

POLICY NOTE

The Social Security (Best Start Grants, Best Start Foods, Funeral Support Payment, Scottish Child Payment and Winter Heating Payment) (Miscellaneous Amendment) (Scotland) Regulations 2025

SSI 2025/XXX

The above instrument was made in exercise of the powers conferred by section 13 of the Social Security Act 1988(1), section 175(4) of the Social Security Contributions and Benefits Act 1992(2) and sections 30(2), 32(2), 34, 79 and 95 of the Social Security (Scotland) Act 2018(3) and all other powers enabling them to do so. The instrument is subject to affirmative procedure.

Summary Box

Insert one or two sentences to explain what the purpose of the instrument is.

The purpose of this instrument is to make consequential amendments and transitional provision as a result of the ending of tax credits by the UK Government. Tax Credits form a route for establishing eligibility and child responsibility in relation to Best Start Foods, Best Start Grant, Scottish Child Payment. They also form a route for eligibility to Funeral Support Payment and, to a secondary extent, to Winter Heating Payment.

These provisions are required to ensure that the policy intent that devolved legislation should match the reality of which qualifying reserved benefits are available to determine eligibility for devolved benefits.

Policy Objectives

The regulations for a number of Scottish Government social security benefits refer to tax credits to establish eligibility and, in some cases, child responsibility. HMRC have announced that the Tax Credit scheme is ending on 5 April 2025. These amending regulations ensure that devolved legislation matches the reality of which qualifying reserved benefits are available to determine eligibility for devolved benefits.

The regulations which require amendment are:

The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018

The Welfare Foods (Best Start Foods) (Scotland) Regulations 2019

The Funeral Expense Assistance (Scotland) Regulations 2019

(1) 1998 c. 7. Section 13 was substituted by section 185(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) and amended by section 27(5) of the Scotland Act 2016 (c. 11) (“the 2016 Act”). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46) as read with section 32 of the 2016 Act.

(2) 1992 c. 4. Section 175(4) was amended by paragraph 29(4) of schedule 3 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(3) 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.

The Scottish Child Payment Regulations 2020

The Winter Heating Assistance (Low Income) (Scotland) Regulations 2023

Each of the amended regulations (with the exception of the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018) were introduced after the Tax Credit scheme was closed to new applications in April 2019. The original policy intent for each set of regulations was to ensure that people on low incomes were protected, and in relevant cases, to ensure that there was a safe and secure transfer to the new benefit from the UK scheme which had been devolved. It is for this reason that tax credits were included as a route to eligibility and child responsibility, despite the known fact that the UK Government intended to close tax credits in the future as part of the move from ‘legacy benefits’ to Universal Credit which was introduced in 2013.

The regulations include a saving provision for the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019, to ensure that anyone entitled to the eight-week ‘run-on’ of Best Start Foods in the period before 6 April 2025 continues to receive the payment for the full period.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children’s rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Social Security (Best Start Grants, Best Start Foods, Funeral Support Payment, Scottish Child Payment and Winter Heating Payment) (Miscellaneous Amendment) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This legislation is not relevant to the Scottish Government’s policy to maintain alignment with the EU, because each EU member state has its own social security laws. EU rules co-ordinate these separate social security systems between member states to support freedom of movement, but this legislation is not relevant to social security co-ordination specifically.

Consultation

As the programme for ‘Move to UC’ from tax credits will have already been completed by the time these regulations come into force, and as this is a policy fully reserved to the UK Government, there was no benefit to a formal consultation.

Scottish Government officials presented details of the Move to UC to a stakeholder’s group meeting in February 2024. This group included representatives from Citizens Advice Scotland, CPAG, Age Scotland, COSLA, NAWRA, the Poverty Alliance, Maggie’s and others. No significant concerns were raised in relation to the planned closure of Tax Credits or Move to UC programme, or the support that Social Security Scotland had put in place to support clients who receive Scottish Government benefits, to ensure that they did not lose entitlement.

Impact Assessments

The following impact assessments have been completed on the draft SSI:

- An Equalities Impact Assessment
- A Business and Regulatory Impact Assessment
- A Fairer Scotland Duty Assessment
- An Islands Communities Impact Assessment
- A Children's Rights and Wellbeing Impact Assessment

A Data Protection impact assessment is not required, but we have consulted the Information Commissioner's Office (the ICO) under Article 36(4) of the UK GDPR. The ICO has confirmed that they do not require to engage further at this time.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The Scottish Government does not believe that these consequential amendments will have an adverse impact on the competitiveness of Scottish companies or the third sector within Scotland, the United Kingdom or internationally, including Europe and the rest of the world.

Scottish Government
Social Security Directorate

[date]