

The Welfare Foods (Best Start Foods) (Scotland) Amendment Regulations 2023

Business and Regulatory Impact Assessment

December 2023

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Purpose and Intended Effect

Background

Best Start Foods

The Scottish Government replaced the UK Healthy Start Voucher scheme in Scotland with Best Start Foods (BSF) on 12 August 2019. BSF supports low income families with a pregnant person and/or a child or children under the age of three. The payments are delivered via a pre-paid card.

Initial policy development of BSF was informed by a 2016 report by Nourish Scotland entitled *Living is More Important than Just Surviving - Listening to what children think about food insecurity*.¹ It was also informed by the report produced by the Children's Parliament in 2017 entitled *What Kind of Scotland?* which identified poverty as the most important barrier to a good life.² It affects children day to day, in terms of practical things like having enough food to eat and a house that is warm, but also because children may notice the stress money concerns cause the adults at home.

BSF is a weekly payment which amounts to £19.80 every four weeks throughout pregnancy, £39.60 every four weeks from birth until a child turns one to support breastfeeding mothers or help the child's parent or carer with the costs of providing first infant formula milk, then £19.80 every four weeks from one until a child turns three.

BSF targets support to low income families. Under the current regulations, for most eligible individuals qualifying benefits are used as a proxy for means testing and there are income thresholds which apply to some of these benefits. Pregnant persons who are under 18 and their partners are automatically entitled to BSF, without the need for a qualifying benefit, as long as they meet the residency conditions. This is also true for children who are under one and whose parent or carer is under 18, provided the residency requirement is met.

For a child to be eligible for BSF, an individual looking after the child must also be able to evidence child responsibility. For most individuals, the evidence will be receipt of a child responsibility benefit for the child but other forms of evidence can also be accepted, e.g. proof of a kinship care relationship.

¹ Nourish Scotland (2016) [Living More Important Than Surviving](#)

² Children's Parliament (2017) [What Kind of Scotland?](#)

Between launching on 12 August 2019 and 30 June 2023, more than 156,000 applications had been authorised for BSF. In total, over £44 million has been provided to those families who need it most. In the 2022-23 financial year around 46,425 people were paid BSF.³

Five family payments

BSF is part of a wider group of social security benefits that are intended to support low income families with the costs of raising a child. Scottish Child Payment (SCP) and the three Best Start Grant (BSG) payments – Pregnancy and Baby Payment, Early Learning Payment and School Age Payment – together with BSF are known collectively as the five family payments (FFP). All five payments are aimed at tackling inequality, improving outcomes and making a positive impact on all of the priority family types identified in Best Start, Bright Futures⁴ – the latest Tackling Child Poverty Delivery Plan. To some extent, all of the payments use qualifying benefits and child responsibility benefits to target eligibility.

BSG replaced the Sure Start Maternity Grant in Scotland. It aims to help alleviate material deprivation, tackle inequality and contribute to closing the educational attainment gap. The grants provide support to low income families at three key transition points in a child's early years. BSG Pregnancy and Baby Payment opened for applications on 10 December 2018 and currently provides £707.25 for a first child and £353.65 for second and subsequent children. An additional payment of £353.65 is payable in the case of a multiple birth. The payment also provides support for people who have had a stillbirth. BSG Early Learning Payment opened for applications on 29 April 2019 and the BSG School Age Payment opened for applications on 3 June 2019, both currently provide £294.70 per child.

SCP launched on 15 February 2021 and was introduced by the Scottish Government to tackle child poverty for low income families in receipt of certain reserved benefits. It currently pays £25 a week per child every four weeks in arrears to families with no cap on the number of eligible children a family can claim for. SCP is paid to families with children under the age of 16.

The FFP could be worth around £10,000 by the time an eligible child turns six years old, and over £20,000 by the time an eligible child is 16 years old. This is a significant investment in tackling child poverty and we want all low income families to take up their eligibility. We know from work undertaken to develop the second Benefit Take-up Strategy, published in October 2021, that the complexity of accessing entitlements is a key barrier to benefit take-up.⁵ That is why we are keen to make sure accessing the benefits is simple and straight forward. To make it easy to apply for the FFP, there is already a single form to apply for them all. We also promote the benefits as part of a joint FFP campaign

³ Social Security Scotland (2023) [Social Security Scotland - Best Start Grant and Best Start Foods: high level statistics to 30 June 2023](#)

⁴ Scottish Government (2022) [Best Start, Bright Futures: tackling child poverty delivery plan 2022 to 2026](#)

⁵ Scottish Government (2021) [Social Security \(Scotland\) Act 2018: benefit take-up strategy - October 2021](#)

which focuses on the full package of support available to low income families. It includes television, radio and digital advertising.

While many people will be able to get all five payments as their child ages, there are some differences about who can receive them. This means that some families will not be able to get all of the payments. There are also some differences in the rules for processing applications for the different benefits.

We know that greater alignment of Scottish benefits could make it easier for people to understand what they are eligible for and simpler for Social Security Scotland to communicate. This in turn could result in higher take-up of the FFP and make it simpler to potentially automate payments in the future.

