

SCOTTISH CHILD PAYMENT: AMENDMENT REGULATIONS 2021: SCOTTISH COMMISSION ON SOCIAL SECURITY RECOMMENDATIONS

Scottish Commission on Social Security recommendations	Accept/ Partially accept/ Decline	Scottish Government Response
<p>1. We recommend that accessible guidance for decision makers and Scottish Child Payment applicants should provide full detail on complex situations where an award is continuing at a nil rate rather than simply ending.</p>	<p>Accept</p>	<p>Scottish Government response: We have discussed with officials in Her Majesty’s Revenue and Customs (HMRC) how tax credits operate in practice and their interaction with Scottish Child Payment. As tax credits are calculated on an annual basis, with end year reconciliation, under and overpayments can occur and it is viewed by HMRC as an integral part of the tax credits system. Where there are overpayments, HMRC will take a view on whether or not to recover depending on where responsibility for that overpayment lies.</p> <p>We will ensure that the guidance Social Security Scotland uses to make decisions on applications provides clear advice on the circumstances where an award could continue at a nil rate, rather than simply ending. We will also ensure that clear information is provided, including in client notification letters, so that where clients have a change of circumstances that affect their entitlement, they report them to Social Security Scotland. This will help prevent errors and ensure that those eligible for Scottish Child Payment receive it.</p> <p>It is our intention to publish the Scottish Child Payment guidance as soon as possible to ensure that welfare advisors in the public and third sector can provide accurate information to their clients, especially where their circumstances may be more nuanced.</p>

		<p>We will continue to ensure that any public facing information is accurate, easy to understand and properly informs people of their entitlements. The Scottish Government is committed to maximising take up and our plans to promote Scottish Child Payment are set out in a publicly available policy position paper (www.gov.scot/publications/maximising-take-up-scottish-child-payment-position-paper)</p> <p>These include: providing information in midwife and health visitor packs; information in the Baby Box; issuing materials through nursery and school enrolment packs; and advertising online, on radio and in print.</p>
<p>2. We recommend that processes and guidance are clear about whether an overpayment of Scottish Child Payment that arises because of a retrospective nil award of tax credits would be recoverable in law or in practice.</p>	<p>Accept</p>	<p>Scottish Government response: There are circumstances where a person may be in receipt of in a nil award of tax credits due to an overpayment.</p> <p>The legislative position is that paragraph 29 of the schedule to the Scottish Child Payment Regulations 2020 makes it clear that if a Scottish Child Payment award was made in error, based on an assumption that there was entitlement to a qualifying benefit, and that proved to be wrong, these monies could be recovered from an individual. However, the client would not be liable for the overpayment it was not their fault, or if the error was one that they could not have been reasonably expected to notice. This is considered on a case-by-case basis. If the client is considered liable for an overpayment of Scottish Child Payment, it is for Social Security Scotland to consider whether to seek to recover that overpayment. In considering that, regard must be had to the client's financial circumstances (see paragraph 31 of the schedule).</p>

		<p>The Scottish Government is currently working with key stakeholders to develop a policy on overpayments. This will inform guidance that Social Security Scotland use to make decisions about overpayments and Scottish Child Payment ahead of first payments being made from the end of February 2021. It is anticipated that guidance on overpayments will be published for use by welfare advisors and other frontline workers, except where it may be shown not to be in the public interest to do so, for example, if publication may increase the risk of fraud.</p>
<p>3. We recommend that the draft regulations be amended, in line with the Scottish Government's policy intention, to ensure that the first payment for a new claim is paid for a full week or full weeks.</p>	<p>Accept</p>	<p>Scottish Government response: When an existing Scottish Child Payment client becomes responsible for an additional child, they will be able to contact Social Security Scotland and have the additional child added to their claim without the need to complete a full new application. The client will receive payment for the additional child on their next Scottish Child Payment payday. Depending on which week the additional child was added to the claim the client could, therefore, receive either one, two, three or four weeks payment for the additional child on their next payday. On the following payday they will receive four weeks payment for all eligible children. The Amendment Regulations sent to SCoSS for scrutiny specified that for the first payment, monies will be paid in respect of the period between the application date and the first payment day which could include a part-week.</p> <p>The Social Security System does not currently make part-week payments and it would be technically challenging, resource intensive and costly to implement. Therefore, for the purposes of that first payment only the part-week will be treated as a full week. This will provide simplicity to clients, and avoid the need to calculate complex daily rates.</p>

<p>4. We recommend that the term ‘sanction’ be defined in the draft regulations, and that the Scottish Government should seek to align the meaning of this term across all relevant types of assistance.</p>	<p>Partially accept</p>	<p>Scottish Government response: Eligibility to the Scottish Child Payment is predicated on being in receipt of a qualifying benefit which is reserved to UK Government. Likewise, the application of conditionality and sanctions upon these benefits is also reserved to the UK Government. The circumstances in which a sanction may be imposed, the level and duration of sanction varies according to the benefit a person is in receipt of, and their personal circumstances. The Welfare Reform Act 2012 is the foundation of current conditionality and sanctions regime, and there is no requirement for the Scottish Government to be consulted on any changes to policy or legislation.</p> <p>We are keen to keep our legislation flexible and broad enough to accommodate the ability to provide a Scottish Child Payment which covers the wide range of reasons where there may have been a sanction which resulted in a nil award. Including a specific definition of sanction in the regulations could restrict our ability to respond in an agile and swift way to any changes made by the UK Government.</p> <p>We do, however, recognise that the landscape of conditionality and sanctions is complex – different sanctions, for different reasons, at different levels, and for different durations. Given this, we will provide clarity on the term ‘sanction’ and the different kinds of sanctions that could be imposed in the guidance Social Security Scotland uses to make decisions about applications, and that will be uniform across Scottish Child Payment and Best Start Grant. This will enable the Scottish Government to retain flexibility, nimbleness of response, and remain consistent with Best Start Grant regulations.</p>
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<p>5. We recommend that the Scottish Government explore the case for building-in testing at a much earlier stage, to ensure the correct alignment between policy intent and the wording of draft regulations, and build in a consistency check in the drafting of future regulations for Scottish Child Payment and other types of assistance.</p>	Accept	<p>Scottish Government response: Despite the challenges of the pandemic, we have been working at pace and successfully launched the Scottish Child Payment for under 6s on 9 November. It will support up to 194,000 children in this financial year, with forecasted expenditure on this Payment for the first full year standing at £77 million in 2021/22. The timetable from announcement to delivery has been under 18 months and the Scottish Government is very grateful for the assistance and input from the Scottish Commission on Social Security to help make it happen.</p> <p>There is a Continuous Improvement Team in the Social Security Programme with responsibility for identifying lessons learnt and ensuring the right processes and forums are in place to apply that learning. We have captured lessons learned on the development of the Scottish Child Payment, and we will build on them to ensure a strong and robust alignment between policy, legislation and delivery, as well as consistency, where appropriate, between regulations across all types of Scottish assistance.</p>
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