
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

SOCIAL SECURITY

The Two Child Limit Payment (Scotland) Regulations 2026

Made - - - - ***

Coming into force - - ***

The Scottish Ministers, in exercise of the powers conferred by sections 79 and 95 of the Social Security (Scotland) Act 2018(a), make the following Regulations.

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.

PART 1

Introduction

Citation, commencement, interpretation and application

1. These Regulations may be cited as the Two Child Limit Payment (Scotland) Regulations 2026.

Commencement

2. These Regulations come into force on

Overview

3.—(1) Part 2 makes provision about the interpretation of these Regulations.

(2) Part 3 makes provision about eligibility and the assistance that is to be given to eligible individuals in connection with a dependant (referred to in these Regulations as “two child limit payment”).

(a) 2018 asp 9. The regulation-making powers conferred by that Act include the power to make different provision for different purposes by virtue of section 96(1). 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). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(3) The schedule makes provision about matters of procedure for applying for, and determining entitlement to, a two child limit payment.

PART 2

Interpretation

General

Interpretation

4. In these Regulations—

“the 2018 Act” means Social Security (Scotland) Act 2018(a)

“two-child limit” means the limit imposed on the amount available under the child element of an award of universal credit under section 10(1A) of the Welfare Reform Act 2012(b).

“child element of a universal credit award” means that element of universal credit which is awarded under section 10 of the Welfare Reform Act 2012.

Expressions about time and timing

When an application is to be treated as made

5. A reference to the day on which an application is made means the day on which an application is received by the Scottish Ministers or, as the context may require, the day on which the application is treated as having been made by virtue of the schedule.

Meaning of “working day”

6. A “working day” means a day other than—

- (a) a Saturday
- (b) a Sunday, or
- (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(c).

Meaning of “week”

7. A “week” means a period of 7 consecutive days.

Expressions about inter-personal relationships

Meaning of “dependant”

8.—(1) An individual (“person A”) is to be regarded as the dependant of another individual (“person B”) on a day only if—

- (a) person B has been awarded universal credit for an assessment period that includes the day in question, and

(a) 2018 asp 9.

(b) 2012 c. 5

(c) 1971 c.80. Paragraph 2 of Schedule 1 sets out the Scottish bank holidays and is amended by the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2), section 1

- (b) person A is recognised to be a child or qualifying young person for whom person B has responsibility in terms of that award of assistance.

(2) It is immaterial for the purpose of this regulation that the award of assistance to person B referred to in sub-paragraph (1) does not include any amount in respect of person A due to a rule that restricts the number of dependants in respect of whom person B can be given that type of assistance.

(3) For the purpose of this regulation, person A is not to be regarded as a dependant of person B for an assessment period that includes the day in question where the decision to recognise person A as a child or qualifying young person for whom person B has responsibility in terms of that award of assistance was made in error (whether or not induced by the individual).

(4) For the avoidance of doubt, sub-paragraph (3) includes decisions which are made retrospectively.

Expressions about social security assistance

Meaning of determination of entitlement to two child limit payment

9.—(1) Unless the context otherwise requires, references in these Regulations to a determination of an individual's entitlement to a two child limit payment are to a determination made—

- (a) by the Scottish Ministers—
 - (i) under paragraph 3 of the schedule (duty to make a determination of entitlement), or
 - (ii) (following a request for a re-determination) under paragraph 16 of the schedule (duty to re-determine and period allowed),
- (b) by the First-tier Tribunal for Scotland—
 - (i) under paragraph 22 of the schedule (First-tier Tribunal's power to determine entitlement) in an appeal against a determination made by the Scottish Ministers, or
 - (ii) (subsequent to such an appeal) under its Tribunals Act powers,
- (c) by the Upper Tribunal for Scotland under its Tribunals Act powers (subsequent to an appeal against, or following a review of, a decision of the First-tier Tribunal).
- (d) by the Court of Session under its Tribunal Act powers (in an appeal against a decision of the Upper Tribunal), or
- (e) by the Supreme Court of the United Kingdom—
 - (i) in an appeal under section 40 of the Court of Session Act 1988 against a decision of the Court of Session, or
 - (ii) on a reference made by the Court of Session under schedule 6 of the Scotland Act 1998.

(2) In this regulation, "Tribunals Act powers" means powers under Part 6 (review or appeal of decisions) of the Tribunals (Scotland) Act 2014^(a).

(3) A determination of an individual's entitlement to a two child limit payment consists of—

- (a) a decision about whether or not the eligibility rules specified in regulation 15 (eligibility for two child limit payment) are satisfied in the individual's case,
- (b) if those rules are satisfied, a decision (taken in accordance with these Regulations) about what assistance the individual is entitled to be given, and

(a) 2014 asp 10.

- (c) if the determination is to be made on the basis that the individual has ongoing entitlement to a two child limit payment, a decision about what assistance the determination is to entitle the individual to be given in the future.

Meaning of reference to Universal Credit

10. For the purposes of these Regulations, references to universal credit are to universal credit under Part 1 of the Welfare Reform Act 2012(a)

Meaning of references to universal credit being awarded

11.—(1) An individual is not to be regarded as having been awarded universal credit for 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 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—

- (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.

Meaning of “assessment period” in relation to universal credit

12. “Assessment period” means a period in respect of which universal credit may be payable to the individual in question in accordance with section 7 of the Welfare Reform Act 2012.

