
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

**The Social Security (Miscellaneous Amendment and
Transitional Provision) (Scotland) Regulations 2022**

Amendment of the Scottish Child Payment Regulations 2020

4.—(1) The Scottish Child Payment Regulations are amended in accordance with paragraphs (2) to (8).

(2) For regulation 4 (references to the 2018 Act) substitute—

“Interpretation

4. In these Regulations—

“the 2018 Act” means the Social Security (Scotland) Act 2018⁽¹⁾,

“child” means a person under the age of 16, and

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS CoV-2).”.

(3) For regulation 11 (meaning of “kinship carer”), substitute—

“11.—(1) An individual is a kinship carer for a child on a day if—

(a) the individual is—

(i) a person who is related to the child,

(ii) a person who is known to the child and with whom the child has a pre-existing relationship, or

(iii) a friend or acquaintance of a person related to the child, and

(b) on that day, 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,

(ii) any other order under section 11(1) of the Children (Scotland) Act 1995 (“the 1995 Act”)⁽²⁾, or

(iii) 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 1995 Act⁽³⁾,

(1) 2018 asp 9.

(2) 1995 c. 36.

(3) Section 17(6) is amended by the Adoption and Children (Scotland) Act 2007 (asp 4), schedule 2, paragraph 9(4), the Children’s Hearings (Scotland) Act 2011 (asp 1), schedule 5, paragraph 2(4), the Children (Scotland) Act 2020 (asp 16), section 13 and S.S.I. 2013/211.

- (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 (“the 1989 Act”)(4), 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 (“the 1995 Order”)(5).
- (2) A person described in paragraph (1)(a) must not be—
- (a) the parent of the child within the meaning of section 15(1) of the 1995 Act,
 - (b) a foster carer within the meaning of regulation 2 of the Looked After Children (Scotland) Regulations 2009(6),
 - (c) a local authority foster parent in England and Wales within the meaning of section 105(1) of the 1989 Act, or
 - (d) an authority foster parent in Northern Ireland within the meaning of article 27(3) of the 1995 Order.
- (3) In paragraph (1)(a) “related” means related either by blood, marriage or civil partnership.”
- (4) In regulation 18(b) (eligibility for a Scottish child payment), for “6” substitute “16”.
- (5) After regulation 18 (eligibility for a Scottish child payment) insert—

“Beginning of entitlement to assistance

18A. Where a determination is made that an individual is entitled to a Scottish child payment, the date on which entitlement begins is the date on which the application is made or treated as made in accordance with regulation 5.”

- (6) In regulation 20 (value and form of a Scottish child payment)—
- (a) in paragraph (1) for “£20” substitute “£25”,
 - (b) after paragraph (4) insert—
 - “(5) For each week in the period of 12 weeks ending with the death of the child, the amount of Scottish child payment that is to be given to the individual is the weekly rate, multiplied by two.”
- (7) For regulation 21(2) (time of payment) substitute—
- “(2) Except where paragraph (3) applies, where a determination is made that an individual is entitled to a Scottish child payment, the Scottish Ministers are to make—
 - (a) the first payment of a Scottish child payment on a date specified in the determination, and
 - (b) subsequent payments in the last week of each successive period of 4 weeks in which the individual continues to be entitled to a Scottish child payment for at least one week by virtue of regulation 19.”
- (8) In the schedule (procedural matters)—
- (a) in paragraph 11(3) (determination following award of a Scottish child payment in respect of another child)—
 - (i) in head (b), at the beginning insert “where the child is under 6 years old”, and

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

(5) 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).

(6) S.S.I. 2009/210, to which there are amendments not relevant to these Regulations.

- (ii) at the end of head (b) insert “or”,
 - (iii) after head (b) insert—
 - “(c) where the child is 6 years old or older, such earlier day which is—
 - (i) not more than 4 weeks before that day on which the child was recognised to be a child for whom the individual has responsibility in terms of an award of assistance mentioned in regulation 12(2)(a), and
 - (ii) on or after 14 November 2022.”,
 - (b) in paragraph 12(5) (determination following cessation of award of a Scottish child payment)—
 - (i) for “the determination” substitute “the day on which the change of circumstances”,
 - (ii) after “(3)” insert “occurred”,
 - (c) in paragraph 34 (re-determination and appeal deadlines), omit sub-paragraph (4), and
 - (d) in paragraph 35 (timing of applications for Scottish child payment), omit sub-paragraph (4).
- (9) In this regulation and in regulation 5 “the Scottish Child Payment Regulations” means the Scottish Child Payment Regulations 2020(7).