

Social Justice and Social Security Committee

SSI cover note

12th Meeting, (Session 6), 2 December 2021

Title of Instrument: [Best Start Grants and Scottish Child Payment
\(Miscellaneous Amendments\) Regulations 2021](#)

Laid Date: 12 November 2021

Reporting deadline: 21 December 2021

Type of instrument: Affirmative

Parliamentary procedure:

The affirmative procedure means that an instrument cannot be made and come into force unless the Parliament has voted to approve it (rule 10.6.1 of standing orders).

Affirmative instruments are first looked at by the DPLR Committee before being considered by the lead committee (usually the committee which examined the Bill for the Act that the SSI is made under or whose remit is most aligned).

It is usual practice for the lead committee to take evidence from the relevant Scottish minister in advance of considering the instrument. The committee can ask the minister and any officials questions about the SSI.

During its formal consideration, a member of the Scottish Government proposes, by motion, that the lead committee recommend that the instrument or draft instrument be approved. The committee has up to 90 minutes to debate the motion.

The lead committee must report its recommendation to Parliament within 40 days of the SSI being laid. If the committee agrees the SSI should be approved, the whole of the Parliament then gets a chance to vote on it in the Chamber. If the lead committee decides the SSI should not be approved, the Parliamentary Bureau decides whether MSPs should vote on it in the Chamber.

Background

1. According to the [Policy Note](#) (Annexe A), this instrument amends the Scottish Child Payment (SCP) regulations and the Best Start Grants (BSG) regulations which set out the rules and eligibility criteria for SCP for children under 6 and for BSG respectively. This instrument inserts new rules to the SCP and BSG regulations which Scottish Ministers must apply when faced with competing applications for SCP and BSG. This will ensure the relevant payment is made to the person responsible for the child.
2. Further information is available in the SPICe paper (paper 5).

Delegated Powers and Law Reform Committee consideration

3. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [23 November 2021](#) and made no recommendations in relation to this instrument.

For decision

4. The Committee must decide whether or not to agree the motion, and then report to Parliament accordingly, by 21 December 2021.
5. The Committee is also invited to delegate responsibility for the drafting and publication of a short, factual report to the Convener and Clerk.

Annexe A

POLICY NOTE

THE BEST START GRANTS AND SCOTTISH CHILD PAYMENT (MISCELLANEOUS AMENDMENTS) REGULATIONS 2021

SSI 2021/XXX

The above instrument is to be made in exercise of the powers conferred by section 32(2) and section 79 of the Social Security (Scotland) Act 2018 (“the 2018 Act”). The amending regulations amend two separate principal instruments. For the purpose of this policy note, “the SCP regulations” means the Scottish Child Payment Regulations 2020 and “the BSG regulations” means the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018. The instrument is subject to the affirmative procedure. As required by section 97(2) of the 2018 Act, the Scottish Ministers have consulted the Scottish Commission on Social Security and a response to the Commission’s report on the proposals is published along with the draft instrument.

Summary Box

This instrument amends the SCP regulations and the BSG regulations which set out the rules and eligibility criteria for Scottish Child Payment (SCP) for children under 6 and for Best Start Grant (BSG) respectively. This instrument inserts new rules to the SCP and BSG regulations which Scottish Ministers must apply when faced with competing applications for SCP and BSG. This will ensure the relevant payment is made to the person responsible for the child.

Policy Objectives

Although unintended, the SCP and BSG regulations are currently leading to determinations against awards of Scottish Child Payment and Best Start Grant in respect of children who are looked after by someone who ought to be entitled to receive an award but who cannot lawfully be given it because a previous applicant has already made a successful claim and currently takes priority over the new applicant.

These regulations make minor technical amendments to the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 and the Scottish Child Payment Regulations 2020 by modifying the current hierarchy and inserting a hierarchy into BSG. The amendments ensure that, where there is a competing claim, Scottish Child Payment and Best Start Grant entitlement is aligned to our original policy intent ensuring the payment is made to the person who is responsible for the child.

The amendments ensure that, when faced with a competing claim, but the rules to determine who is entitled do not operate, or where one of the individuals is in receipt of a qualifying benefit but the other is a kinship carer, the Scottish Ministers must have regard to the circumstances of the child. We have not specified in legislation the types of circumstances that would be taken into account when making a decision; instead this will be provided for in detailed operational guidance used by Social Security Scotland.

The overarching policy intent remains the same, and these amendments reflect our commitment to continuously improve how Scottish Child Payment and Best Start Grant operate, and interact with reserved benefits, to achieve the best outcomes for our clients.

Consultation

The Scottish Commission on Social Security

As required by section 97(2) of the 2018 Act, the Scottish Ministers have consulted the Scottish Commission on Social Security (SCoSS). SCoSS shared their scrutiny report on 08 November 2021. The Scottish Government's response will accompany these regulations. This follows extensive scrutiny^[1] by SCoSS of both the SCP and BSG regulations, with a number of changes made in response.

Stakeholder engagement

Extensive stakeholder engagement was undertaken on both sets of principal regulations. The draft regulations were shared with key stakeholders via the Five Family Payments Reference Group, which comprises third sector, NHS and local government representation. We received written feedback from two stakeholders which we shared with SCoSS.

Impact Assessments

It is not considered necessary to carry out impact assessments for this instrument. These Regulations do not seek to change the policy intent of the regulations, instead the amendments seek to achieve the policy intent that the individual responsible for the child receives the relevant award of assistance. The following Impact Assessments^[2] have been completed for the principal SCP regulations, and apply to these regulations:

- A Child Rights and Wellbeing Impact Assessment
- An Equalities Impact Assessment
- A Business and Regulatory Impact Assessment
- An Islands Screening Assessment
- A Fairer Scotland Duty Impact Assessment

Similarly, the following Impact Assessments have been completed for the principal BSG regulations, and apply to these regulations:

- A Child Rights and Wellbeing Impact Assessment^[3]
- An Equalities Impact Assessment^[4]

- A Business and Regulatory Impact Assessment^[5]
- An Islands Screening Assessment^[6]
- A Fairer Scotland Duty Impact Assessment^[7]

There are no significant equalities or rights impacts that require further consideration in relation to the commencement of these regulations.

Financial Effects

Business and Regulatory Impact Assessments (BRIA) have been completed for the principal regulations of both SCP and BSG. The impact of these policies on business is limited and no additional quantifiable financial effects have been identified.

Scottish Government

Social Security Directorate

November 2021

^[1]<https://www.gov.scot/collections/scottish-commission-on-social-security-publications/>

^[2] <https://www.legislation.gov.uk/sdsi/2020/9780111046395/resources>

^[3] [Best Start Grant: children's rights and wellbeing impact assessment - gov.scot \(www.gov.scot\)](#)

^[4] [Best Start Grant: equality impact assessment - gov.scot \(www.gov.scot\)](#)

^[5] [Best Start Grant: business and regulatory impact assessment - gov.scot \(www.gov.scot\)](#)

^[6] [Best Start Grant: island screening assessment - gov.scot \(www.gov.scot\)](#)

^[7] [Best Start Grant: Fairer Scotland Duty assessment - gov.scot \(www.gov.scot\)](#)