Objective

These amendment regulations will make the following changes to BSF:

- Ensure entitlement to BSF continues for a period of eight weeks when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends.
- Make 18 and 19 year old dependants who are pregnant eligible without the need for a qualifying benefit, as long as they meet the relevant residency conditions. If the pregnant person stops being a dependant before the end of the pregnancy, eligibility will continue until the end of that pregnancy.
- Align the eligibility criteria for partners of pregnant persons with that of pregnant persons.
- Make the individual who an eligible pregnant person is dependent on and the partner of that individual, entitled to receive Best Start Foods. If the pregnant person stops being a dependant before the pregnancy has ended, the individual will remain eligible until the end of the pregnancy.
- Amend the eligibility rules for children so that children under three are eligible if the individual responsible for them or the partner of that individual:
 - is under 18,
 - is a dependant aged 18 or 19 years old, or
 - was eligible to receive Best Start Foods during pregnancy due to being under 18 or a dependant aged 18 or 19 years old.

If the individual responsible for the child turns 18 or ceases to be a dependant aged 18 or 19 years old before the child turns one, the child will continue to be eligible up until the child turns one or reaches the first anniversary of its estimated delivery date, whichever is later.

- Amend the residency requirements so that the individual responsible for a child under three or the partner of that individual must meet the residency conditions set out in regulation 9 in order for the child to be eligible for BSF.
- Amend the residency requirements so that whomever is acting on behalf of an entitled child who is under three must meet the residency conditions set out in regulation 9.
- Amend the residency requirements so that individuals who are 18 or 19 and a dependant must meet the further residency conditions set out in regulation 9(2).
- Remove the income thresholds which apply to certain qualifying benefits.
- Make Working Tax Credit a qualifying benefit in its own right.

- For BSF applicants who are in receipt of any qualifying benefit, ensure that any deductions made from their qualifying benefit award due to sanctions or to pay any liability are disregarded. This will ensure that if an individual has a nil award because of these deductions, they will still be treated as being in receipt of the qualifying benefit and they will, therefore, be eligible for BSF. In all other circumstances, where the individual has a nil award or where the individual has received a qualifying benefit in error, the individual is not entitled to BSF.
- Ensure that where BSF is being paid to the individual the pregnant person is dependent on or the partner of that individual and an application is received from the pregnant person and they are eligible, the pregnant person's claim will be approved and the claim from the individual the pregnant person is dependent on or the partner of that individual will be ended.
- Where applications are received from two eligible individuals and neither is the pregnant person, allow Scottish Ministers to decide who should be entitled to BSF, having regard to the circumstances of the pregnant person.
- Make clear that where they have legal capacity to be paid, entitled young persons can be paid in their own right and young parents of an entitled child who is under three can be paid on behalf of the child.
- Allow payment on behalf of an entitled child who is under three to be made to the partner of the person who is responsible for the child.
- Allow Scottish Ministers to pay whoever they consider appropriate on behalf of an entitled person.
- Amend the duty to report a change of circumstances so the duty is on the individual who is being paid BSF on behalf of the entitled person or the entitled person if they are being paid in their own right.
- Allow Scottish Ministers to make an appointee for an individual who is under 16 and is an entitled pregnant person, partner of a pregnant person or person responsible for a child under three. Such an appointee can only be made where there is no person who has authority to act on behalf of the individual, resides with the individual and is willing and practicably able to act on the individual's behalf.
- Specify that the higher payment of BSF paid from the date the child is born until the child turns one or reaches the first anniversary of its estimated delivery date, whichever is later, is double the lower payment.
- Allow payments to be made in a way other than the prepaid card, where appropriate.
- Give the Scottish Ministers a discretion to treat an application as having been made at a later date where Social Security Scotland can see that the individual who applied will become eligible within 10 days of their application date.
- Allow a new decision to be made without having to receive a new application or review request where an individual has previously been determined as ineligible due to the lack of a qualifying benefit or child responsibility benefit and they have subsequently received a backdated award of their qualifying benefit or child responsibility benefit which covers the date of their original application.

The aims of the policy changes being introduced are to:

- Support more low income families to access healthy food and milk;
- Further align eligibility and procedures for BSF with BSG and SCP. This will:
 - make it easier for clients to understand the eligibility criteria;
 - reduce the need for re-applications and review requests;
 - make it easier to potentially automate payments in the future;
 - improve access to BSF for young parents;
 - make it easier to administer and promote the benefits; and
 - address stakeholder concerns regarding the need for better alignment across the FFP.
- Make other technical changes to how we make payments. These will:
 - simplify the uprating process; and
 - make clear that we can pay BSF to individuals in another way where it is not appropriate to provide a prepaid card.

Rationale for Government intervention

As identified in the first Tackling Child Poverty Delivery Plan,⁶ there is a strong rationale for intervention to tackle child poverty and improve children's outcomes. It is estimated that 24% of children (250,000 children each year) were living in relative poverty after housing costs in 2019-22. Before housing costs, it is estimated that 22% of children (230,000 children each year) were in relative poverty.⁷

Eligibility for BSF is targeted at low income families with a pregnant person or child under three, recognising that the early years are key to improving long term outcomes with socioeconomic differences having implications in later decades.⁸ Children in low income households tend to experience a range of disadvantages which can accumulate throughout their lives. For example, poverty negatively affects children's health, social, emotional and cognitive development and also their behavioural and educational outcomes.⁹ The growing evidence in developed economies suggests that gaining additional income has positive causal effects on health, behavioural development and educational attainment for children in households at the lower end of income distribution.¹⁰

BSF also contributes to the Scottish Government's efforts to tackle food insecurity. In 2019-22, 21% of children lived in households with marginal, low or very low food security.¹¹ Children in poverty were less likely to have high food security: just 65% of those in relative poverty and 65% of those in severe poverty lived in high food security households.¹² By providing eligible families with a child under three support to purchase healthy foods and milk, BSF helps

⁶ Scottish Government (2018) [Every child, every chance: tackling child poverty delivery plan 2018-2022](#)

⁷ Scottish Government (2023) [Poverty and Income Inequality in Scotland 2019-22](#) - Figure 4

⁸ Scottish Government (2010) [Growing up in Scotland: health inequalities in the early years](#)

⁹ NHS Health Scotland (2018) [Child Poverty in Scotland: health impact and health inequalities](#)

¹⁰ Cooper & Stewart, Centre for Analysis of Social Exclusion (2017) [Does money affect children's outcomes? an update](#)

¹¹ Scottish Government (2023) [Poverty and Income Inequality in Scotland 2019-22](#) - Figure 8

¹² Scottish Government (2023) [Poverty and Income Inequality in Scotland 2019-22](#) - Figure 8

make accessing healthy food more affordable.

