is 18 or 19 years of age and a dependent of an individual who has been properly awarded, for that day, assistance of a kind mentioned in regulation 8.

Deadline for applying

2.—(1) The deadline for an individual to apply for a maternity and new-baby grant in respect of a child is as follows.

(2) The deadline is the end of the day that falls 6 months after the day the child is born if the individual—

- (a) is, or has been, more than 24 weeks pregnant with the child; or
 - (b) is the partner of the individual described in paragraph (a);
- (3) Otherwise, the deadline is the end of the day of the child's first birthday.

Exception to condition in paragraph 1(b)

3.—(1) For the purpose of determining the entitlement of the person referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(b) is to be ignored in the circumstance described by the sub-paragraphs which follow.

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(2) An individual (“the first grant recipient”) has been, or is due to be, given a maternity and new-baby grant or a sure start maternity grant in respect of the child.

(3) After the first grant recipient applied for a maternity and new-baby or a sure start maternity grant in respect of the child, another individual (“the applicant”) acquired parental responsibility for the child.

(4) The applicant—

- (a) is not, and has not been within 12 months of the application being made, the partner of the first grant recipient, and
- (b) is not the partner of an individual who is, or has been within 12 months of the application being made, the partner of the first grant recipient.

(5) When the applicant applied for a maternity and new-baby grant in respect of the child, no-one other than the first grant recipient had been, or was due to be, given a maternity and new-baby or a sure start maternity grant in respect of the child.

PART 2

Assistance to be given

Value of grant

4. The value of a maternity and new-baby grant is—

- (a) the amount specified in paragraph 5, and
- (b) any amount that falls to be added to that by way of a multiple-pregnancy supplement (see paragraph 6).

The basic amount

5.—(1) The amount referred to in paragraph 4(a) is—

- (a) £600 if sub-paragraph (2) applies in relation to the child in respect of whom the grant is to be given, or
- (b) £300 if it does not.

(2) This sub-paragraph applies in relation to the child (subject to sub-paragraph (3)) if, on the day the application for the grant is made—

- (a) there is no-one under 16 years of age living in the same household as the individual to whom the grant is to be given; or
- (b) if there is, that person is (or all of those persons are) one of the following—
 - (i) the child;
 - (ii) a sibling of the child born as a result of the same pregnancy that resulted in the child’s birth;
 - (iii) a parent of the child.

(3) Where more than one child is born, or is to be born, as a result of the same pregnancy—

- (a) sub-paragraph (2) applies in relation to only one of the children; and
- (b) it is for the Scottish Ministers to decide which.

Multiple pregnancy supplement

6.—(1) A supplement of £300 is to be added to the value of a maternity and new-baby grant in respect of a child born, or to be born, as a result of a multiple pregnancy.

(2) But sub-paragraph (1) is subject to sub-paragraphs (3) and (4).

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(3) The supplement is to be added to the grant in respect of only one of the children born, or to be born, as a result of the pregnancy, and it is for the Scottish Ministers to decide which child's grant to supplement.

(4) Sub-paragraph (1) does not apply if the individual to whom the grant is to be given—

- (a) has not applied for a maternity and new-baby grant in respect of all of the children born, or to be born, as a result of the pregnancy; or
- (b) is not eligible for a maternity and new-baby grant in respect of any of those children.

Form in which grant is given

7.—(1) A maternity and new-baby grant is to be given as money (subject to sub-paragraph (2)).

(2) If—

- (a) the Scottish Ministers offer to give an individual some or all of the value of a maternity and new-baby grant in a form other than money; and
- (b) the individual accepts the offer,

the grant is to be given in the form offered.

PART 3

Interpretation

Interpretation

8. In this schedule—

“born” includes stillborn and “birth” is to be construed accordingly;

“child” includes stillborn child;

“sure start maternity grant” refers to that grant as provided for by—

- (a) the Social Fund Maternity and Funeral Expenses (General) Regulations 2005; or
- (b) the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005.

