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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2018 No.**

**The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018**

**PART 2**

**Interpretation**

*Expressions about inter-personal relationships*

**Meaning of “partner”**

**8.** An individual is to be regarded as the partner of another individual on a day only if, on that day, the two individuals would be regarded as a couple for the purposes of Part 1 of the Welfare Reform Act 2012(1) (see section 39 of that Act(2)).

**Meaning of being responsible for a child**

**9.—(1)** An individual is to be regarded as responsible for a child on a day only if at least one of the following statements is true:—

- (a) the child is a dependant of the individual on the day in question;
- (b) the individual is one of the child’s parents and, on the day in question—
  - (i) normally lives with the child;
  - (ii) is under 20 years of age; and
  - (iii) is a dependant of another individual;
- (c) the child is, on the day in question, treated in law as the child of the individual by virtue of an order under section 54 of the Human Fertilisation and Embryology Act 2008(3);
- (d) the child is, on the day in question, treated in law as the child of the individual by reason of an adoption either—
  - (i) effected under the law of Scotland; or
  - (ii) effected under the law of another country or jurisdiction and recognised by the law of Scotland;
- (e) the child is, on the day in question, placed with the individual by an adoption agency;
- (f) the individual is, on the day in question, a guardian of the child appointed by deed, will or by a court;
- (g) the individual is, on the day in question, a kinship carer for the child.

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(1) 2012 c.5.

(2) Section 39 is amended by S.I. 2014/3229

(3) 2008 c.22. Section 54 is amended by the Crime and Courts Act 2013 (c.22), schedule 11, paragraph 206 and the Justice Act (Northern Ireland) 2015 (c.9), schedule 9, Part 1, paragraph 1.

- (2) In paragraph (1)(e), “adoption agency” means—
- (a) a local authority acting in its capacity as an adoption service provider under section 1 of the Adoption and Children (Scotland) Act 2007(4);
  - (b) an adoption service provided as mentioned in paragraph 8(1)(b) of schedule 12 of the Public Services Reform (Scotland) Act 2010(5) and registered under Part 5 of that Act;
  - (c) an adoption agency within the meaning of section 2(1) of the Adoption and Children Act 2002(6);
  - (d) an adoption agency within the meaning of article 3 of the Adoption (Northern Ireland) Order 1987(7).
- (3) For the purpose of paragraph (1)(g), an individual is a kinship carer for a child on a day if—
- (a) the individual is a qualifying person in relation to the child within the meaning of section 72(2) of the Children and Young People (Scotland) Act 2014(8), and
  - (b) on the day in question, the child lives with the individual (exclusively or predominantly) under the terms of—
    - (i) a kinship care order as defined in section 72(1) of the Children and Young People (Scotland) Act 2014, or
    - (ii) an agreement between the individual, the individual’s partner or both of them and—
      - (aa) a local authority by which the child is looked after within the meaning of section 17(6) of the Children (Scotland) Act 1995(9);
      - (bb) a local authority in England or Wales by which the child is looked after within the meaning of section 105(4) of the Children Act 1989(10); or
      - (cc) an authority in Northern Ireland by which the child is looked after within the meaning of article 25 of the Children (Northern Ireland) Order 1995(11).

### Meaning of “dependant”

**10.—(1)** An individual (“person A”) is to be regarded as the dependant of another individual (“person B”) on a day only if—

- (a) person B has been awarded—
  - (i) child tax credit or child benefit for the day in question (or for a period that includes that day); or
  - (ii) universal credit for—
    - (aa) the assessment period that includes the day in question; or
    - (bb) the assessment period that ended immediately before the assessment period mentioned in paragraph (aa) started; and
- (b) person A is recognised to be a dependant of person B in the terms of that award of assistance.

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(4) 2007 asp 4.

(5) 2010 asp 8.

(6) 2002 c.38.

(7) S.I. 1987/2203. Article 3 is amended by the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (c.11), section 7, the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c.1), schedule 6, paragraph 1(1)(d), S.I. 1994/429 and S.I. 2003/431.

(8) 2014 asp 8.

(9) 1995 c.36. Section 17(6) is amended by the Adoption and Children (Scotland) Act 2007 (asp 4), schedule 2, paragraph 9(4) and by the Children’s Hearings (Scotland) Act 2011 (asp 1), schedule 5, paragraph 2(4) and by S.S.I. 2013/211.

(10) 1989 c. 41. Section 105(4) is substituted by S.I. 2016/413.

(11) S.I. 1995/755 (N.I. 2). Article 25 is amended by the Children (Leaving Care) Act (Northern Ireland) 2002 (c. 11), section 2(1).

(2) It is immaterial for the purpose of this regulation that the award of assistance to person B does not include any amount in respect of person A due to a rule that restricts the number of dependants in respect of whom person B can be given that type of assistance.