

*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.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

**SOCIAL SECURITY**

**The Early Years Assistance (Best Start Grants)  
(Scotland) Amendment (No. 2) Regulations 2019**

*Made - - - - 2019*

*Coming into force in accordance with regulation 2*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 32(2) of the Social Security (Scotland) Act 2018(1) and all other powers enabling them to do so.

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

In accordance with section 98 of that Act, no consultation with the Scottish Commission on Social Security was required.

**PART 1**

**Introduction**

**Citation**

**1.** These Regulations may be cited as the Early Years Assistance (Best Start Grants) (Scotland) Amendment (No. 2) Regulations 2019.

**Commencement**

**2.—(1)** Chapter 2 of Part 2 of these Regulations comes into force on 3 June 2019.

**(2)** The other provisions of these Regulations come into force on the first Monday after the day on which they are made.

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(1) [2018 asp 9](#). The regulation-making powers conferred by the Act include the power to make different provision for different purposes by virtue of section 96(1).

### **Meaning of “the principal Regulations”**

3. In these Regulations, “the principal Regulations” means the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018(2).

## **PART 2**

### **Amendments to the principal Regulations**

#### **CHAPTER 1**

##### **Amendments creating the early learning grant**

#### **Amendment of regulation 3 of the principal Regulations**

4. After regulation 3(3) of the principal Regulations insert—

“(4) Schedule 3 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 “early learning grant”).”.

#### **Amendment of regulation 5 of the principal Regulations**

5.—(1) Regulation 5(5) of the principal Regulations is amended as follows.

(2) In the definition of “application window”, after sub-paragraph (a) insert—

“(b) in relation to an application for an early learning grant, the period described in paragraph 1(b) of schedule 3,”.

(3) In the definition of “the relevant eligibility condition”, after paragraph (a) insert—

“(b) in relation to an application for an early learning grant, the eligibility condition in paragraph 1(f) of schedule 3,”.

#### **Insertion of schedule 3 of the principal Regulations**

6. Insert the text in schedule 1 of these Regulations as schedule 3 of the principal Regulations.

#### **CHAPTER 2**

##### **Amendments creating the school-age grant**

#### **Amendment of regulation 3 of the principal Regulations**

7. After regulation 3(4) of the principal Regulations insert—

“(5) Schedule 4 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 primary school (referred to in these Regulations as “school-age grant”).”.

#### **Amendment of regulation 5 of the principal Regulations**

8.—(1) Regulation 5(5) of the principal Regulations is amended as follows.

(2) In the definition of “application window”, after paragraph (b) insert—

- “(c) in relation to an application for a school-age grant, the period described in paragraph 2 of schedule 4,”.
- (3) In the definition of “the relevant eligibility condition”, after paragraph (b) insert—
- “(c) in relation to an application for a school-age grant, the eligibility condition in paragraph 1(f) of schedule 4,”.

**Insertion of schedule 4 of the principal Regulations**

9. Insert the text in schedule 2 of these Regulations as schedule 4 of the principal Regulations.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government

SCHEDULE 1

Regulation 6

Text to be inserted as schedule 3 of the principal Regulations

“SCHEDULE 3

Regulation 3(4)

Early learning grant

PART 1

Eligibility

**Eligibility**

1. An individual is eligible for an early learning grant in respect of a child if—
  - (a) the individual’s application for the grant is made on or after the day that the Early Years Assistance (Best Start Grants) (Scotland) Amendment (No. 2) Regulations 2019 are made (see regulation 4 in relation to when an application is to be treated as made),
  - (b) the individual’s application for the grant 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,
  - (c) no-one else has received, or is due to receive, an early learning grant in respect of the child (but see paragraph 2),
  - (d) on the day the application is made the individual satisfies the residence requirement set by paragraph 3,
  - (e) either the individual or the individual’s partner is (or both of them are) responsible for the child on the day the application is made,
  - (f) at least one of these statements is true—
    - (i) the individual or the individual’s partner has (or both of them have) been awarded, for the day the application is made (or for a period which includes that day), assistance of a kind specified in regulation 11,
    - (ii) the individual or the individual’s partner has (or both of them have) been awarded universal credit for—
      - (aa) the assessment period that includes the day the application is made, or
      - (bb) the assessment period that ended immediately before the assessment period mentioned in sub-head (aa) started,
    - (iii) on the day the application is made the individual is under 18 years of age,
    - (iv) on the day the application is made the individual is—
      - (aa) 18 or 19 years of age, and
      - (bb) a dependant of another individual, and
  - (g) the child is not, on the day the application is made, living in a residential establishment as defined in section 202(1) of the Children’s Hearings (Scotland) Act 2011<sup>(3)</sup>.

