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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2021 No.**

**SOCIAL SECURITY**

**The Social Security (Up-rating) (Miscellaneous Amendments)  
(Scotland) Regulations 2021**

*Made* - - - - 2021  
*Coming into force* - - 1st April 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 28(2), 30(2), 32(2), 34(2) and 95 of the Social Security (Scotland) Act 2018(a) and sections 70(8) and 90 of the Social Security Contributions and Benefits Act 1992(b) and all other powers enabling them to do so.

In accordance with section 96(2) of the Social Security (Scotland) 2018 Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 97(2) of that Act, the Scottish Ministers have informed the Scottish Commission on Social Security of their proposals, notified the Scottish Parliament that they have done so and made their proposals publicly available by such means as the Ministers consider appropriate.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2021 and come into force on 1 April 2021.

(2) In these Regulations—

“the Best Start Grant Regulations” means the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018(c),

“the Child Winter Heating Assistance Regulations” means the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020(d),

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- (a) 2018 asp 9. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.
- (b) 1992 c.5. The function of making regulations to amend the child dependency increase of carer's allowance was transferred to the Scottish Ministers in accordance with regulation 4 of S.S.I. 2017/444, which provides that section 53(1) and (2) of the Scotland Act 1998 (c.46) has effect in relation to exceptions 1 and 2 in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998 (c.46), from 31 March 2020 or at such earlier date as is specified in regulation 4(2). Accordingly, responsibility for the exercise of the functions exercisable by the Secretary of State in relation to carer's allowance as provided for in section 70 of the Social Security Contributions and Benefits Act 1992 (c.4) has transferred to the Scottish Ministers as regards provision of those benefits to people residing in Scotland.
- (c) S.S.I. 2018/370.
- (d) S.S.I.2020/352.

“the Funeral Expense Assistance Regulations” means the Funeral Expense Assistance (Scotland) Regulations 2019(a),

“the Dependency Regulations” means The Social Security Benefit (Dependency) Regulations 1977(b), and

“the Young Carer Grants Regulations” means the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019(c).

### **Amendment of the Best Start Grant Regulations**

2.—(1) The Best Start Grant Regulations are amended as follows.

(2) In schedule 2—

(a) in paragraph 6(1) (value of pregnancy and baby payment grant)—

(i) in head (a), for “£600” substitute “£606”, and

(ii) in head (b), for “£300” substitute “£303”, and

(b) in paragraph 7(1) (value of multiple pregnancy supplement), for “£300” substitute “£303”.

(3) In paragraph 4 of schedule 3(d) (value of early learning grant), for “£250” substitute “£252.50”.

(4) In paragraph 5 of schedule 4(e) (value of school-age grant), for “£250” substitute “£252.50”.

### **Amendment of the Young Carer Grants Regulations**

3.—(1) The Young Carer Grants Regulations are amended as follows.

(2) In regulation 4(7)(b)(f) (making of applications), for “21 October 2019” substitute “22 July 2019”.

(3) In regulation 12(1)(g) (amount and form of young carer grants), for “£305.10” substitute “£308.15”.

### **Amendment of the Funeral Expense Assistance Regulations**

4.—(1) The Funeral Expense Assistance Regulations are amended as follows.

(2) In regulation 9 (residence conditions, place of funeral and status), omit paragraph (4).

(3) In regulation 13(h) (amount of funeral expense assistance)—

(a) in paragraph (1)(b), for “£1000” substitute “£1010”,

(b) in paragraph (4)(b), for “£20.35” substitute “£20.55”, and

(c) in paragraph (6), for “£122.05” substitute “£123.25”.

### **Amendment of the Child Winter Heating Assistance Regulations**

5.—(1) The Child Winter Heating Assistance Regulations are amended as follows.

(2) In regulation 4(1)(c)(ii) (eligibility rules for child winter heating assistance), after “habitually resident in” insert “Switzerland or”.

(3) In regulation 10(1) (value of child winter heating assistance), for “£200” substitute “£202”.

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(a) S.S.I. 2019/292.

(b) S.I. 1977/343.

(c) S.S.I. 2019/324.

(d) As relevantly amended by S.S.I. 2019/157.

(e) As relevantly amended by S.S.I. 2019/157.

(f) Regulation 4(7) was inserted by S.S.I. 2020/475.

(g) As relevantly amended by S.S.I. 2020/99 and S.S.I. 2020/475.

(h) As relevantly amended by S.S.I. 2020/99.

(4) In the schedule, omit “Swiss Confederation”.