Meaning of application of two-child limit

13. The two-child limit is not to be regarded as having been applied in respect of a dependant for any period for which the individual was awarded the child element of universal credit for the dependant.

PART 3

Eligibility and assistance to be given

Duty to give assistance

14. The Scottish Ministers must give an individual whatever assistance the individual is entitled to be given under a determination of the individual’s entitlement to a two child limit payment.

Eligibility for a two child limit payment

15. An individual is eligible for a two child limit payment in respect of a dependant if—

- (a) the individual has made an application for the payment (or an application is treated as having been made by the individual by virtue of a provision in the schedule requiring the Scottish Ministers to make a determination without application in the individual’s case),
- (b) no other individual has received, or is due to receive, a two child limit payment in respect of the dependant and the period that the payment will cover (other than in circumstances

(a) 2012 c.5

where paragraph 10(1)(b)(determination following change of circumstances etc.) of the schedule applies),

- (c) the individual is ordinarily resident in Scotland on the day the application is made,
- (d) the individual has been awarded universal credit for an assessment period which includes the day that the application is made, and
- (e) the individual does not currently receive an award of the child element of universal credit for the dependant due to the application of the two child limit for that assessment period.

Beginning of entitlement to assistance

16. Where a determination is made that an individual is entitled to a two child limit payment, the date on which entitlement begins is the date on which the application is made or treated as made in accordance with regulation 5 (when an application is to be treated as made).

Ongoing entitlement

17.—(1) A determination of an individual's entitlement to a two child limit payment in respect of a dependant and assessment period may be made on the basis that the individual has an ongoing entitlement to a two child limit payment.

(2) A determination of on-going entitlement is made on the basis that the individual will continue to be entitled to a two child limit payment in respect of that dependant in each subsequent assessment period until—

- (a) the end of the assessment period before the assessment period where—
 - (i) the individual is no longer regarded as having been awarded universal credit in accordance with regulation 11(1) (meaning of references to universal credit being awarded),
 - (ii) the child or qualifying young person is no longer regarded as a dependant of the individual in accordance with regulation 8 (meaning of dependant),
 - (iii) the individual receives an award of the child element of universal credit for the dependant, or
 - (iv) the individual dies.
- (b) the end of the assessment period in which the individual ceases to be ordinarily resident in Scotland and no circumstance in sub-paragraph (a) applies.

Circumstances in which assistance may be suspended

18.—(1) The Scottish Ministers may decide that an individual who has an ongoing entitlement to a two child limit payment in respect of a period by virtue of regulation 17 (ongoing entitlement) is not to become entitled to be given some or all of that assistance at the time at which the individual otherwise would in accordance with that regulation, as read with regulation 29 (time of payment) (referred to in these Regulations as a decision to suspend the individual's two child limit payment).

(2) Where such a decision is made in respect of an individual, payments of a two child limit payment to that individual are to be suspended until such time as the Scottish Ministers decide to end the suspension in accordance with regulation 22 (ending a suspension).

(3) The Scottish Ministers may decide to suspend an individual's two child limit payment only in the circumstances where—

- (a) paragraph 25(2) of the schedule (obtaining information to make determination) applies, or
- (b) the Scottish Ministers have made arrangements (whether under section 85A of the 2018 Act, section 85B of the 2018 Act or otherwise) for a person to receive the two child limit payment on the individual's behalf, and the Scottish Ministers consider that it is necessary to suspend the two child limit payment—

- (i) in order to protect the individual from the risk of financial abuse, or
- (ii) because the person with whom the Scottish Ministers have made arrangements is unable to continue to receive the two child limit payment.

Having regard to financial circumstances

19. The Scottish Ministers must have regard to an individual's financial circumstances prior to making a decision to suspend payment to the individual of some or all of a two child limit payment.

Information to be given following suspension

20.—(1) Having made a decision to suspend an individual's two child limit payment, the Scottish Ministers must inform the individual of—

- (a) their decision to suspend the individual's two child limit payment,
- (b) the reasons for their decision,
- (c) any steps which might be taken by the individual in order for the Scottish Ministers to consider ending the suspension, and
- (d) the individual's right under regulation 21 (right to review suspension) to require the Scottish Ministers to review their decision.

(2) The Scottish Ministers must fulfil their duty under sub-paragraph (1) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

Right to review suspension

21.—(1) An individual may require the Scottish Ministers to review a decision to suspend that individual's two child limit payment.

(2) The Scottish Ministers must—

- (a) complete a review mentioned in sub-paragraph (1) within 31 days beginning with the day on which they received notice from the individual requiring them to review their decision,
- (b) inform the individual of the outcome of the review including the reasons for it.

(3) The Scottish Ministers must fulfil their duty under sub-paragraph (2)(b) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

Ending a suspension

22. The Scottish Ministers are to make a decision to end a suspension where—

- (a) the individual provides the information mentioned in paragraph 25(1) of the schedule (obtaining information to make determination) and the Scottish Ministers consider that they do not require to make a determination without application,
- (b) regulation 18(3)(a) (circumstances in which assistance may be suspended) applies and the Scottish Ministers make a determination without application under paragraph 6 (determination following official error resulting in underpayment), 7 (determination following error resulting in overpayment), 8 (determination following backdated award of assistance), 10 (determination following change of circumstances, etc.), 11 (determination following award of a two child limit payment in respect of another dependant), 12 (determination following cessation of award of two child limit payment) or 13 (determination to effect a deduction decision) of the schedule,
- (c) the Scottish Ministers make a determination under paragraph 25(4) of the schedule (obtaining information to make determination),
- (d) the circumstances mentioned in regulation 18(3)(b) no longer apply, or

- (e) the Scottish Ministers consider it appropriate in the circumstances, including having regard to the financial circumstances of the individual.