Eating well, having a healthy weight and being physically active also form part of the public health priorities we have jointly created with the Convention of Scottish Local Authorities (COSLA). We published *A Healthier Future: Scotland's diet and healthy weight delivery plan*¹³ in July 2018. This plan sets out our vision for a Scotland where everyone eats well and has a healthy weight. Replacing the UK Healthy Start Voucher scheme in Scotland with BSF was one of the actions in the plan. The plan sets out our ambition to halve childhood obesity by 2030 and significantly reduce diet-related health inequalities. One of the key outcomes for this plan is that children have the best start in life - they eat well and have a healthy weight. Dealing only with the consequences of poor diet and higher weight is not enough, we also need to address the underlying causes. There is some evidence to show that BSF may be contributing to better health and wellbeing for children. Recipients report observing their children eating more and a greater variety of fruits and vegetables and feeling positive that they can provide their children with more nutritious foods.¹⁴

BSF policy is supportive of the National Outcomes in the Scottish Government's National Performance Framework.¹⁵ The following table sets out the impact of the changes.

National Outcome and Impact of Changes

Poverty: we tackle poverty by sharing opportunities, wealth and power more equally. Social security has been identified as one of the most effective and immediate ways to boost family incomes. BSF provides families with a pregnant person or child under three who are in poverty with financial support to help make healthy food and milk more affordable.

Health: we are healthy and active. There is evidence of the impact of diet in the early years on longer term outcomes. BSF is designed to support families with a pregnant person or child under three who are in poverty to maintain a healthy diet.

Education: we are educated, skilled and able to contribute to society. BSF is designed to support families with a pregnant person or child under three who are in poverty to maintain a healthy diet. Research has shown that early educational attainment is negatively correlated with poor diet at home before the age of three.

Children and Young People: we grow up loved, safe and respected so that we realise our full potential. BSF contributes to tackling food insecurity in the early years by providing financial support towards the cost of healthy food and milk for children under three who are in poverty.

¹³ Scottish Government (2018) [A Healthier Future - Scotland's Diet and Healthy Weight Delivery Plan](#)

¹⁴ Scottish Government (2022) [Best Start Foods: evaluation](#)

¹⁵ Scottish Government [National Performance Framework](#)

Human Rights: we respect, protect and fulfil human rights and live free from discrimination. Social Security Scotland takes a human rights based approach to delivering payments. Their Charter¹⁶ sets out how they do this and how they demonstrate dignity, fairness and respect in all their actions.

The provision of financial resources to low income families with children under 16 also contributes to the aim of having a fairer and more equal society as set out in Scotland's National Strategy for Economic Transformation.¹⁷

Consultation

Within Government

Consultation in relation to the amended regulations has included colleagues from the Directorate for Tackling Child Poverty and Social Justice and from Social Security Scotland. Input from analytical colleagues has helped us understand the likely numbers of individuals who will be affected by the changes we are making and the impact on benefit expenditure. Input from Social Security Scotland has helped us to understand how the policy intent can be met and how the changes will be implemented.

External Stakeholders

There has been policy engagement with stakeholders throughout the development of BSF and since launch. We have also held a number of meetings with our Five Family Payments Reference Group which is made up of a number of key stakeholders with an interest in the policy area, including Child Poverty Action Group, Citizens Advice Scotland, Engender and a number of other groups. At our meeting in March 2023, we provided the Five Family Payments Reference Group with an overview of our proposed changes and following this we met separately with some of the individual members.

The overall feedback we received was positive. Removal of the income thresholds was welcomed by stakeholders and considered to be particularly helpful for people who do seasonal work, have variable incomes or are on flexible contracts. It was noted that the existing threshold for Universal Credit (UC) can prevent parents accepting work that is paid at the real Living Wage. A risk was also highlighted that people who currently lose entitlement due to breaching the income thresholds (and who do not fall below the threshold within 12 weeks of losing their entitlement) might not reclaim when their income reduces again, resulting in individuals not receiving the support they are entitled to. Providing a further eight weeks entitlement to BSF when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends was also viewed positively and considered to be

¹⁶ Scottish Government (2019) [Social Security Scotland: Our Charter](#)

¹⁷ Scottish Government (2022) [Scotland's National Strategy for Economic Transformation](#)

especially helpful when issues arise with qualifying benefits which can take some time to resolve. Changes to improve access to BSF for young parents were also welcomed and it was anticipated that they would help improve uptake. Making Working Tax Credit (WTC) a qualifying benefit in its own right was viewed as particularly positive for some pregnant persons and also for some carers who are not responsible for the child for Child Tax Credit (CTC) purposes, e.g. some kinship carers. In general, further aligning eligibility for BSF with BSG and SCP was also received positively as it was acknowledged that the differences in eligibility can be confusing for some parents.

