

POLICY NOTE

THE SCOTTISH CHILD PAYMENT AMENDMENT REGULATIONS 2021

SSI 2021/16

The above instrument is to be made in exercise of the powers conferred by section 79 of the Social Security (Scotland) Act 2018 (“the 2018 Act”). For the purpose of this policy note, “the principal regulations” means the Scottish Child Payment Regulations 2020¹. The instrument is subject to the affirmative procedure. As required by section 97(2) of the 2018 Act, the Scottish Ministers have consulted the Scottish Commission on Social Security and a response to the Commission’s report on the proposals is published along with the draft instrument.

Summary Box

This instrument amends “the principal regulations” which set out the rules and eligibility criteria for Scottish Child Payment (SCP) for children under 6. The SCP is a new form of assistance that provides a top up payment to households who are in receipt of qualifying reserved benefits. This instrument sets out the circumstances where a nil (sometimes called zero) award confers entitlement to SCP. In addition, it sets out the payment cycle for additional children where payment is being made to a person who already receives SCP for another child.

Policy Objectives

Section 79 of the 2018 Act makes provision to enable top up of reserved benefits for individuals who:

- are entitled to a reserved benefit, and
- appear to the Scottish Ministers to require financial assistance (in addition to any amount the individual receives by way of reserved benefit) for the purpose, or one of the purposes, for which the benefit is being provided.

Scottish Child Payment (SCP) is one of the Scottish Government’s flagship policies to tackle child poverty and is a new form of assistance to support low income families with the costs of caring for a child. SCP has been introduced first for families with children under 6 in recognition of the fact that of all children in poverty, almost 60% live in a family where a child is under six years old, and the early years are key to improving a child’s outcomes. SCP opened for applications on the 9 November 2020 ahead of the benefit starting on 15 February 2021.

The value of SCP is £10 per week, to be paid by Social Security Scotland on a four weekly basis. The Payment will be available to all children under 6 in eligible households in receipt of qualifying benefits including Universal Credit, Child Tax Credits, Working Tax Credits, Income Support, Income-based Jobseeker's Allowance (JSA), Income-based Employment and Support Allowance (ESA) and Pension Credit.

The applicant must demonstrate responsibility for a child to be eligible and this can be evidenced through receipt of the following child responsibility benefits where the child is named on the award: Child Benefit, Child Tax Credit, Universal Credit (Child Element) and Pension Credit (Child

¹ <https://www.legislation.gov.uk/sdsi/2020/9780111046395/contents>

Addition). Kinship carers can evidence child responsibility through a kinship care agreement or a legal order. There is no cap on the number of children that can be claimed for by a family.

These regulations make minor technical amendments to the principal regulations. Amending the principal regulations ensures that SCP entitlement is aligned to our original policy intent that the Scottish Government would want eligibility to continue in circumstances where a client receives a nil award as a result of sanctions imposed by the UK Government on the qualifying benefits for SCP as set out above. To ensure consistency with other Scottish low income benefits, such as Best Start Grant it is the intention to extend the provision to circumstances where a client receives a nil award as a result of deductions in respect of liabilities (for example, for overpayment of a benefit paid by the Department of Work and Pensions). Therefore, these regulations confirm that those who have a nil award of a qualifying benefit as a result of sanctions or deductions for liabilities will be eligible for SCP. They clarify that a person would not be eligible for the SCP if they received a nil award of a qualifying benefit for any reasons other than sanctions or deductions for liabilities.

These regulations also ensure that the process for making payments of SCP to clients claiming for additional children, in circumstances where the client is already in receipt of the SCP for another child, is as straightforward as possible. The principal regulations set out that a client is not required to complete a new application for additional children, if they have ongoing entitlement for another child. These regulations make things more straightforward for clients in this scenario, making the date of payment for additional children aligned with the client's existing payment cycle. This means that the client will receive their first payment for their additional child in arrears on the same day they would receive their ongoing entitlement, and if this first payment period includes a part-week they will receive a full week's SCP entitlement (£10).

Consultation

The Scottish Commission on Social Security

As required by section 97(2) of the 2018 Act, the Scottish Ministers have consulted the Scottish Commission on Social Security (SCoSS). SCoSS published their scrutiny report on 20 November 2020². The Scottish Government's response will accompany these regulations. This follows extensive scrutiny³ by SCoSS of the principal regulations, with a number of changes made in response.

Stakeholder engagement

Given the pace at which SCP was introduced, consultation on the policy development and the development of the principal regulations has taken place through face to face engagement with stakeholders and user research activities rather than a formal, written public consultation process. Stakeholders involved have included: people with lived experience of poverty, anti-poverty charities, voluntary organisations, advice service, academics and local authorities. The SCP has been welcomed by stakeholders as a key anti-poverty measure to support families in need, with an emphasis on the speed of delivery.

² <https://www.gov.scot/publications/scottish-child-payment-amendment-regulations-2021-scrutiny-report-on-draft-regulations/>

³ <https://www.gov.scot/collections/scottish-commission-on-social-security-publications/>

In February 2019 we hosted a series of workshops to seek views on the development of the policy and test potential options. A paper setting out the rationale for our chosen policy and delivery approach was published in June 2019⁴, alongside an analytical report⁵.

Since then, we have engaged with stakeholders in relation to the development of the principal regulations. Stakeholders emphasised that SCP should be a predictable, flexible and a high take-up payment. To enable this we have combined the application forms with Best Start Grants and Best Start Foods to support income maximisation and benefit take-up.

The views of people with lived experience of applying for and receiving benefits, including groups representing those with protected characteristics, have also been captured through a range of user research activities across Scotland. Over 300 users have been engaged in this activity. Their views have enabled and enhanced the development of the service design for SCP including the application forms and communications to clients.

These regulations are aligned with the views expressed by stakeholders. Anti-poverty stakeholders, including the Poverty Alliance and Child Poverty Action Group, oppose the UK Government's sanctions regime and support the Scottish Government's intention to award SCP in these circumstances.

Stakeholders emphasised throughout the development of the principal regulations that SCP should be predictable and provide certainty for families. The process should be as straightforward as possible and there was support for families not being required to submit a new application for second and subsequent children. These regulations are based on these principles: aligning the payment for an additional child with the payment cycle of the existing claim ensures SCP is as straightforward as possible for clients and gives predictability in terms of payment date. It also provides clarity on eligibility for individuals in receipt of a nil award of a qualifying benefit as a result of sanctions or deductions.

Impact Assessments

The following Impact Assessments⁶ have been completed for the principal regulations, and apply to these regulations:

- A Child Rights and Wellbeing Impact Assessment
- An Equalities Impact Assessment
- A Business and Regulatory Impact Assessment
- An Islands Screening Assessment
- A Fairer Scotland Duty Impact Assessment

It is anticipated from the analysis in these impact assessments that SCP will have a positive impact on a range of equalities groups, particularly where they intersect with the groups most at risk of poverty identified in the Tackling Child Poverty Delivery Plan, island communities and in relation to the realisation of children's right and improving their wellbeing.

There are no significant equalities or rights impacts that require further consideration in relation to the commencement of these regulations.

⁴ <https://www.gov.scot/publications/scottish-government-position-paper-scottish-child-payment/>

⁵ <https://www.gov.scot/publications/analysis-options-income-supplement/>

⁶ <https://www.legislation.gov.uk/sdsi/2020/9780111046395/resources>

Financial effects

A Business and Regulatory Impact Assessment (BRIA) has been completed for the principal regulations. The impact of this policy on business is limited and no quantifiable financial effects have been identified.

Scottish Government
Social Security Directorate
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