SCHEDULE 2

Regulation 2(3)

Nursery and early learning grant

PART 1

Eligibility

Eligibility

1. An individual who applies for a nursery and early learning grant in respect of a child is eligible for the grant if—

- (a) the application is made in the period that—
 - (i) begins on the child's 2nd birthday; and
 - (ii) ends at the end of the day that falls 6 months after the child's 3rd birthday;
- (b) no-one else has received, or is due to receive, a nursery and early learning grant in respect of the child (but see paragraph 2);

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- (c) when the application is made, the individual is habitually and lawfully resident in Scotland;
- (d) the individual has parental responsibility for the child on the day the application is made;
- (e) at least one of the following statements is true—
 - (i) the individual or the individual's partner has (or they both have) been properly awarded, for the day on which the application is made, assistance of a kind mentioned in regulation 8,
 - (ii) when the application is made, the individual is under 18 years of age,
 - (iii) on the day that the application is made, either (or both) the individual or the individual's partner is 18 or 19 years of age and a dependent of an individual who has been properly awarded, for that day, assistance of a kind mentioned in regulation 8.

Exception to condition in paragraph 1(b)

2.—(1) For the purpose of determining the entitlement of the person referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(b) is to be ignored in the circumstance described by the sub-paragraphs which follow.

(2) An individual (“the first grant recipient”) has been, or is due to be, given a nursery and early learning grant in respect of the child.

(3) After the first grant recipient applied for a nursery and early learning grant in respect of the child, another individual (“the applicant”) acquired parental responsibility for the child.

(4) The applicant—

- (a) is not, and has not been within 12 months of the application being made, the partner of the first grant recipient, and
- (b) is not the partner of an individual who is, or has been within 12 months of the application being made, the partner of the first grant recipient.

(5) When the applicant applied for a nursery and early learning grant in respect of the child, no one other than the first grant recipient had been, or was due to be, given a nursery and early learning grant in respect of the child.

PART 2

Assistance to be given

Value of grant

3. The value of a nursery and early learning grant is £250.

Form in which grant is given

4.—(1) A nursery and early learning grant is to be given as money (subject to sub-paragraph (2)).

(2) If—

- (a) the Scottish Ministers offer to give an individual some or all of the value of a nursery and early learning grant in a form other than money, and
- (b) the individual accepts the offer,

the grant is to be given in the form offered.

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SCHEDULE 3

Regulation 2(4)

School-age grant

PART 1

Eligibility

Eligibility

1. An individual who applies for a school-age grant in relation to a child is eligible for the grant if—

- (a) the application is made within the period described in paragraph 2;
- (b) no-one else has received, or is due to receive, a school-age grant in respect of the child (but see paragraph 3);
- (c) when the application is made, the individual is habitually and lawfully resident in Scotland,
- (d) the individual has parental responsibility for the child on the day the application is made;
- (e) at least one of the following statements is true—
 - (i) the individual or the individual's partner has (or they both have) been properly awarded, for the day on which the application is made, assistance of a kind mentioned in regulation 8,
 - (ii) when the application is made, the individual is under 18 years of age,
 - (iii) on the day that the application is made, either (or both) the individual or the individual's partner is 18 or 19 years of age and a dependent of an individual who has been properly awarded, for that day, assistance of a kind mentioned in regulation 8.

Period within which application must be made

2.—(1) An application for a school-age grant in respect of a child must be made within the period—

- (a) beginning on 1st June in the relevant year, and—
- (b) ending at the end of the last day of February in the following year.

(2) In sub-paragraph (1), “the relevant year” means—

- (a) if the child's birthday is in January or February, the calendar year in which the child's 4th birthday falls,
- (b) otherwise, the calendar year in which the child's 5th birthday falls.

Exception to condition in paragraph 1(b)

3.—(1) For the purpose of determining the entitlement of the person referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(b) is to be ignored in the circumstance described by the sub-paragraphs which follow.

(2) An individual (“the first grant recipient”) has been, or is due to be, given a school-age grant in respect of the child.

(3) After the first grant recipient applied for a school-age grant in respect of the child, another individual (“the applicant”) acquired parental responsibility for the child.

(4) The applicant—

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- (a) is not, and has not been within 12 months of the application being made, the partner of the first grant recipient, and
- (b) is not the partner of an individual who is, or has been within 12 months of the application being made, the partner of the first grant recipient.

(5) When the applicant applied for a school-age grant in respect of the child, no-one other than the first grant recipient had been, or was due to be, given a school-age grant in respect of the child.

PART 2

Assistance to be given

Value of grant

4. The value of the school-age grant is £250.

Form in which grant is given

5.—(1) A school-age grant is to be given as money (subject to sub-paragraph (2)).

(2) If—

- (a) the Scottish Ministers offer to give an individual some or all of the value of a school-age grant in a form other than money, and
- (b) the individual accepts the offer,

the grant is to be given in the form offered.