We consulted with island stakeholders as part of the Islands Community Impact Assessment process and some of the feedback raised by islands stakeholders was relevant to this impact assessment. They noted that BSF helps to address stigma and improve the health and wellbeing of pregnant persons and children. They also felt that BSF could contribute to better educational outcomes. They welcomed the policy changes which will result in BSF being more accessible for low income families. However, they also cautioned that by allowing the individual who a pregnant person or partner of a pregnant person is dependent upon to be eligible to receive BSF, the independence of the young person could be adversely affected and it could make them vulnerable to abuse from coercive grandparents. To mitigate against the risk described above, the regulations ensure that an application from the pregnant person will always take precedence over applications from other entitled individuals. Where anyone other than the pregnant person is receiving BSF and an application from the pregnant person is received, Social Security Scotland will end the existing claim and pay the pregnant person instead. Where multiple applications are received in relation to a pregnancy but no application is made by the pregnant person themselves, the amendment regulations will provide Scottish Ministers with the power to decide who should be awarded BSF, having regard to the circumstances of the pregnant person. Furthermore, when either the partner of the pregnant person or the individual that the pregnant person is dependent upon or the partner of that individual is being paid BSF, the regulations state that they are only entitled if they are using BSF for the benefit of the pregnant person. If it is established that they are not using BSF for the benefit of the pregnant person, they are not eligible to receive BSF.

We have also engaged with the Scottish Women's Convention, Scottish Women's Aid, Inclusion Scotland, First Steps Nutrition Trust and Nourish Scotland. Overall, the feedback received was that the changes being made are very positive and progressive. Widening eligibility by removing the income thresholds was particularly welcomed. Providing a further eight weeks entitlement to BSF when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends was specifically highlighted as a good example of how to treat individuals well. Putting it beyond doubt that people who might otherwise have difficulty accessing their entitlement can be paid in a way other than the prepaid card was seen to be very helpful.

We have consulted with the Scottish Fiscal Commission (SFC) who have estimated that removing the income thresholds will result in the additional

expenditure set out in Table 1 below.

Business

Private businesses have not been consulted directly as it is expected that the amendments to BSF regulations will not have a negative impact on their interests.

Option

The option we have in relation to amending BSF regulations is as follows:

Proceed with The Welfare Foods (Best Start Foods) (Scotland) Amendment Regulations 2023. This will deliver on the ministerial commitment to remove the income thresholds which apply to some qualifying benefits for BSF.

Sectors and Groups Affected

Increasing eligibility and improving access to BSF will result in more low income families receiving support towards the cost of healthy food and milk. This may also mean that more money will be spent in local food retailers as demand for food and milk increases, supporting local economies. However, given the small scale of the increase in support (around 20,000 additional eligible clients across Scotland for the removal of the income threshold) in proportion to the size of the population and economy as a whole, any positive impacts on local retail businesses and supply chains are likely to be very small.

It may also contribute positively in reducing demand on health services delivered by the public sector as individuals have improved access to a healthy diet and therefore may be more likely to be of a healthy weight. However, it is likely much of any positive health impacts would be realised only in the long term rather than short term.

Increasing eligibility will have an impact on Social Security Scotland who will need to process more applications. This is likely to result in increased processing times for BSF, BSG and SCP in the six weeks following the introduction of the changes to BSF.

By further aligning eligibility and procedural rules for BSF with BSG and SCP, individuals will find it easier to understand what they are entitled to and will have less need to reapply for BSF. This could reduce the demand on advice services as individuals will be less likely to require support to apply for BSF. It could also reduce the demand on Social Security Scotland as in some instances they will be able to award BSF without the client having to reapply. For example, where an individual has been denied BSF due to not being in receipt of a qualifying benefit or child responsibility benefit and subsequently receives a backdated award of that benefit backdated to include the date of original application for BSF.

Removing the income thresholds also means that we will not need to uprate income thresholds annually to take account of increases to the National Living Wage. This will lessen the burden on Social Security Scotland as they will not require to annually update data sharing agreements with HM Revenue & Customs and the Department for Work and Pensions.

Benefits

Removing the income thresholds will result in approximately 20,000 additional individuals being eligible for BSF.¹⁸ This will mean more children and pregnant persons in low income families can benefit from the support provided by BSF. Furthermore, children whose parents/carers have fluctuating incomes from work - such as those who do seasonal work, have variable incomes or flexible contracts - will be less likely to move in and out of BSF eligibility.

Making WTC a qualifying benefit in its own right will mean more low income pregnant persons can benefit from the support provided by BSF. It may also help individuals who are receiving WTC but who aren't responsible for the child for CTC purposes – this could include some kinship carers.

Making 18 and 19 year old dependants who are pregnant automatically eligible for BSF without the need for the individual they are dependent upon to receive a qualifying benefit, provided they meet the residency conditions, will mean that access to BSF for young pregnant persons will be improved. Furthermore, we will extend their ongoing entitlement so that where the pregnant person stops being a dependant during pregnancy they will remain entitled until they reach the end of their pregnancy. This will ensure that young pregnant persons have access to some financial support during their pregnancy. This support will help them to achieve a diet that contains adequate nutrients and energy to allow proper foetal growth and development as well as providing the nutrients needed for maintaining their own health.

We will also amend the eligibility rules for children so that children under three are eligible if the individual responsible for them or the partner of that individual:

- is under 18, or
- is an 18 or 19 year old dependant, or
- was eligible to receive BSF during pregnancy due to being under 18 or an 18 or 19 year old dependant (but no later than the child's third birthday).

If the individual responsible for the child turns 18 or ceases to be a dependant aged 18 or 19 years old before the child turns one, the child will continue to be eligible up until the child turns one or reaches the first anniversary of its estimated delivery date, whichever is later.

