

2020 No. 482

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
SOCIAL SECURITY

**The Social Security (Scotland) Act 2018 (Information-Sharing
and Scottish Child Payment) (Consequential Provision and
Modifications) Order 2020**

Made - - - - - *30th April 2020*
Laid before Parliament *6th May 2020*
Coming into force in accordance with article 1(2)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104 and 113(2) and (5) of the Scotland Act 1998^(a).

PART 1

Introductory

Citation, commencement and extent

1.—(1) This Order may be cited as the Social Security (Scotland) Act 2018 (Information-Sharing and Scottish Child Payment) (Consequential Provision and Modifications) Order 2020.

(2) This Order comes into force immediately after the coming into force of the first Regulations made under section 79 of the Social Security (Scotland) Act 2018^(b).

(3) Except as provided in paragraph (4), this Order extends to the whole of the United Kingdom.

(4) Each amendment made by this Order has the same extent as the provision being amended.

^(a) 1998 c.46; section 104 was amended by section 12 of the Scotland Act 2012 (c.11) and section 113 was amended by section 39 of the Scotland Act 2012. There are other amendments to section 113 not relevant to this Order.
^(b) 2018 asp 9.

PART 2

Information-sharing

Information-sharing

2.—(1) This paragraph applies to information which is held for the purposes of any HMRC functions—

- (a) by the Commissioners for Her Majesty’s Revenue and Customs, or
- (b) by a person providing services to them.

(2) Information to which paragraph (1) applies may be supplied to the Scottish Ministers, or to a person providing services to the Scottish Ministers, for use for the purposes of a relevant Scottish social security function.

(3) This paragraph applies to information which is held for the purposes of a relevant Scottish social security function by the Scottish Ministers or by a person providing services to the Scottish Ministers.

(4) Information to which paragraph (3) applies may be supplied—

- (a) to the Commissioners for Her Majesty’s Revenue and Customs, or
- (b) to a person providing services to them,

for use for the purposes of HMRC functions.

(5) Information supplied under this article must not be supplied by the recipient of the information to any other person or body without—

- (a) the authority of the Commissioners for Her Majesty’s Revenue and Customs, in the case of information supplied under paragraph (2),
- (b) the authority of the Scottish Ministers, in the case of information supplied under paragraph (4).

(6) Where information supplied under this article has been used for the purposes for which it was supplied, it is lawful for it to be used for any purposes for which information held for those purposes could be used.

(7) In this article—

“HMRC functions” means any function—

- (a) for which the Commissioners for Her Majesty’s Revenue and Customs are responsible by virtue of section 5 of the Commissioners for Revenue and Customs Act 2005(a),
- (b) which relates to a matter listed in Schedule 1 to that Act,
- (c) which is conferred by or under the Childcare Payments Act 2014(b), or
- (d) which is conferred by or under section 2 of, or Schedule 2 to, the Savings (Government Contributions) Act 2017(c),

“relevant Scottish social security function” is any function of the Scottish Ministers under the Social Security (Scotland) Act 2018 and any regulations made under it.

(8) This article does not limit the circumstances in which information may be supplied apart from this article.

(a) 2005 c.11.
(b) 2014 c.28.
(c) 2017 c.2.

PART 3

Disregards and exception in relation to Scottish Child Payment

Amendment of the Income Support (General) Regulations 1987

3.—(1) The Income Support (General) Regulations 1987^(a) are amended as follows.

(2) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), after paragraph 83 insert—

“**84.** Any Scottish child payment assistance given in accordance with section 79 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 10 (capital to be disregarded), in paragraph 7(1)(a), for “6, 8, 9 or 76A of Schedule 9” substitute “6, 8, 9, 76A or 84 of Schedule 9”.

Amendment of the Jobseeker’s Allowance Regulations 1996

4.—(1) The Jobseeker’s Allowance Regulations 1996^(b) are amended as follows.

(2) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings), after paragraph 79 insert—

“**80.** Any Scottish child payment assistance given in accordance with section 79 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 8 (capital to be disregarded), in paragraph 12(1)(a), for “7, 9, 10 or 72A of Schedule 7” substitute “7, 9, 10, 72A or 80 of Schedule 7”.

Amendment of the State Pension Credit Regulations 2002

5.—(1) The State Pension Credit Regulations 2002^(c) are amended as follows.

