

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

2021 No.

SOCIAL SECURITY

**The Social Security (Up-rating) (Miscellaneous
Amendment) (Scotland) Regulations 2021**

Made - - - - 2021
Coming into force - - 1st April 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 28(2), 30(2), 32(2), 34(2) and 95 of the Social Security (Scotland) Act 2018(1) and sections 70(8) and 90 of the Social Security Contributions and Benefits Act 1992(2) and all other powers enabling them to do so.

In accordance with section 96(2) of the Social Security (Scotland) 2018 Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 97(2) of the Social Security (Scotland) Act 2018, 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 the Ministers consider appropriate.

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- (1) [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.
- (2) [1992 c.4](#). The function of making regulations to amend the operation of the child dependency increase of carer's allowance was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 ([c.46](#)) as read with sections 22(2) and 32 of the Scotland Act 2016 ([c.11](#)). Section 22(2) of that Act inserted, amongst other things, exception 2 into the social security reservation of Head F1 of Part 2 of Schedule 5 of the Scotland Act 1998. Section 22(2) was brought into force on 17th May 2017 by [S.I. 2017/455](#), subject to transitional arrangements set out in [S.I. 2017/444](#), which provided that pre-commencement functions would not transfer to the Scottish Ministers until the occurrence of a specified event or date. The transitional arrangements in respect of carers' benefits were ended by the commencement of section 81 of the Social Security (Scotland) Act 2018 ([asp 9](#)) on 3rd September 2018 (see [S.S.I. 2018/250](#)). Accordingly, responsibility for the exercise of the functions exercisable by the Secretary of State in relation to carer's allowance as provided for in sections 70(8) and 90 of the Social Security Contributions and Benefits Act 1992 ([c.4](#)) has transferred to the Scottish Ministers as regards provision of those benefits to people residing in Scotland. Section 90 of that Act was amended by paragraph 26 of schedule 8 of the Welfare Reform and Pensions Act 1999 ([c.30](#)) and by article 2 of, and paragraphs 1 and 2 of the schedule of, [S.I. 2002/1457](#). Section 90 was repealed by schedule 6 to the Tax Credits Act 2002 ([c.21](#)) in respect of child dependency increases, subject to savings by article 3 of [S.I. 2003/938](#). Section 90 was repealed for remaining purposes by sections 15(1)(b) and 58(2)(a) of, and Part 2 of schedule 7 to, the Welfare Reform Act 2009 ([c.24](#)), subject to a saving by section 15(2)(b) of that Act.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Up-rating) (Miscellaneous Amendment) (Scotland) Regulations 2021 and come into force on 1 April 2021.

(2) In these Regulations—

“the Best Start Grant Regulations” means the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018(3),

“the Child Winter Heating Assistance Regulations” means the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020(4),

“the Funeral Expense Assistance Regulations” means the Funeral Expense Assistance (Scotland) Regulations 2019(5),

“the Dependency Regulations” means the Social Security Benefit (Dependency) Regulations 1977(6), and

“the Young Carer Grants Regulations” means the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019(7).

Amendment of the Best Start Grant Regulations

2.—(1) The Best Start Grant Regulations are amended as follows.

(2) In schedule 2—

(a) in paragraph 6(1) (value of pregnancy and baby payment grant)—

(i) in head (a), for “£600” substitute “£606”, and

(ii) in head (b), for “£300” substitute “£303”, and

(b) in paragraph 7(1) (value of multiple pregnancy supplement), for “£300” substitute “£303”.

(3) In paragraph 4 of schedule 3(8) (value of early learning grant), for “£250” substitute “£252.50”.

(4) In paragraph 5 of schedule 4(9) (value of school-age grant), for “£250” substitute “£252.50”.

Amendment of the Young Carer Grants Regulations

3.—(1) The Young Carer Grants Regulations are amended as follows.

(2) In regulation 4(7)(b)(10) (making of applications), for “21 October 2019” substitute “22 July 2019”.

(3) In regulation 12(1)(11) (amount and form of young carer grants), for “£305.10” substitute “£308.15”.

Amendment of the Funeral Expense Assistance Regulations

4.—(1) The Funeral Expense Assistance Regulations are amended as follows.

(2) In regulation 9 (residence conditions, place of funeral and status), omit paragraph (4).

(3) [S.S.I. 2018/370](#).

(4) [S.S.I. 2020/352](#).

(5) [S.S.I. 2019/292](#).

(6) [S.I. 1977/343](#).

(7) [S.S.I. 2019/324](#).

(8) As relevantly amended by [S.S.I. 2019/157](#).

(9) As relevantly amended by [S.S.I. 2019/157](#).

(10) Regulation 4(7) was inserted by [S.S.I. 2020/475](#).

(11) As relevantly amended by [S.S.I. 2020/99](#) and [S.S.I. 2020/475](#).

- (3) In regulation 13(12) (amount of funeral expense assistance)—
- (a) in paragraph (1)(b), for “£1000” substitute “£1010”,
 - (b) in paragraph (4)(b), for “£20.35” substitute “£20.55”, and
 - (c) in paragraph (6), for “£122.05” substitute “£123.25”.

Amendment of the Child Winter Heating Assistance Regulations

5.—(1) The Child Winter Heating Assistance Regulations are amended as follows.