By expanding automatic eligibility to children whose parents are 18 or 19 year old dependants, young parents will be able to more easily access BSF, a need which

¹⁸ Internal Scottish Government Analysis (2023) [More help for more families](#)

was highlighted by the original consultation on Social Security Scotland, A New Future for Social Security.¹⁹ Unpublished internal analysis carried out by the Communities Analysis Division to inform this EqIA has found that it is likely there are not more than 800 dependants aged 18 or 19 years old giving birth each year.

Ensuring that at a minimum support continues until the child turns one or reaches the first anniversary of its estimated delivery date will ensure that young parents continue to receive support to breastfeed or purchase first infant formula for their baby, whichever is their choice.

Allowing eligibility to continue beyond the child's first birthday where the individual responsible for them or their partner is under 18 or an 18 or 19 dependant will ensure that young parents are supported to buy healthy and nutritious food for their children, helping to establish positive eating behaviours and reduce their risk of obesity and other health conditions. Unpublished internal analysis carried out by the Communities Analysis Division to inform this EqIA has found that there are around 100 under 18 parents responsible for a child who is aged one or two and up to 700 parents who are dependants aged 18 or 19 who are responsible for a child who is aged one or two. The changes we are making will ensure that these young parents are not disadvantaged because they are unable to access a qualifying benefit due to their age. This is particularly important given the strong relationship between parental age and child poverty rates.

Providing a further eight weeks entitlement to BSF when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends will mean all children will continue to benefit from the support that BSF provides when their family's income is in transition.

By increasing the number of individuals who are eligible for BSF and ensuring entitlement to BSF continues for a period of eight weeks when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends, more money will be spent on healthy food and milk in local economies which will have a positive impact for food retailers that sell these products. It may also result in less demand on health services as individuals have improved access to a healthy diet and may therefore be more likely to be of a healthy weight.

The estimated additional 20,000 eligible people resulting from removal of the income thresholds is equivalent to less than 0.5% of the Scottish adult population so the proportion of people within the full economy benefiting is small. Additionally, the standard payment amount is worth less than 1% (around 1.5% for the higher amount) of UK median income so it is unlikely to make a significant impact on spending habits. However, research has shown that is likely that there would be an increase in food spending (including fruit and vegetables) amongst the group that will receive the benefit following the change.²⁰

¹⁹ Scottish Government (2017) [Analysis of Written Responses to the Consultation on Social Security in Scotland](#)

²⁰ The University of York (2015) [Getting a healthy start: The effectiveness of targeted benefits for improving dietary choices](#)

Making explicit that where they have legal capacity to be paid, entitled young pregnant persons, partners of a pregnant person and young parents to an entitled child who is under three can be paid BSF in their own right will help to empower young parents and also mitigate the risk of financial coercion or abuse. Furthermore, this change will make clear that pregnant persons, partners of pregnant persons and young parents to an entitled child who are under 16 and who are not dependent upon anyone, are able to access a payment.

Furthermore, we will make the individual who a pregnant person is dependent on and the partner of that individual, entitled to receive BSF in their own right so that young parents can have choice in how they access the benefit.

Putting it beyond doubt that payments can be made in a way other than the prepaid card could have a positive impact on some individuals with a disability or long term health condition who find that due to their needs, the card is not accessible. This clarity could also be helpful for some young pregnant persons and parents as there is a lower age threshold which is applied to the prepaid card.

Other changes we are making to further align eligibility and procedures for BSF with BSG and SCP are expected to make entitlement simpler to understand and therefore make it easier to access BSF, supporting increased take-up of the payments. The changes will also reduce the need for some individuals to have to reapply for BSF. For example, where an individual has been denied BSF due to not being in receipt of a qualifying benefit or child responsibility benefit and subsequently receives a backdated award of that benefit backdated to include the date of original application for BSF.

Ensuring that all individuals are able to access their entitlement and improving take-up will help ensure that those who are eligible for BSF utilise the financial support it provides. This will have a positive impact for food retailers that sell healthy food and milk. It may also result in less demand on health services as individuals have improved access to a healthy diet. Reducing the need for some individuals to have to reapply or submit a review request for BSF could reduce the demand on Social Security Scotland as they will be able to award BSF without having to process a new application or internal review.

Costs

The SFC²¹ have forecast the financial impact of removing the income thresholds which is set out in the table below:

²¹ Scottish Fiscal Commission (2023) [Scotland's Economic and Fiscal Forecasts – May 2023](#)

Table 1 – impact on BSF benefit expenditure of removing the income thresholds

Impact on BSF benefit expenditure

- 2023-24: £0.1 million
- 2024-25: £3 million
- 2025-26: £6 million
- 2026-27: £6 million
- 2027-28: £6 million
- 2028-29: £6 million

For the remaining changes proposed, there are no significant financial implications associated with the creation of regulations to achieve the stated policy aim. The additional expenditure resulting from these changes is estimated to be approximately £130,000 in 2024-25, but this figure will decrease slightly in future years as clients transition from legacy benefits to Universal Credit.

As with any government investment the money spent on the proposed amendments could be invested elsewhere. However, additional government expenditure on removing the income thresholds for BSF is expected to increase the number of people eligible for financial support by around 20,000.²² Tackling poverty and protecting people from harm is one of the Scottish Government’s three critical missions and rising food prices disproportionately hurt those on the lowest incomes.

Regulatory and EU Alignment Impacts

Intra-UK Trade

There is not likely to be any impact on intra-UK trade as a result of these changes.