Effect of suspension ending

23. When—

- (a) the suspension of an individual's two child limit payment ends, and
- (b) under the latest determination of the individual's entitlement to a two child limit payment relating to the period of the suspension the individual would have become entitled to be given a two child limit payment during that period,

the individual is immediately to be given the two child limit payment that the individual would have become entitled to be given under the determination during the period of suspension.

Interpretation: regulations 18 to 23

24.—(1) In regulations 18 to 23—

- (a) references to an individual's two child limit payment being suspended are to an individual not becoming entitled to be given some or all of the two child limit payment in respect of a period that the individual otherwise would at the time, or times, prescribed by regulation 17 (ongoing entitlement), and
- (b) "financial abuse" includes—
 - (i) having money or other property stolen,
 - (ii) being defrauded,
 - (iii) being put under pressure in relation to money or other property,
 - (iv) having money or other property misused.

Individual's right to stop receiving assistance

25.—(1) An individual may request that the Scottish Ministers cancel a determination of the individual's entitlement to assistance.

(2) On being requested to do so under sub-paragraph (1), the Scottish Ministers must cancel a determination—

- (a) with immediate effect, or
- (b) with effect from a later date specified in the request.

(3) An individual is not entitled, and is not to become entitled, to be given assistance by a determination after it has been cancelled.

(4) A request under sub-paragraph (1) must be made in such form as the Scottish Ministers require.

(5) The Scottish Ministers must publicise any requirements for the time being set under sub-paragraph (4).

Later determination supersedes earlier

26.—(1) The latest determination of an individual's entitlement to a two child limit payment in respect of a given period supersedes any earlier determination insofar as it deals with the individual's entitlement to a two child limit payment in respect of the same period .

(2) Accordingly the individual is not entitled, and is not to become entitled, to be given a two child limit payment in respect of that period by the earlier determination insofar as it has been superseded.

Value and form of a two child limit payment

27.—(1) The value of a two child limit payment in respect of a dependant is £292.81 per assessment period.

(2) A two child limit payment may only be given as money, except as provided for by sub-paragraph (3).

(3) Where an individual has a liability to the Scottish Ministers under section 63 of the 2018 Act (liability for assistance given in error), under paragraph 29 of the schedule of these Regulations, or under paragraph 29 of the schedule of the Scottish Child Payment Regulations 2020^(a) the individual's two child limit payment may be given (in whole or in part) by way of deduction, at a reasonable level, from that liability either—

- (a) with the agreement of the individual, or
- (b) without the individual's agreement, where the individual has unreasonably refused to agree to the assistance being given in that form.

(4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

(5) Where the value referred to in sub-paragraph (1) is amended, that amended value is to take effect in respect of the two child limit payment from the first full complete assessment period which begins on or after the date the amended value comes into force.

Death of a dependant

28.—(1) Sub-paragraphs (2) to (4) apply where—

- (a) in respect of a dependant, a determination of an individual's ongoing entitlement to the two child limit payment has previously been made, and
- (b) that dependant is deceased.

(2) These Regulations continue to apply in respect of the assessment period in which the death occurred and the following two assessment periods provided the child or qualifying young person was, in the assessment period in which they died, regarded as a dependant of the individual in accordance with regulation 8 (meaning of dependant).

(3) The child or qualifying young person is to be treated as remaining the dependant of that individual for those periods.

(4) References in these Regulations to a dependant are to be construed as if that dependant were not deceased.

Time of payment

29.—(1) Following a determination that an individual is entitled to a two child limit payment, the payment is to be given in accordance with sub-paragraph (2) except—

- (a) where sub-paragraph (3) applies, the payment is to be given in accordance with sub-paragraph (4) or,
- (b) where the payment is given as part of ongoing entitlement and sub-paragraph (5) applies, sub-paragraph (6) applies.

(2) Except where sub-paragraphs (3) or (5) apply, where a determination is made that an individual is entitled to a two child limit payment, the Scottish Ministers are to make—

- (a) the first payment of a two child limit payment on a date specified in the determination, and

^(a) 2020 No. 531

- (b) subsequent payments in the last week of each successive period of one month as long as the individual continues to be entitled to a two child limit payment in the most recent completed assessment period by virtue of regulation 17 (ongoing entitlement).

(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 two child limit payment in respect of another dependant).

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

- (a) the first payment is made on the same day as the next two child limit payment that is due to be made to the individual in respect of their ongoing entitlement to that payment in respect of another dependant (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 sub-paragraph (a), and
- (c) subsequent payments are made in respect of each completed assessment period in the last week of each successive period of one month as long as the individual continues to be entitled to a two child limit payment in the most recent completed assessment period by virtue of regulation 17 (ongoing entitlement).

(5) This paragraph applies where there is an ongoing entitlement and the payment is to be made following a change in the individual's assessment period.