### **Amendment of the Dependency Regulations**

**6.** In schedule 2 (increase of carer’s allowance for child dependants) of the Dependency Regulations—

- (a) in paragraph 2—
  - (i) after “child or children” insert “or a qualifying young person or persons”,
  - (ii) after “child” insert “or qualifying young person”,
  - (iii) after “children” insert “or qualifying young persons”,
- (b) in paragraph 2B, after “child”, in both places where it occurs, insert “or qualifying young person”,
- (c) in paragraph 3, after “child”, in both places where it occurs, insert “or qualifying young person”, and
- (d) in paragraph 5, after “children”, in each place where it occurs, insert “or qualifying young persons”.

### **Saving Provisions**

**7.** The Schedule has effect.

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
Date

# SCHEDULE

## Saving Provisions

Regulation 7

### **Best Start Grant Regulations**

1.—(1) Where sub-paragraph (2) applies to an individual—

- (a) paragraph 6(1)(a) and (b) of schedule 2,
- (b) paragraph 4 of schedule 3(a) and
- (c) paragraph 5 of schedule 4(b),

of the Best Start Grant Regulations(c) continue to have effect on and after 1 April 2021 in relation to the amount of assistance to be given to that individual as they did immediately before that date.

(2) This sub-paragraph applies where the individual's application for a best start grant was made before 1 April 2021.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 4(d) (when an application is treated as made) of the Best Start Grant Regulations.

### **Young Carer Grants Regulations**

2.—(1) Where sub-paragraph (2) applies to an individual, regulation 12(1) of the Young Carer Grants Regulations(e) continues to have effect on and after 1 April 2021 in relation to the amount of assistance to be given to that individual as it did immediately before that date.

(2) This sub-paragraph applies where the individual's application for a young carer grant was made before 1 April 2021.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 4(f) (making of applications) of the Young Carer Grants Regulations.

### **Funeral Expense Assistance Regulations**

3.—(1) Where sub-paragraph (2) applies to an individual, regulation 13(1)(b), (4)(b) and (6) of the Funeral Expense Assistance Regulations(g) continue to have effect on and after 1 April 2021 in relation to the amount of assistance to be given to that individual as they did immediately before that date.

(2) This sub-paragraph applies where the individual's application for funeral expense assistance was made before 1 April 2021.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 3(6) (applications) of the Funeral Expense Assistance Regulations.

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- (a) As relevantly amended by S.S.I. 2019/157.
  - (b) As relevantly amended by S.S.I. 2019/157.
  - (c) S.S.I. 2018/370.
  - (d) As relevantly amended by S.S.I. 2019/110.
  - (e) S.S.I. 2019/324.
  - (f) As relevantly amended by S.S.I. 2020/475.
  - (g) S.S.I. 2019/292, as relevantly amended by S.S.I. 2020/99.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide for an increase in various values of forms of assistance payable under regulations made under the Social Security (Scotland) Act 2018. The Regulations come into force on 1 April 2021.

Regulation 2 increases the value of the three grants payable under the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 (the pregnancy and baby grant, the early learning grant, and the school age grant). Paragraph 1 of the schedule provides savings provisions for the previous values of each of these grants so that these are still operative in certain circumstances.

Regulation 3 makes an amendment remedying a date within the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 and also provides an increase in the value of the grant. Paragraph 2 of the schedule provides a savings provision for the previous value of this grants to still be operative in certain circumstances.

Regulation 4 makes an amendment to the Funeral Expense Assistance (Scotland) Regulations 2019 removing a reference to a piece of EU law (Directive 2004/38/EC) which, prior to this amendment, was to be construed as forming part of domestic law. Regulation 4 also increases the value of various amounts within funeral expense assistance. Paragraph 3 of the schedule provides a savings provision for the previous values of this assistance to still be operative in certain circumstances.

Regulation 5 makes an amendment remedying a defect within the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 by adding a reference to Switzerland into a provision regarding habitual residence and removing a reference to the Swiss Confederation in another provision. It also increases the value of child winter heating assistance.

Regulation 6 makes an amendment remedying a defect within a provision of the Social Security Benefit (Dependency) Regulations 1977(S.I. 1977/343) relating to increases of carer's allowance for child dependants by adding references to "qualifying young person" and "qualifying young persons" to the terms of schedule 2 of those Regulations. This puts beyond doubt that child dependency increases paid with a carer's allowance can include an increase for a qualifying young person.

Regulation 7 and the schedule make the saving provisions.