International Trade

The changes we are making to BSF will have no impact on international trade and investment.

EU Alignment

The policy changes we are making are not likely to impact on the Scottish Government’s policy to maintain alignment with the EU.

Scottish Firms Impact Test

There has been extensive engagement with a wide range of stakeholders throughout development of these policy proposals to understand the impact of the policy on the third sector and the groups they represent.

²² Internal Scottish Government Analysis (2023) [More help for more families](#)

We held a meeting with our Five Family Payments Reference Group, which is made up of a number of key stakeholders with an interest in the policy area, in March 2023. We provided them with an overview of our proposed changes and following this we met separately with some of the individual members.

The overall feedback we received was positive. Removal of the income thresholds was welcomed by stakeholders and considered to be particularly helpful for people who do seasonal work, have variable incomes or are on flexible contracts. It was noted that the existing threshold for UC can prevent parents accepting work that is paid at the real Living Wage. A risk was also highlighted that people who currently lose entitlement due to breaching the income thresholds (and who do not fall below the threshold within 12 weeks of losing their entitlement) might not reclaim when their income reduces again, resulting in individuals not receiving the support they are entitled to. Providing a further eight weeks entitlement to BSF when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends was also viewed positively and considered to be especially helpful when issues arise with qualifying benefits which can take some time to resolve. Changes to improve access to BSF for young parents were also welcomed and it was anticipated that they would help improve uptake. Making WTC a qualifying benefit in its own right was viewed as particularly positive for some pregnant persons and also for some carers who are not responsible for the child for CTC purposes, e.g. some kinship carers. In general, further aligning eligibility for BSF with BSG and SCP was also received positively as it was acknowledged that the differences in eligibility can be confusing for some parents.

We have also engaged with the Scottish Women's Convention and Nourish Scotland. Overall, the feedback received was that the changes being made are very positive and progressive. Changes which will make it easier for eligible families to access BSF were welcomed. Providing a further eight weeks entitlement to BSF when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends was specifically highlighted as a good example of how to treat individuals well.

It is expected that increasing eligibility for BSF could cause additional requests for information and support from existing advice services. As highlighted within the second Benefit Take-up Strategy,²³ the Scottish Government has committed to provide funding over this parliamentary term to increase access to advice services within accessible settings, for example schools, to maximise incomes, tackle the poverty penalty and improve wellbeing.

In 2023-24, the Scottish Government will allocate £11.7 million to support the provision of free income maximisation, welfare and debt advice.

As part of this, the Scottish Government has committed £3.52 million over three years, from 2021, placing welfare rights advisors in up to 180 GP practices across Scotland's most deprived areas. Evidence has shown that money and welfare

²³ Scottish Government (2021) [Social Security \(Scotland\) Act 2018: benefit take-up strategy - October 2021](#)

advisors in health centres often reach people who do not engage with traditional advice services.

Local delivery is the face to face channel of Social Security Scotland, providing pre-claim support to clients accessing the Scottish benefits system. The Local Delivery service is made up of specially trained Client Support Advisers who are based within every local authority area in Scotland including our island communities. The Local Delivery Relationship Leads have built close relationships with Local Authorities, Health & Social Care and Third Sector agencies creating opportunities to co-locate Social Security Scotland staff and deliver a service that is tailored to meet the differing needs of each individual area. Clients can book an appointment to meet with an adviser at a venue within their local community or at their home and are also able to request video call or telephone appointments.

Competition Assessment

The Scottish Government does not believe that the amendments to BSF will have an adverse impact on the competitiveness of Scottish companies or the third sector within Scotland, the UK, elsewhere in Europe or the rest of the world. These benefits do not directly or indirectly limit the number of suppliers, nor do they limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously. Additionally, the Scottish Government have reached out to advice groups such as Child Poverty Action Group and One Parent Families Scotland and does not expect there to be any significant impact on the operational business of local authorities or health boards as a result of introducing the amendments to BSF.

Any procurement required to support the administration of BSF will be subject to the Public Contracts (Scotland) 2015 Regulations²⁴ and the Procurement Reform (Scotland) Act 2014²⁵ which together provides a national legislative framework for sustainable public procurement. The Regulations and the Act provide the statutory foundations for the Scottish Model of Procurement.

Will the measure directly or indirectly limit the number or range of suppliers? **No**

Will the measure limit the ability of suppliers to compete? **No**

Will the measure limit suppliers' incentives to compete vigorously? **No**

Will the measure limit the choices and information available to consumers? **No**

Consumer Assessment

The Scottish Government does not believe that the amendments to the BSF regulations will have an adverse impact on children, families or any other consumer either within Scotland, the UK, elsewhere in Europe or the rest of the world. Social

²⁴ [The Public Contracts \(Scotland\) 2015 Regulations](#)

²⁵ [The Procurement Reform \(Scotland\) Act 2014](#)

Security Scotland has published Our Charter,²⁶ detailing the service clients can expect from them

Does the policy affect the quality, availability or price of any goods or services in a market? **No**

Does the policy affect the essential services market, such as energy or water? **No**

Does the policy involve storage or increased use of consumer data? **No**

Does the policy increase opportunities for unscrupulous suppliers to target consumers? **No**

Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these? **No**

Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues? **No**

Test Run of Business Forms

No new business forms will be brought in with the implementation of the proposed amended regulations. It will be possible to make applications online, by post or by telephone. Support from Social Security Scotland will also be available in all local authority areas through their Local Delivery service.

Digital Impact Test

Does the measure take account of changing digital technologies and markets?
We have committed to a multi-channel approach for BSF as with the other devolved benefits with applications taken online, over the phone or on a paper form. This offers options for those with digital access and for those who find it more challenging.