(6) Where sub-paragraph (5) applies, payments are to be made so that—

- (a) the first payment following the change is made on the day set by Scottish Ministers, and
- (b) subsequent payments are made in the last week of each successive period of one month in which the individual continues to be entitled to a two child limit payment in the most recent completed assessment period by virtue of regulation 17 (ongoing entitlement).

Amendment to the Scottish Child Payment Regulations 2020

30. In regulation 20(3) (value and form of a Scottish child payment) of the Scottish Child Payment Regulations(a)—.

- (a) after “(liability for assistance given in error),” omit “or”, and
- (b) after “these Regulations” insert “or under paragraph 29 of the schedule of the Two Child Limit Payment (Scotland) Regulations 2026(b)”

Signatory text

St Andrew's House
Edinburgh
Date

Name

A member of the Scottish Government

(a) S.S.I. 2020/351
(b) S.S.I xxxx/xxx

SCHEDULE 1

Procedural Matters

Ref

PART 1

Applications and determination of applications

Requirement for applications

1.—(1) Except as provided for by Part 2 of this schedule, an individual is not entitled to a two child limit payment unless an application is made to the Scottish Ministers.

(2) If, before making a determination on the basis of an application, the Scottish Ministers consider that the applicant—

- (a) would not be eligible for the two child limit payment applied for if the application were treated as made on the day they received it, and
- (b) would be eligible for the two child limit payment applied for if the application were treated as made on a day falling within the period of 14 days beginning with the day they received it,

the Scottish Ministers may choose the day within that 14 day period on which the application is to be treated as made.

(3) For the avoidance of doubt, an application for assistance must be—

- (a) made in such form, and
- (b) accompanied by such evidence,

as the Scottish Ministers require.

(4) If the Scottish Ministers reject something purporting to be an application for a two child limit payment, they must inform the individual concerned of—

- (a) the decision to do that,
- (b) the reasons for it, and
- (c) the individual's right to appeal under paragraph 23(1) (appeal to first-tier tribunal against process decisions).

Withdrawal of application

2.—(1) An individual who has made an application for a two child limit payment may request that the Scottish Ministers disregard it.

(2) If an individual requests that an application be disregarded—

- (a) the Scottish Ministers are not to make a determination of the individual's entitlement to a two child limit payment on the basis of the application, and
- (b) accordingly, their duty to do so under paragraph 3 (duty to make a determination of entitlement) ceases to apply.

(3) A request under sub-paragraph (1) must be made in such form as the Scottish Ministers require.

(4) The Scottish Ministers must publicise any requirements for the time being set under sub-paragraph (3).

Duty to make a determination of entitlement

3. The Scottish Ministers must make a determination of an individual's entitlement to a two child limit payment—

- (a) on receiving an application for a two child limit payment from the individual, or
- (b) when required to do so by Part 2 (determination without application) of this schedule.

Notice of determination

4.—(1) Having made a determination under paragraph 3 (duty to make a determination of entitlement) of an individual's entitlement to a two child limit payment, the Scottish Ministers must inform the individual—

- (a) of the determination,
- (b) of the reasons for it,
- (c) of the individual's right under paragraph 14 (right to request re-determination and periods allowed) to request that the Scottish Ministers re-determine the individual's entitlement to the payment, and
- (d) that the individual will have the right under paragraph 19 (right to appeal to the first-tier tribunal against determination) to appeal to the First-tier Tribunal against the determination should the Scottish Ministers fail to deal with a request for a re-determination in the period allowed for re-determination.

(2) The Scottish Ministers must fulfil their duty under sub-paragraph (1) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

Multiple determinations involving the same dependant

5.—(1) Where the Scottish Ministers are required by paragraph 3 (duty to make a determination of entitlement) to make a determination of the entitlement of two or more individuals for a two child limit payment in respect of the same dependant and the same period, the determination must be made in accordance with sub-paragraphs (2) to (3).

(2) For the avoidance of doubt, the Scottish Ministers must—

- (a) make a determination of each individual's entitlement, notwithstanding that another individual may have previously been properly awarded a two child limit payment in respect of the dependant (and continue to receive that payment), and
- (b) in so doing, determine which (if any) of the individuals is to be entitled to a two child limit payment in respect of the dependant.

(3) Where the Scottish Ministers decide that two or more individuals are eligible for a two child limit payment in respect of the dependant and the period (see regulations 15 (eligibility for a two child limit payment) and 17 (ongoing entitlement)), the Scottish Ministers must determine which of the individuals is entitled to the two child limit payment having regard to the circumstances of the dependant.

PART 2

Determination without application

Determination following official error resulting in underpayment

6.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to a two child limit payment (without receiving an application) where—

- (a) they have previously made a determination of the individual's entitlement to the payment ("the original determination"),

- (b) they establish that due to an official error the original determination was incorrect resulting in the individual—
 - (i) not being given a two child limit payment to which the individual was entitled, or
 - (ii) being given a lower award than that to which the individual was entitled,
 - (c) the Scottish Ministers are not considering a request for a re-determination of the individual's entitlement to the two child limit payment, and
 - (d) the individual has not appealed to the First-tier Tribunal for Scotland against the Scottish Ministers' determination of the individual's entitlement to the two child limit payment.
- (2) In making a determination required by sub-paragraph (1) the Scottish Ministers are to use—
- (a) the information provided in the application that led to the original determination, and
 - (b) any other information they have obtained in connection with that application.
- (3) Where a determination is to be, or has been, made without an application by virtue of this paragraph, references in these Regulations to the day the application is made are to be read as references to the day the application that led to the original determination was made.
- (4) In this paragraph, “official error” means an error made by someone acting on behalf of the Scottish Ministers or on behalf of a Minister of the Crown that was not materially contributed to by anyone not so acting.