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(3) 2011 asp 1. The definition of “residential establishment” in section 202 was amended by S.S.I. 2013/211.

### **Exception to paragraph 1(c)**

**2.—**(1) For the purpose of determining the entitlement of the individual referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(c) is to be ignored in the circumstance described by sub-paragraphs (2) to (6).

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

(3) Another individual (“the applicant”) first came to be responsible for the child after—

(a) the first grant recipient applied for an early learning grant in respect of the child, or

(b) a determination of the first grant recipient’s entitlement to an early learning grant in respect of the child was made without an application (see Part 2 of schedule 1).

(4) The applicant has not been the partner of the first grant recipient at any time since the first grant recipient applied for an early learning grant in respect of the child.

(5) On the day the applicant applies, the child does not normally live with the first grant recipient.

(6) On the day the applicant applies, no-one other than the first grant recipient has been, or is due to be, given an early learning grant in respect of the child.

(7) In this paragraph, references to “the day the applicant applies” are to the day the applicant’s application for an early learning grant in respect of the child is made.

### **Residence requirement**

**3.—**(1) The residence requirement referred to in paragraph 1(d) is satisfied by an individual on a day if, on that day—

(a) the individual is ordinarily resident in Scotland, and

(b) in a case where neither the individual nor the individual’s partner has been awarded assistance as mentioned in paragraph 1(f)(i) or (ii), the condition set by sub-paragraph (2) is also met.

(2) The condition referred to in sub-paragraph (1)(b) is met on any day that the individual is—

(a) habitually resident in the United Kingdom, the Channel Islands, the Isle of Man, the European Economic Area or Switzerland,

(b) a refugee within the definition in Article 1 of the Convention relating to the status of refugees done at Geneva on 28 July 1951, as extended by article 1(2) of the Protocol relating to the status of refugees done at New York on 31 January 1967,

(c) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971(4), where that leave is—

(i) discretionary leave to enter or remain in the United Kingdom,

(ii) leave to remain under the destitution domestic violence concession, or

(iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005(5),

(d) a person who has humanitarian protection granted under the rules made under section 3(2) of the Immigration Act 1971,

(e) a person who—

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(4) 1971 c.77.

(5) S.I. 2005/1379.

- (i) is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999(6), and
- (ii) is in the United Kingdom as a result of deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

## PART 2

### Assistance to be given

#### Value of grant

4. The value of an early learning grant is £250.

#### Form in which grant is given

- 5.—(1) Subject to sub-paragraph (2), an early learning grant is to be given as money.

(2) If—

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

the grant is to be given in that form, unless the individual withdraws agreement before the grant is given.”

## SCHEDULE 2

Regulation 9

Text to be inserted as schedule 4 of the principal Regulations

## “SCHEDULE 4

Regulation 3(5)

School-age grant

## PART 1

### Eligibility

#### Eligibility

1. An individual is eligible for a school-age grant in respect of a child if—
- (a) the individual’s application for the grant is made on or after 3 June 2019 (see regulation 4 in relation to when an application is to be treated as made),
  - (b) the individual’s application for the grant is made within the period described in paragraph 2,
  - (c) no-one else has received, or is due to receive, a school-age grant in respect of the child (but see paragraph 3),

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(6) 1999 c.33.