Will the measure be applicable in a digital/online context?

BSF is available in a digital/online context, including an online application channel. Guidance material advising on who may or may not be eligible is also available online. Further information on the BSF policy is already available on the Scottish Government website. This allows potential applicants to access information on the benefits quickly and easily. Information is also available in other formats for people who may find it difficult to access information online.

²⁶ Scottish Government (2019) [Social Security Scotland: Our Charter](#)

Is there a possibility the measures could be circumvented by digital / online transactions?

We are unable to auto-award BSF at this time. Automation of this sort is complex, time-consuming and technically challenging – and simply isn't possible without affecting our planned delivery schedule. However, by further aligning BSF with BSG and SCP, it will be easier to potentially automate BSF in the future.

Alternatively will the measure only be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses?

No, the service is also available by telephone, paper form and face to face through the Social Security Scotland Local Delivery service.

If the measure can be applied in an offline and online environment will this in itself have any adverse impact on incumbent operators?

No adverse impacts have been identified on incumbent operators at this stage of the impact assessment.

Legal Aid Impact Test

All applicants to BSF have the ability to request a review of any decision made on their claim and details of this are laid out in Social Security Scotland operational guidance. There are no rights to redetermination or appeal for BSF and the changes we are making are not introducing any new rights of appeal, therefore there should be no impact on legal aid.

Enforcement, Sanctions and Monitoring

We have not been made aware of any new burdens for businesses, local government or the third sector generated by these amended regulations in regards to enforcement, sanctions or monitoring.

The Scottish Commission on Social Security (SCoSS) is an advisory non-departmental public body set up to provide independent scrutiny of the Scottish social security system (including benefit regulations) and hold Scottish Ministers to account. They have provided independent scrutiny of these regulations.²⁷

In their report, SCoSS welcomed the removal of the income thresholds which apply to some qualifying benefits, noting that as well as increasing eligibility this change has the potential to improve take-up and efficiency. They also welcomed the introduction of the ability to treat an application as made at a later date, the ability to make a new decision where an individual was previously denied BSF due to the lack of a qualifying or child responsibility benefit and ensuring entitlement to BSF continues for a period of eight weeks when entitlement to Child Tax Credit, Working

²⁷ [Scottish Commission on Social Security](#)

Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends.

The prioritisation of BSF applications from the pregnant person over any other application in relation to their pregnancy and the ability to consider the circumstances of the pregnant person when making a decision on who to award if multiple claims are received but there is not one from the pregnant person themselves were received positively by SCoSS. However, they highlighted that it was important for the Scottish Government to work with stakeholders, including those engaged in supporting individuals experiencing domestic or financial abuse, to develop an understanding of the potential for abuse by a partner and what additional mitigations may need to be put in place. As highlighted above, we have consulted with Engender, Scottish Women's Aid and Scottish Women's Convention to understand the potential impact of the mitigations we are putting in place to address risks of financial abuse and coercive control. These organisations have broadly welcomed the approach that we are taking.

SCoSS also highlighted the need for clear, accessible guidance on who is likely to be able to receive an alternative form of payment, the process for requesting one and how to challenge decisions. They also suggested that BSF recipients should receive guidance on the type of retailers who can accept the card and how to request the addition of their local retailer to the list of approved retailers. Social Security Scotland will give consideration to the external content required in relation to when an exception can be made to the prepaid card. Social Security Scotland will also review the literature provided to BSF clients and identify how this information could be strengthened.

Finally, SCoSS noted that further alignment of language and processes for BSF with the wider Scottish social security system would be helpful in the future. They also noted that there may be challenges communicating the changes being made and therefore stressed the importance of clear and unambiguous guidance for everyone involved – including applicants and administrators. As part of the communications and engagement strategy for the regulations, Social Security Scotland will create and share resources to support eligible people and stakeholders supporting eligible people, to understand the changes and how and when to apply. Information will also be shared with relevant stakeholders via a series of events to ensure they have all the information and guidance that they need to support eligible people to apply.

Implementation and Delivery Plan

BSF is delivered through the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019,²⁸ made under the Social Security Act 1988.²⁹ The proposed amendments to BSF will be implemented through The Welfare Foods (Best Start Foods) (Scotland) Amendment Regulations 2023 using powers in the 1988 Act. The Amendment Regulations will come into force on the 26th February 2024.

²⁸ [The Welfare Foods \(Best Start Foods\) \(Scotland\) Regulations 2019](#)

²⁹ [Social Security Act 1988](#)

Post-implementation Review

We intend to commission a further evaluation on BSF as part of a wider evaluation of the FFP to report in 2025. We will also continue to engage with members of the Five Family Payments Reference Group to monitor their impact.

Social Security Scotland carry out regular surveys to understand the experience of clients who have applied for the FFP. The Social Security (Scotland) Act 2018³⁰ places a duty on the Scottish Ministers to report annually to the Scottish Parliament on the performance of the Scottish Social Security System during the previous financial year, including in relation to protected characteristics. The report is to describe what the Scottish Ministers have done in that year to meet the expectations on them set out in the Charter.³¹

We have established a Benefit Take-up Stakeholder Reference Group. This group is a partnership of Scottish Government officials and organisations representing third-sector and local authority interests who have knowledge of issues surrounding benefit take-up. It is designed so that members can provide a valuable source of experience and expertise, acting as a sounding board for policy work going forward. Since the publication of the second Benefit Take-up Strategy in October 2021,³² the group has expanded to include organisations representing seldom heard groups of the population, as identified in the strategy, as well as stakeholders representing the protected characteristic groups.

