

---

DRAFT SCOTTISH STATUTORY INSTRUMENTS

---

**2022 No.**

**The Scottish Child Payment Regulations 2020  
and the Disability Assistance for Children and  
Young People (Scotland) Regulations 2021  
(Miscellaneous Amendments) Regulations 2022**

**Amendment of the Scottish Child Payment Regulations 2020**

2.—(1) The Scottish Child Payment Regulations 2020<sup>(1)</sup> are amended in accordance with paragraphs (2) to (4).

(2) After regulation 19 (ongoing entitlement) insert—

**“Circumstances in which assistance may be suspended**

**19A.**—(1) The Scottish Ministers may decide that an individual who has an ongoing entitlement to Scottish child payment in respect of a period by virtue of regulation 19 is not to become entitled to be given some or all of that assistance at the time at which the individual otherwise would in accordance with that regulation, as read with regulation 21 (time of payment) (referred to in these Regulations as a decision to suspend the individual’s Scottish child payment).

(2) Where such a decision is made in respect of an individual, payments of Scottish child payment to that individual are to be suspended until such time as the Scottish Ministers decide that the individual is once again to become entitled to be given Scottish child payment.

(3) The Scottish Ministers may decide to suspend an individual’s Scottish child payment only in the circumstances where—

- (a) paragraph 25(2) of the schedule applies, or
- (b) the Scottish Ministers have made arrangements (whether under section 85A of the 2018 Act, section 85B of the 2018 Act or otherwise) for a person to receive the Scottish child payment on the individual’s behalf, and the Scottish Ministers consider that it is necessary to suspend the Scottish child payment—
  - (i) in order to protect the individual from the risk of financial abuse, or
  - (ii) because the person with whom the Scottish Ministers have made arrangements is unable to continue to receive the Scottish child payment.

**Having regard to financial circumstances**

**19B.** The Scottish Ministers must have regard to an individual’s financial circumstances prior to making a decision to suspend payment to the individual of some or all of a Scottish child payment.

### **Information to be given following suspension**

**19C.**—(1) Having made a decision to suspend an individual’s Scottish child payment, the Scottish Ministers must inform the individual of—

- (a) their decision to suspend the individual’s Scottish child payment,
- (b) the reasons for their decision,
- (c) any steps which might be taken by the individual in order for the Scottish Ministers to consider ending the suspension, and
- (d) the individual’s right under regulation 19D to require the Scottish Ministers to review their decision.

(2) The Scottish Ministers must fulfil their duty under paragraph (1) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

### **Right to review suspension**

**19D.**—(1) An individual may require the Scottish Ministers to review a decision to suspend that individual’s Scottish child payment.

(2) The Scottish Ministers must—

- (a) complete a review mentioned in paragraph (1) within 31 days beginning with the day on which they received notice from the individual requiring them to review their decision,
- (b) inform the individual of the outcome of the review including the reasons for it.

(3) The Scottish Ministers must fulfil their duty under paragraph (2)(b) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

### **Ending a suspension**

**19E.** The Scottish Ministers are to make a decision to end a suspension where—

- (a) the individual provides the information mentioned in paragraph 25(1) of the schedule and the Scottish Ministers consider that they do not require to make a determination without application,
- (b) regulation 19A(3)(a) applies and the Scottish Ministers make a determination without application under paragraph 6 (determination following official error resulting in underpayment), 7 (determination following error resulting in overpayment), 8 (determination following backdated award of assistance), 10 (determination following change of circumstances, etc.), 11 (determination following award of a Scottish child payment in respect of another child), 12 (determination following cessation of award of a Scottish child payment) or 13 (determination to effect a deduction decision) of the schedule,
- (c) the Scottish Ministers make a determination under paragraph 25(4) of the schedule,
- (d) the circumstances mentioned in regulation 19A(3)(b) no longer apply, or
- (e) the Scottish Ministers consider it appropriate in the circumstances, including having regard to the financial circumstances of the individual.

### **Effect of suspension ending**

**19F.** When—

- (a) the suspension of an individual’s Scottish child payment ends, and
- (b) under the latest determination of the individual’s entitlement to Scottish child payment relating to the period of the suspension the individual would have become entitled to be given Scottish child payment during that period,

the individual is immediately to be given the Scottish child payment that the individual would have become entitled to be given under the determination during the period of suspension.

**Interpretation: regulations 19A to 19F**

**19G.** In regulations 19A to 19F—

- (a) references to an individual’s Scottish child payment being suspended are to an individual not becoming entitled to be given some or all of the Scottish child payment in respect of a period that the individual otherwise would at the time, or times, prescribed by regulation 19 (ongoing entitlement), and
- (b) “financial abuse” includes—
  - (i) having money or other property stolen,
  - (ii) being defrauded,
  - (iii) being put under pressure in relation to money or other property,
  - (iv) having money or other property misused.”.

(3) In paragraph 16(2) of the schedule (duty to re-determine and period allowed)—

- (a) at the end of sub-paragraph (a) omit “or”,
- (b) at the end of sub-paragraph (b) insert—
  - “, or
  - (c) in a case where the Scottish Ministers have informed the individual of their decision that the request for a re-determination was not made in such form as the Scottish Ministers require, the day on which it is subsequently decided by the First-Tier Tribunal for Scotland that the individual in question has made the request in such form as the Scottish Ministers require.”.

(4) For paragraph 25 of the schedule (obtaining information to make determination) substitute—

**“Obtaining information to make determination**

**25.—(1)** Where—

- (a) the Scottish Ministers are either—
  - (i) determining an individual’s entitlement to a Scottish child payment, or
  - (ii) considering whether paragraph 6, 7, 8, 10, 11, 12 or 13 requires them to make a determination of an individual’s entitlement to a Scottish child payment (without receiving an application), and
- (b) they require further information in order to satisfy themselves about any matter material to the making of the determination of entitlement or (as the case may be) to their consideration of whether they are required to make a determination without receiving an application,

they may request that the individual provide them with the information within such period as they specify.

(2) If—

- (a) the Scottish Ministers are either—

- (i) determining the individual's entitlement to a Scottish child payment, or
  - (ii) considering whether paragraph 6, 7, 8, 10, 11, 12 or 13 requires them to make a determination of an individual's entitlement to a Scottish child payment (without receiving an application),
- (b) the individual fails to provide the requested information within the period specified under sub-paragraph (1), and
  - (c) it is the first time that the individual has failed to provide the Scottish Ministers with the requested information within a specified period since they began making the determination or considering the matter mentioned in head (a)(ii),

the Scottish Ministers may issue a decision to suspend the Scottish child payment to the individual in accordance with regulations 19A to 19G (suspension of entitlement).

(3) Where the Scottish Ministers issue such a decision, they must, at the same time, request that the individual provide them with the information within such further period as they specify.

(4) If the individual fails to provide information requested under sub-paragraph (1) within the period specified under sub-paragraph (1) or (3) the Scottish Ministers may, without further consideration, proceed to make the determination on the basis that the individual does not satisfy the eligibility rules in regulation 18, or (as the case may be) that the individual has no ongoing entitlement under regulation 19.”.