Determination following error resulting in overpayment

- 7.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to a two child limit payment (without receiving an application) where—
- (a) they have previously made a determination of the individual's entitlement to the payment (“the original determination”),
 - (b) they establish that due to an error the original determination was incorrect resulting in the individual—
 - (i) being given a two child limit payment to which they are not entitled, or
 - (ii) being given a higher award than that to which they were entitled,
 - (c) the Scottish Ministers are not considering a request for a re-determination of the individual's entitlement to the two child limit payment, and
 - (d) the individual has not made an appeal (to the First-tier Tribunal for Scotland) against the Scottish Ministers' determination of the individual's entitlement to the two child limit payment, that has not yet been determined.
- (2) In making a determination required by sub-paragraph (1) the Scottish Ministers are to use—
- (a) the information provided in the application that led to the original determination,
 - (b) any other information they have obtained in connection with that application, and
 - (c) any other information available to them that is relevant to their consideration of whether the individual is entitled to a two child limit payment.
- (3) Where a determination is to be, or has been, made without an application by virtue of this paragraph, references in these Regulations to the day the application is made are to be read as references to the day the application that led to the original determination was made.
- (4) In this paragraph, references to an “error” are to—
- (a) an error in the performance of a function conferred by virtue of these Regulations, including a decision under regulation 9 (meaning of determination of entitlement to two child limit payment) being made—
 - (i) wrongly, or
 - (ii) correctly but on the basis of—
 - (aa) incorrect information, or
 - (bb) an assumption which proves to be wrong,

- (b) a new decision under regulation 9 (meaning of determination of entitlement to two child limit payment) not being made after an assumption on the basis of which an earlier decision was made has proved to be wrong.

Determination following backdated award of assistance

8.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to a two child limit payment (without receiving an application) where the circumstances in sub-paragraphs (2) to (5) apply.

(2) A determination has previously been made that the individual is not entitled to the payment in connection with the dependant ("the original determination").

(3) The Scottish Ministers establish that a backdated award of universal credit is made.

(4) The award referred to in sub-paragraph (3) ("the backdated award") is backdated to a day, or a period that begins on a day, that falls no later than the day on which the original determination was made.

(5) Had the backdated award been made before the original determination, a determination that the individual is entitled to a two child limit payment would have been made instead.

(6) For the purposes of this paragraph, an award is backdated if it relates to a day, or a period that begins on a day, that falls before the day the decision to make the award was taken.

9.—(1) In making a determination required by paragraph 8 (determination following backdated award of assistance) the Scottish Ministers are to use—

- (a) the information provided in the application that led to the original determination, and
- (b) any other information they have obtained in connection with that application.

(2) Where a determination is to be, or has been, made without an application by virtue of paragraph 8, references in these Regulations to the day the application is made are to be read as references to the day the application that led to the original determination was made.

Determination following change of circumstances etc.

10.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to a two child limit payment in respect of a dependant (without receiving an application) where an individual has ongoing entitlement to a two child limit payment (see regulation 17 (ongoing entitlement)) and they—

- (a) consider that a change in circumstances is likely to mean that an individual is no longer entitled to such a payment,
- (b) wish to make an award of a two child limit payment in relation to that dependant to a different individual following a determination that that other individual is to be entitled to the payment in respect of the dependant (see paragraph 5 (multiple determinations involving the same dependant)).

(2) Where—

- (a) sub-paragraph (1)(a) applies, references in these Regulations to the day on which the application is made are to be read as references to the day on which the change in circumstances occurred or, if that is not known, the day on which the Scottish Ministers became aware of the change in circumstances,
- (b) sub-paragraph (1)(b) applies, references in these Regulations to the day on which the application is made are to be read as references to the day on which the Scottish Ministers determine the entitlement of the other person referred to in that sub-paragraph.

(3) In sub-paragraph (1)(a), "a change in circumstances" means a change in the circumstances of the individual in relation to any of the matters listed in regulation 15 (eligibility for a two child limit payment).

Determination following award of a two child limit payment in respect of another dependant

11.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to a two child limit payment in respect of a dependant (without receiving an application) where—

- (a) the individual has been properly awarded a two child limit payment in respect of another dependant and has an ongoing entitlement to that payment (see regulation 17 (ongoing entitlement)),
- (b) the individual notifies the Scottish Ministers that the dependant is a dependant within the meaning of regulation 8 (meaning of “dependant”)
- (c) it appears to the Scottish Ministers that, unless there is a change in circumstances, the individual is likely to be entitled to a two child limit payment in respect of the dependant.

(2) In making a determination required by sub-paragraph (1), the Scottish Ministers may use any information they have obtained in connection with the award referred to in sub-paragraph (1)(a) as appears to them to be relevant.