Summary and Recommendation

In summary, the Scottish Government has identified evidence that the amendments to the BSF regulations will contribute an additional investment into the Scottish economy. It is anticipated that these funds will be used to pay for goods. Therefore, businesses could benefit from the amendments to BSF. Any impact on businesses of the amendments to the BSF regulations should be positive.

The Scottish Government has worked closely with stakeholders to identify any potential negative consequences of amending the BSF regulations and will continue to do so until the amendments to the BSF regulations are implemented and will continue to monitor the success of BSF after the regulations have been amended.

It has been a longstanding commitment that we will remove the income thresholds which apply to some qualifying benefits for BSF this parliamentary term. These regulations enable that change. We have also taken the opportunity to make a number of other improvements to BSF. We consider that combining these with the legislation to remove the income thresholds is the most effective and timely way to make these improvements and ensure the payments are delivered in the best way possible for the people of Scotland. The available evidence shows that there is a strong case to amend the current regulations. This will allow us to extend the

³⁰ [Social Security \(Scotland\) Act 2018](#)

³¹ Scottish Government (2019) [Social Security Scotland: Our Charter](#)

³² Scottish Government (2021) [Social Security \(Scotland\) Act 2018: benefit take-up strategy - October 2021](#)

financial assistance to all families with a pregnant person or child under three who receive a qualifying benefit, regardless of their other income. They will also allow us to improve access for young parents and their children, align BSF further with BSG and SCP and make some technical changes to how we make payments.

Summary costs and benefits table

Total benefit per annum: - economic, environmental, social

Approximately 20,000 individuals will become eligible to receive BSF as a result of removing the income thresholds. Furthermore, those who have fluctuating incomes from work will be less likely to move in and out of BSF eligibility.

More pregnant persons and children will be eligible as a result of making WTC a qualifying benefit in its own right.

Improving access for young pregnant persons, partners of pregnant persons and parents will result in more individuals being eligible to receive support, some children receiving support for longer and take-up may also be improved as a result of eligibility for these young people being simplified.

Ensuring entitlement to BSF continues for a period of eight weeks when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends will mean all children will continue to benefit from the support that BSF provides when their family's income is in transition.

By increasing the number of individuals who are eligible for BSF and ensuring entitlement to BSF continues for a period of eight weeks when entitlement to Child Tax Credit, Working Tax Credit, Income Support, Income-based Jobseekers Allowance, Income-related Employment and Support Allowance, Pension Credit or Housing Benefit ends, more money will be spent on healthy food and milk in local economies which will have a positive impact for food retailers that sell these products. It may also result in less demand on health services as individuals have improved access to a healthy diet and therefore may be more likely to be of a healthy weight.

Making explicit that where they have legal capacity to be paid, entitled young pregnant persons, partners of a pregnant person and young parents to an entitled child who is under three can be paid BSF in their own right will help to empower young parents and also mitigate the risk of financial coercion or abuse. Furthermore, this change will make clear that pregnant persons, partners of pregnant persons and young parents to an entitled child who are under 16 and who are not dependent upon anyone, are able to access a payment.

Furthermore, we will make the individual who a pregnant person is

dependent on and the partner of that individual, eligible to receive BSF so that young parents can have choice in how they access the benefit.

Putting it beyond doubt that payments can be made in a way other than the prepaid card could have a positive impact on some individuals with a disability or long term health condition who find that due to their needs, the card is not accessible. This clarity could also be helpful for some young pregnant persons and parents as there is a lower age threshold which is applied to the prepaid card.

Other changes we are making to further align eligibility and procedures for BSF with BSG and SCP are expected to make entitlement simpler to understand and therefore make it easier to access BSF, supporting increased take-up of the payments. The changes will also reduce the need for some individuals to have to reapply for BSF.

Ensuring that all individuals are able to access their entitlement and improving take-up will help ensure that those who are eligible for BSF utilise the financial support it provides. This will have a positive impact for food retailers that sell healthy food and milk. It may also result in less demand on health services as individuals have improved access to a healthy diet.

Reducing the need for some individuals to have to reapply or submit a review request for BSF could reduce the demand on Social Security Scotland as they will be able to award BSF without having to process a new application or internal review.

Total cost per annum:

- **economic, environmental, social**
- **policy and administrative**

The SFC have forecast the financial impact of removing the income thresholds,³³ as set out in the table in the above costs section. In the long term, the removal of the income thresholds are expected to cost the Scottish Government around £6m a year.

For the remaining changes proposed, there are no significant financial implications associated with the creation of regulations to achieve the stated policy aim. The additional benefit expenditure resulting from these changes is estimated to be approximately £130,000 in 2024-25 but this figure will decrease slightly in future years as clients transition from legacy benefits to Universal Credit.

As a result of increasing eligibility for BSF there will be increased demands on Social Security Scotland operational staff who will have to process applications for the additional caseload.

As a result of making changes to the eligibility and procedural rules, there will

³³ Scottish Fiscal Commission (May 2023) [Scotland's Economic and Fiscal Forecasts – May 2023](#)

be increased demands on technical staff within Social Security Scotland who are required to design and implement the planned changes.

There may be a burden on advice services who will have to invest time in learning about the new eligibility and procedural rules for BSF.

Declaration and Publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that the business impact has been assessed with the support of businesses in Scotland.

Signed: Ian Davidson, Deputy Director, Social Security Policy Division

Date: 10th November 2023

Any queries about this BRIA should be addressed to: Nicola Birrell

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