(2) In regulation 4(1)(c)(ii) (eligibility rules for child winter heating assistance), after “habitually resident in” insert “Switzerland or”.

(3) In regulation 10(1) (value of child winter heating assistance), for “£200” substitute “£202”.

(4) In the schedule, omit “Swiss Confederation”.

Amendment of the Dependency Regulations

6. In schedule 2(13) (increase of carer’s allowance for child dependants) of the Dependency Regulations—

- (a) in paragraph 2—
 - (i) after “child or children” insert “or a qualifying young person or persons”,
 - (ii) after “that child” insert “or qualifying young person”, and
 - (iii) after “those children” insert “or qualifying young persons”,
- (b) in paragraph 2B(14), after “child”, in both places where it occurs, insert “or qualifying young person”,
- (c) in paragraph 3—
 - (i) in sub-paragraph (a), before “living” insert “or qualifying young person”, and
 - (ii) in sub-paragraph (b), after “child” insert “or qualifying young person”, and
- (d) in paragraph 5, after “children”, in each place where it occurs, insert “or qualifying young persons”.

Saving Provisions

7. The Schedule has effect.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(12) As relevantly amended by [S.S.I. 2020/99](#).

(13) Relevant amending instruments are [S.I. 1984/1699](#), [S.I. 2002/2497](#) and [S.S.I. 2020/32](#).

(14) Paragraph 2B was added by [S.I. 1984/1699](#).

SCHEDULE

Regulation 7

Saving Provisions

Best Start Grant Regulations

1.—(1) Where sub-paragraph (2) applies to an individual—

- (a) paragraph 6(1)(a) and (b) of schedule 2,
- (b) paragraph 7(1) of schedule 2,
- (c) paragraph 4 of schedule 3(15), and
- (d) paragraph 5 of schedule 4(16),

of the Best Start Grant Regulations(17) continue to have effect on and after 1 April 2021 in relation to the amount of assistance to be given to that individual as they did immediately before that date.

(2) This sub-paragraph applies where the individual's application for assistance under the Best Start Grant Regulations was made before 1 April 2021.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 4(18) (when an application is treated as made) of the Best Start Grant Regulations.

Young Carer Grants Regulations

2.—(1) Where sub-paragraph (2) applies to an individual, regulation 12(1) of the Young Carer Grants Regulations(19) continues to have effect on and after 1 April 2021 in relation to the amount of assistance to be given to that individual as it did immediately before that date.

(2) This sub-paragraph applies where the individual's application for assistance under the Young Carer Grants Regulations was made before 1 April 2021.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 4(20) (making of applications) of the Young Carer Grants Regulations.

Funeral Expense Assistance Regulations

3.—(1) Where sub-paragraph (2) applies to an individual, regulation 13(1)(b), (4)(b) and (6) of the Funeral Expense Assistance Regulations(21) continue to have effect on and after 1 April 2021 in relation to the amount of assistance to be given to that individual as they did immediately before that date.

(2) This sub-paragraph applies where the individual's application for assistance under the Funeral Expense Assistance Regulations was made before 1 April 2021.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 3(6) (applications) of the Funeral Expense Assistance Regulations.

(15) As relevantly amended by [S.S.I. 2019/157](#).

(16) As relevantly amended by [S.S.I. 2019/157](#).

(17) [S.S.I. 2018/370](#).

(18) As relevantly amended by [S.S.I. 2019/110](#).

(19) [S.S.I. 2019/324](#), as relevantly amended by [S.S.I. 2020/99](#) and [S.S.I. 2020/475](#).

(20) As relevantly amended by [S.S.I. 2020/475](#).

(21) [S.S.I. 2019/292](#), as relevantly amended by [S.S.I. 2020/99](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for an increase in various values of forms of assistance payable by virtue of regulations made under the Social Security (Scotland) Act 2018 and make other minor amendments. The Regulations come into force on 1 April 2021.

Regulation 2 increases the value of the three grants payable under the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 (the pregnancy and baby grant, the early learning grant, and the school age grant). Paragraph 1 of the schedule makes saving provision so that the previous values of these grants are still operative in certain circumstances.

Regulation 3 makes an amendment remedying a date within the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 and also provides an increase in the value of the grant. Paragraph 2 of the schedule makes saving provision so that the previous value of this grant is still operative in certain circumstances.

Regulation 4 makes an amendment to the Funeral Expense Assistance (Scotland) Regulations 2019 removing a reference to a [Directive 2004/38/EC](#) which, prior to this amendment, was to be construed as forming part of domestic law. Regulation 4 also increases the value of various amounts within funeral expense assistance. Paragraph 3 of the schedule makes saving provision so that previous values of this assistance are still operative in certain circumstances.

Regulation 5 makes an amendment remedying a defect within the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 by inserting a reference to Switzerland into a provision regarding habitual residence and removing a reference to the Swiss Confederation in another provision. It also increases the value of child winter heating assistance.

Regulation 6 makes an amendment remedying a defect within a provision of the Social Security Benefit (Dependency) Regulations 1977 relating to increases of carer's allowance for child dependants by adding references to "qualifying young person" and "qualifying young persons" to the terms of schedule 2 of those Regulations. This puts beyond doubt that child dependency increases paid with a carer's allowance can include an increase for a qualifying young person.

Regulation 7 and the schedule make saving provision.