(3) Where a determination is to be made by virtue of this paragraph, references in these Regulations to the day the application is made are to be read as references to—

- (a) the first day of the assessment period in which notification is given under sub-paragraph (1)(b), or
- (b) in the case where the dependant was recognised as a dependant within the meaning of regulation 8 (meaning of dependent) for the assessment period which precedes the assessment period referred to in sub-paragraph (3)(a), the first day of that assessment period.

Determination following cessation of award of two child limit payment

12.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to a two child limit payment in respect of a dependant (without receiving an application) where the circumstances in sub-paragraphs (2) to (5) apply.

(2) The individual has previously been properly awarded a two child limit payment in respect of the dependant.

(3) A determination has subsequently been made that the individual is no longer entitled to the two child limit payment in respect of that dependant due to a change of circumstances relating to the matters listed in—

- (a) regulation 8 (where the dependant ceased to be regarded as the dependant within the meaning of regulation 8 (Meaning of dependant)),
- (b) regulation 15(d) (where no award of universal credit was made to the individual for a relevant assessment period), or
- (c) regulation 15(e) (where the child element of the award of universal credit for the dependant was made to the individual for a relevant assessment period)

(4) It appears to the Scottish Ministers that, due to a change in the individual's circumstances in relation to the matters referred to in sub-paragraph (3), the individual is likely to once again be entitled to a two child limit payment in respect of the dependant.

(5) Not more than 3 months have passed since the day on which the change of circumstances referred to in sub-paragraph (3) occurred.

(6) Where a determination is to be made by virtue of this paragraph, references in these Regulations to the day the application is made are to be read as references to the day on which the change in circumstances occurred or, if that is not known, the day on which the Scottish Ministers became aware of the change in circumstances.

Determination to effect a deduction decision

13.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to a two child limit payment (without receiving an application) where the circumstances in sub-paragraphs (2) and (3) apply.

(2) This sub-paragraph applies where—

- (a) regulation 27 (value and form of a two child limit payment) allows a two child limit payment to be given to the individual by way of deduction, or
- (b) a two child limit payment is being given to the individual by way of deduction, and the Scottish Ministers consider that may no longer be appropriate.

(3) This sub-paragraph applies where the Scottish Ministers have decided to—

- (a) vary the amount of two child limit payment to be given by way of deduction (including introducing a deduction, where the full amount of two child limit payment was previously given as money),
- (b) vary any period for which the individual's two child limit payment is to be given by way of deduction that may have been specified in a previous determination of the individual's entitlement, or
- (c) cease making deductions, and instead give the individual's two child limit payment in the form of money.

(4) The Scottish Ministers are to make a determination (without receiving an application) where an individual who is receiving a two child limit payment by way of deduction under a previous determination of entitlement notifies the Scottish Ministers that the individual—

- (a) withdraws their agreement to their two child limit payment being given by way of deduction,
- (b) wishes the Scottish Ministers to increase the amount of their two child limit payment that is given by way of deduction,
- (c) wishes the Scottish Ministers to decrease the amount of their two child limit payment that is given by way of deduction (including ceasing the deduction), or
- (d) wishes the Scottish Ministers to amend the length of any period referred to in sub-paragraph (3)(b).

(5) Where a determination is made in pursuance of sub-paragraph (1) or (4), references in these Regulations to the day on which the application is made are to be read as references to the day on which the determination is made.

PART 3

Re-determination of entitlement

Right to request re-determination and periods allowed

14.—(1) An individual may request that the Scottish Ministers re-determine the individual's entitlement to a two child limit payment, after being informed (in accordance with paragraph 4(1) (notice of determination)) of a determination by the Ministers of the individual's entitlement to such a payment.

(2) Unless sub-paragraph (3) applies, a request for re-determination is valid only if it is made before the end of the period of 31 days beginning with the day that the individual is informed (in accordance with paragraph 4(1)) of the right to make the request.

(3) A request for re-determination is valid if it is made after that period has ended, but before the end of the day that falls one year after the day on which the individual is informed (in accordance with paragraph 4(1)) of the determination, if the individual has a good reason for not requesting a re-determination sooner (see paragraph 15 (late request for re-determination)).

(4) A request for re-determination is valid only if it is made in such form as the Scottish Ministers require.

(5) If the Scottish Ministers decide that something purporting to be a request for a re-determination does not satisfy the condition in sub-paragraph (4), they must inform the individual concerned of—

- (a) the decision.
- (b) the reasons for it, and
- (c) the individual's right to appeal under paragraph 23 (appeal to first-tier tribunal against process decisions).

Late request for re-determination

15.—(1) It is for the Scottish Ministers, or on appeal under paragraph 23 (appeal to first-tier tribunal against process decisions) the First-tier Tribunal for Scotland, to decide whether, for the purpose of paragraph 14(3) (right to request re-determination and periods allowed), an individual has a good reason for not requesting a re-determination sooner.

(2) Where the Scottish Ministers have made a decision under sub-paragraph (1), they must inform the individual concerned—

- (a) of the decision, and
- (b) if the decision is that the individual has no good reason for not requesting a re-determination sooner, of—
 - (i) the reasons for the decision, and
 - (ii) the individual's right to appeal under paragraph 23 (appeal to first-tier tribunal against process decisions).

Duty to re-determine and period allowed

16.—(1) On receiving a valid request under paragraph 14 (right to request re-determination and periods allowed) to re-determine an individual's entitlement to a two child limit payment, the Scottish Ministers are to make a determination of the individual's entitlement to that payment.

