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4 November 2020

Dear Dr Witcher

As you are aware from discussion with officials, I am writing to inform you that we intend to lay amending Regulations for the Scottish Child Payment. These Regulations will be short and technical in nature, and will clarify the Scottish Government's policy and delivery intent on two issues which are nil awards and payment cycles. It is our intention to lay in the Scottish Parliament on 26 November so that the legislation comes into force on 15 February, which is when the eligibility for the Scottish Child Payment will commence.

As per section 97 of the Social Security (Scotland) Act 2018, I have enclosed a draft copy of the amending Regulations for the Commission's views. I am conscious that the timescales for the laying are tight and wanted to extend my sincere thanks to the Commission for the flexibility that you have shown in considering the Regulations in short timescales, given your already busy programme of work.

You will see that the amending Regulations cover two areas. With regard to nil (sometimes called zero) awards the amending Regulations will clarify the circumstances where such an award confers entitlement to the Scottish Child Payment. In line with our policy intent and our response to yourselves on 8 September, this means that people who have a nil award of a qualifying benefit as a result of sanctions will be eligible for the Scottish Child Payment. To ensure that we are consistent with other low income benefits being delivered by Social Security Scotland, we propose that this provision is extended beyond sanctions to clients that are in receipt of a nil award as a result of deductions for liabilities. The amending Regulations will also clarify that a person would not be eligible for the Scottish Child Payment if they received a nil award of a qualifying benefit for any reasons other than sanctions or deductions for liabilities.

The amending Regulations also set out that the date of payment for additional children that join an existing claim will be aligned with the client's existing payment cycle. This aligns with the functionality for the Best Start Grant and Best Start Food payments, and is consistent with user feedback we have received from clients who value clarity and certainty in terms of their dates of payment.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



Thank you once again for your consideration and I look forward to meeting with you soon where I would be happy to discuss further. My officials are ready to assist should the Commission have any questions on the draft legislation during your scrutiny process.

I have copied this letter to the Conveners of the Social Security and Delegated Powers and Law Reform Committees

Yours sincerely



**SHIRLEY-ANNE SOMERVILLE**

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2021 No.**

**SOCIAL SECURITY**

**The Scottish Child Payment Amendment Regulations 2021**

*Made* - - - - - \*\*\*  
*Coming into force* - - - - - \*\*\*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 79 of the Social Security (Scotland) Act 2018(a) and all other powers enabling them to do so.

In accordance with section 96(2) of that Act, a draft of these Regulations 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 they consider appropriate.

**Citation and commencement**

1. These Regulations may be cited as the Scottish Child Payment Amendment Regulations 2021 and come into force on the day after the day on which they are made.

**Meaning of “the principal Regulations”**

2. In these Regulations, “the principal Regulations” means the Scottish Child Payment Regulations 2020(b).

**Amendment of regulation 15 of the principal Regulations**

3. For regulation 15 of the principal Regulations (meaning of references to assistance being awarded) substitute—

“**15.**—(1) An individual is not to be regarded as having been awarded a kind of assistance specified in regulation 14 for a day or a period if—

- (a) the award was made in error (whether or not induced by the individual); or
- (b) the sum awarded to the individual for the day or the period is £0.

(2) In sub-paragraph (1)(b), the reference to “the sum awarded” means, in a case where a deduction has been made—

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(a) 2018 asp 9.  
(b) SSI2020/\*\*\*.

- (a) in respect of any liability the individual has to another person; or
- (b) by way of a sanction,

the sum that would have been awarded had the deduction not been made.”.

#### **Amendment of regulation 21 of the principal Regulations**

**4.**—(1) Regulation 21 of the principal Regulations (time of payment) is amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1) for “paragraph (2)” substitute “paragraph (2) or, where paragraph (3) applies, paragraph (4)”.

(3) In paragraph (2) for “Payments” substitute “Except where paragraph (3) applies, payments”.

(4) After paragraph (2), insert—

“(3) This paragraph applies where the payment is to be made pursuant to a determination made in accordance with paragraph 11 of the schedule (determination following award of a Scottish child payment in respect of another child).

(4) Where paragraph (3) applies, payments are to be made so that—

- (a) the first payment is made on the same day as the next Scottish child payment that is due to be made to the individual in respect of their ongoing entitlement to that payment in respect of another child (see paragraph 11(1)(a) of the schedule),
- (b) that first payment is made, in arrears, in respect of the period beginning with the day on which the application is made and ending with the day referred to in subparagraph (a), and
- (c) subsequent payments are made in respect of periods of 4 weeks, in arrears, in the last week of each successive period of 4 weeks in which the individual continues to be entitled to a Scottish child payment for at least one week by virtue of regulation 19.”.

*Name*

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
Date

## **EXPLANATORY NOTE**

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

These Regulations amend the Scottish Child Payment Regulations 2020 (SSI 2020/\*\*\*) (“the principal Regulations”).

The principal Regulations make provision about a Scottish child payment, a type of assistance to be given by the Scottish Ministers under section 79 of the Social Security (Scotland) Act 2018. These Regulations amend regulations 15 and 21 of the principal Regulations.

Regulation 3 amends regulation 15 of the principal Regulations, to clarify the circumstances in which an individual who has a nil award of a kind of assistance specified in regulation 14 of the principal Regulations is to be regarded as having been awarded that assistance for the purposes of regulation 18(f) of those Regulations.

Regulation 4 amends regulation 21 of the principal Regulations, to allow the first payment date of an award of Scottish child payment in respect of a child to be aligned with the next payment date of any other award of Scottish child payment that may be due to the individual in respect of another child.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.