(2) In regulation 15(1) (social security benefits that are not prescribed as income for the purposes of section 15(1)(e) of the State Pension Credit Act 2002), after sub-paragraph (rc) insert—

“(rd) any Scottish child payment assistance given in accordance with section 79 of the Social Security (Scotland) Act 2018.”.

(3) In Part 1 of Schedule 5 (capital disregarded for the purpose of calculating income), in paragraph 20(2), after sub-paragraph (t) insert—

“(u) any Scottish child payment assistance given in accordance with section 79 of the Social Security (Scotland) Act 2018.”.

Amendment of the Housing Benefit Regulations 2006

6.—(1) The Housing Benefit Regulations 2006^(d) are amended as follows.

(2) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings), after paragraph 70 insert—

“**71.** Any Scottish child payment assistance given in accordance with section 79 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 6 (capital to be disregarded), in paragraph 9(1)(a), for “6, 8 or 9 of Schedule 5” substitute “6, 8, 9 or 71 of Schedule 5”.

(a) S.I. 1987/1967, amended by S.I. 2019/1314. There are other amending instruments but none are relevant.

(b) S.I. 1996/207, amended by S.I. 2019/1314. There are other amending instruments but none are relevant.

(c) S.I. 2002/1792, to which there are amendments not relevant to this Order.

(d) S.I. 2006/213, to which there are amendments not relevant to this Order.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

7.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(a) are amended as follows.

(2) In regulation 29 (meaning of “income”), after paragraph 1(j)(xviii) insert—

“(xviii) any Scottish child payment assistance given in accordance with section 79 of the Social Security (Scotland) Act 2018.”.

(3) In Part 1 of Schedule 6 (capital to be disregarded generally), in paragraph 21(2), after paragraph (s) insert—

“(t) any Scottish child payment assistance given in accordance with section 79 of the Social Security (Scotland) Act 2018.”.

Amendment of the Employment and Support Allowance Regulations 2008

8.—(1) The Employment and Support Allowance Regulations 2008(b) are amended as follows.

(2) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings), after paragraph 71 insert—

“72. Any Scottish child payment assistance given in accordance with the section 79 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 9 (capital to be disregarded), in paragraph 11(1)(a), for “8, 10, 11 or 66 of Schedule 8” substitute “8, 10, 11, 66 or 72 of Schedule 8”.

Alister Jack

Secretary of State

Office of the Secretary of State for Scotland

30th April 2020

(a) S.I. 2006/214, to which there are amendments not relevant to this Order.

(b) S.I. 2008/794; amended by S.I. 2019/1314. There are other amending instruments but none are relevant.

EXPLANATORY NOTE

(This note is not part of the Order)

In consequence of the range of information necessary for the proper administration of social security functions, this Order provides a mechanism for the sharing of information relevant to devolved Scottish social security functions between Her Majesty's Revenue and Customs ("HMRC") and the Scottish Ministers. It also amends social security legislation in Great Britain as a consequence of the making of regulations under section 79 of the Social Security (Scotland) Act 2018 (asp 9) to provide for a top-up payment ("the Scottish Child Payment") to be made in respect of various reserved benefits.

Part 2 of the Order contains a discretionary power to allow HMRC and the Scottish Ministers to share information with each other that is relevant to the exercise of devolved social security functions. It includes sharing information with people who provide services to HMRC and the Scottish Ministers in appropriate circumstances. Any information supplied must not be passed on without the authorisation of the person who supplied the information. Once supplied, information may be used for any purposes for which information held for those purposes could be used. Section 123 (unauthorised disclosure of information relating to particular persons) of the Social Security Administration Act 1992 (1992 c. 5) applies to the disclosure of information under Part 2 of this Order. This helps safeguard against inappropriate disclosure of information by any person who is or has been employed in social security administration or adjudication.

Part 3 provides for the Scottish Child Payment to be disregarded as income when determining a claimant's entitlement to benefits under the Income Support (General) Regulations (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214), and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794). Part 3 also provides for the Scottish Child Payment which is paid in arrears to a claimant to be disregarded as capital for the purposes of these benefits.

A full impact assessment has not been produced for this instrument as no impact on the private, voluntary, or public sectors is foreseen.

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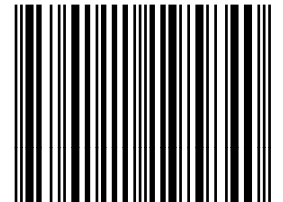
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