(2) The Scottish Ministers must aim to make that determination within the period of 16 working days beginning with—

- (a) the day that the request for a re-determination is received by the Scottish Ministers,
 - (b) in the case of a request for a re-determination to which paragraph 14(3) applies (late requests), the day on which it is decided by the Scottish Ministers or (as the case may be) the First-tier Tribunal for Scotland that the individual has a good reason for not requesting a re-determination sooner, or
 - (c) in a case where the Scottish Ministers have informed the individual of their decision that the request for a re-determination was not made in such form as the Scottish Ministers require, the day on which it is subsequently decided by the First-Tier Tribunal for Scotland that the individual in question has made the request in such form as the Scottish Ministers require.
- (3) If the Scottish Ministers fail to make the determination within that period—
- (a) their duty to make the determination ends (but they may still make it), and
 - (b) paragraph 18 (notice where re-determination not made timeously) applies.

Notice of re-determination

17.—(1) Having made a determination under paragraph 16(1) (duty to re-determine and period allowed) of an individual's entitlement to a two child limit payment, the Scottish Ministers must—

- (a) inform the individual—

- (i) of the determination,
 - (ii) of the reasons for it,
 - (iii) of the individual's right under paragraph 19 (right to appeal to the First-tier Tribunal against determination) to appeal to the First-tier Tribunal against the determination, and
- (b) provide the individual with a form that the individual can complete and submit to the Scottish Ministers in order to bring an appeal against the determination.
- (2) The Scottish Ministers must fulfil their duty under sub-paragraph (1)(a) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

Notice where re-determination not made timeously

18.—(1) Where the Scottish Ministers fail to make a determination under paragraph 16 (duty to re-determine and period allowed) within the period allowed by paragraph 16(2), the Scottish Ministers must—

- (a) inform the individual—
 - (i) that the individual's request for a re-determination has not been dealt with within the period allowed, and
 - (ii) that the individual therefore has the right to appeal to the First-tier Tribunal against the determination under paragraph 3 (duty to make a determination of entitlement) which prompted the request for a re-determination, and
 - (b) provide the individual with a form that the individual can complete and submit to the Scottish Ministers in order to bring an appeal against the determination.
- (2) The Scottish Ministers must fulfil their duty under sub-paragraph (1)(a) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

PART 4

Appeals

Right to appeal to the First-tier Tribunal against determination

- 19.**—(1) An individual may appeal to the First-tier Tribunal for Scotland—
- (a) against a determination under paragraph 16 (duty to re-determine and period allowed) of the individual's entitlement to a two child limit payment, or
 - (b) in a case where sub-paragraph (2) applies, against the determination under paragraph 3 (duty to make a determination of entitlement) referred to in that sub-paragraph.
- (2) This sub-paragraph applies where—
- (a) having been informed of a determination under paragraph 3 (duty to make a determination of entitlement) of the individual's entitlement to a two child limit payment, the individual has made a request for a re-determination under paragraph 14, and
 - (b) the Scottish Ministers have failed to make a determination under paragraph 16 in consequence of that request within the period of 16 working days described in sub-paragraph 16(2).

Initiating an appeal

20.—(1) To bring an appeal against a determination, an individual must submit to the Scottish Ministers the form provided under paragraph 17(1)(b) (notice of re-determination) or (as the case

may be) paragraph 18(1)(b) (notice where re-determination not made timeously) in relation to the determination.

(2) On receiving a form submitted under sub-paragraph (1), the Scottish Ministers must send—

(a) the form, and

(b) the information held by them that they used to make the determination in question,

to the First-tier Tribunal.

(3) Having complied with sub-paragraph (2), the Scottish Ministers must inform the individual to whom the determination in question relates that they have done so.

(4) In this paragraph, references to a form include a copy of a form.

(5) For the avoidance of doubt, the form that the Scottish Ministers provide under paragraph 17 (notice of re-determination) and paragraph 18 (notice where re-determination not made timeously) need not be a physical form.

Deadline for appealing

21.—(1) An appeal under paragraph 19 (right to appeal to the first-tier tribunal against determination)—

(a) may be brought without the First-tier Tribunal’s permission if an appeal application is made within the period of 31 days beginning with the day the relevant event occurred,

(b) may be brought only with the First-tier Tribunal’s permission if an appeal application is made after the period mentioned in sub-paragraph (1)(a),

(c) may not be brought if an appeal application has not been made within the period of one year beginning with the day the relevant event occurred.

(2) In sub-paragraph 1—

(a) “the relevant event” means—

(i) in the case of an appeal against a determination under paragraph 16(1) (duty to re-determine and period allowed), the individual to whom the determination relates being informed of it in accordance with paragraph 17(1)(notice of re-determination),

(ii) in the case of an appeal against a determination under paragraph 3 (duty to make a determination of entitlement) the individual to whom the determination relates being informed (in accordance with paragraph 18(1) (notice where re-determination not made timeously)) that the individual has the right to appeal against it,

(b) an appeal application is made when a form, that relates to the determination in question and has been completed to the extent that Scottish Tribunal Rules require, is received by the Scottish Ministers having been submitted in accordance with paragraph 20(1)(initiating an appeal).