- (d) on the day the application is made the individual satisfies the residence requirement set by paragraph 4,
- (e) either the individual or the individual's partner is (or both of them are) responsible for the child on the day the application is made,
- (f) at least one of these statements is true—
  - (i) the individual or the individual's partner has (or both of them have) been awarded, for the day the application is made (or for a period which includes that day), assistance of a kind specified in regulation 11,
  - (ii) the individual or the individual's partner has (or both of them have) been awarded universal credit for—
    - (aa) the assessment period that includes the day the application is made, or
    - (bb) the assessment period that ended immediately before the assessment period mentioned in sub-head (aa) started,
  - (iii) on the day the application is made the individual is under 18 years of age,
  - (iv) on the day the application is made the individual is—
    - (aa) 18 or 19 years of age, and
    - (bb) a dependant of another individual, and
- (g) the child is not, on the day the application is made, living in a residential establishment as defined in section 202(1) of the Children's Hearings (Scotland) Act 2011.

**Period within which application must be made**

- 2.—(1) The period referred to in paragraph 1(b)—
- (a) begins on 1 June in the relevant year, and
  - (b) ends 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 paragraph 1(c)**

3.—(1) For the purpose of determining the entitlement of the individual referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(c) is to be ignored in the circumstance described by sub-paragraphs (2) to (6).

(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) Another individual (“the applicant”) first came to be responsible for the child after—

- (a) the first grant recipient applied for a school-age grant in respect of the child, or
- (b) a determination of the first grant recipient's entitlement to a school-age grant in respect of the child was made without an application (see Part 2 of schedule 1).

(4) The applicant has not been the partner of the first grant recipient at any time since the first grant recipient applied for a school-age grant in respect of the child.

(5) On the day the applicant applies, the child does not normally live with the first grant recipient.

(6) On the day the applicant applies, no-one other than the first grant recipient has been, or is due to be, given a school-age grant in respect of the child.

(7) In this paragraph, references to “the day the applicant applies” are to the day the applicant’s application for a school-age grant in respect of the child is made.

### **Residence requirement**

4.—(1) The residence requirement referred to in paragraph 1(d) is satisfied by an individual on a day if, on that day—

- (a) the individual is ordinarily resident in Scotland, and
- (b) in a case where neither the individual nor the individual’s partner has been awarded assistance as mentioned in paragraph 1(f)(i) or (ii), the condition set by sub-paragraph (2) is also met.

(2) The condition referred to in sub-paragraph (1)(b) is met on any day that the individual is—

- (a) habitually resident in the United Kingdom, the Channel Islands, the Isle of Man, the European Economic Area or Switzerland,
- (b) a refugee within the definition in Article 1 of the Convention relating to the status of refugees done at Geneva on 28 July 1951, as extended by article 1(2) of the Protocol relating to the status of refugees done at New York on 31 January 1967,
- (c) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971, where that leave is—
  - (i) discretionary leave to enter or remain in the United Kingdom,
  - (ii) leave to remain under the destitution domestic violence concession, or
  - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005,
- (d) a person who has humanitarian protection granted under the rules made under section 3(2) of the Immigration Act 1971,
- (e) a person who—
  - (i) is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999, and
  - (ii) is in the United Kingdom as a result of deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

## **PART 2**

### **Assistance to be given**

#### **Value of grant**

5. The value of a school-age grant is £250.

#### **Form in which grant is given**

6.—(1) Subject to sub-paragraph (2), a school-age grant is to be given as money.

(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 agrees to be given the grant in that form,  
the grant is to be given in that form, unless the individual withdraws agreement before the grant is given.”

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision about early years assistance, a type of assistance that is given by the Scottish Ministers under Part 2 of the Social Security (Scotland) Act 2018.

The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 (“the principal Regulations”) created the pregnancy and baby grant, which is a grant payable to people who have, or expect to have, a new baby in the family. These Regulations amend that earlier instrument to create two further grants:

- the early learning grant, which is payable in respect of a child aged between 2 and 3½ years, and
- the school age grant, which is payable in respect of a child who has reached, or will reach within the year, the age at which children in Scotland normally start primary school (which is age 4 or 5, depending on when the child’s birthday falls).

A Business and Regulatory Impact Assessment was prepared in respect of the principal Regulations. This considered the potential effects of the early learning grant and the school age grant. Accordingly, no separate assessment is required in respect of these Regulations.