(3) The First-tier Tribunal may give permission under sub-paragraph (1)(b) for an appeal to be brought only if it is satisfied that there is a good reason for the application not having been made sooner.

First-tier Tribunal’s power to determine entitlement

22.—(1) In an appeal under paragraph 19 (right to appeal to the First-tier Tribunal against determination) against a determination of an individual’s entitlement to a two child limit payment, the First-tier Tribunal may—

(a) uphold the determination, or

(b) make its own determination of the individual’s entitlement to a two child limit payment.

(2) In exercising its power under subsection (1), the First-tier Tribunal—

(a) must not take into account any circumstances which did not exist at the relevant time, but

- (b) may take into account circumstances which existed but were not known at the relevant time.

(3) In sub-paragraph (2), “the relevant time” means the time at which the individual’s entitlement fell to be determined by the Scottish Ministers in making the original determination under paragraph 3 (duty to make a determination of entitlement) in relation to that entitlement.

Appeal to First-tier Tribunal against process decisions

23.—(1) An individual may appeal to the First-tier Tribunal for Scotland against a decision by the Scottish Ministers—

- (a) to reject something purporting to be an application for assistance (see paragraph 1 (requirement for applications)),
- (b) that something purporting to be a request for a re-determination does not satisfy the condition in paragraph 14(4) (right to request re-determination and periods allowed) ,
- (c) that an individual has no good reason for not requesting a re-determination sooner (see paragraph 15 (late request for re-determination)).

(2) An appeal under this paragraph—

- (a) may be brought without the First-tier Tribunal’s permission within the period of 31 days beginning with the day the individual was informed of the decision in accordance with these Regulations,
- (b) may be brought only with the First-tier Tribunal’s permission after the period mentioned in sub-paragraph (2)(a),
- (c) may not be brought after the end of the period of one year beginning with the day the individual was informed of the decision in accordance with these Regulations.

(3) The First-tier Tribunal may give permission under sub-paragraph (2)(b) for an appeal to be made only if it is satisfied that there is a good reason for the appeal not having been made sooner.

(4) A decision by the First-tier Tribunal about—

- (a) the outcome of an appeal under this paragraph, or
- (b) whether to give permission under sub-paragraph (2)(b) for an appeal to be brought, is final.

(5) Accordingly (and without prejudice to the generality of sub-paragraph (4)), any such decision by the First-tier Tribunal may be neither—

- (a) reviewed under section 43 of the Tribunals (Scotland) Act 2014, nor
- (b) appealed against under section 46 of that Act.

Presumption for purposes of paragraphs 4, 14, 15, 17, 18 and 20

24.—(1) Sub-paragraph (2) applies in relation to the references in paragraphs 4 (notice of determination), 14 (right to request re-determination and periods allowed), 15 (late request for re-determination), 17 (notice of re-determination), 18 (notice where re-determination not made timeously), and 20 (initiating an appeal) to an individual being informed of something by the Scottish Ministers in accordance with these Regulations.

(2) Where, in order to fulfil their duty to inform an individual of something, the Scottish Ministers send information—

- (a) through the postal service to the last known address the Scottish Ministers have for the individual, or
- (b) by email to the email address most recently provided to the Scottish Ministers by the individual for the purposes of these Regulations,

the individual is to be taken to have received the information 48 hours after it is sent by the Scottish Ministers unless the contrary is shown.

PART 5

Further provision about determining entitlement

Obtaining information to make determination

25.—(1) Where—

- (a) the Scottish Ministers are either—
 - (i) determining an individual's entitlement to a two child limit payment, or
 - (ii) considering whether paragraph 6 (determination following official error resulting in underpayment), 7 (determination following error resulting in overpayment), 8 (determination following backdated award of assistance), 10 (determination following change of circumstances etc.), 11 (determination following award of a two child limit payment in respect of another dependant), 12 (determination following cessation of award of a two child limit payment) or 13 (determination to effect a deduction decision) requires them to make a determination of an individual's entitlement to a two child limit payment (without receiving an application), and
- (b) they require further information in order to satisfy themselves about any matter material to the making of the determination of entitlement or (as the case may be) to their consideration of whether they are required to make a determination without receiving an application,

they may request that the individual provide them with the information within such period as they specify.

(2) If—

- (a) the Scottish Ministers are either—
 - (i) determining the individual's entitlement to a two child limit payment, or
 - (ii) considering whether paragraph 6 (determination following official error resulting in underpayment), 7 (determination following error resulting in overpayment), 8 (determination following backdated award of assistance), 10 (determination following change of circumstances etc.), 11 (determination following award of a two child limit payment in respect of another dependant), 12 (determination following cessation of award of a two child limit payment) or 13 (determination to effect a deduction decision) requires them to make a determination of an individual's entitlement to a two child limit payment (without receiving an application),
- (b) the individual fails to provide the requested information within the period specified under sub-paragraph (1), and
- (c) it is the first time that the individual has failed to provide the Scottish Ministers with the requested information within a specified period since they began making the determination or considering the matter mentioned in head (a)(ii),

the Scottish Ministers may issue a decision to suspend the two child limit payment to the individual in accordance with regulations 18 to 24 (suspension of entitlement).

(3) Where the Scottish Ministers issue such a decision, they must, at the same time, request that the individual provide them with the information within such further period as they specify.

(4) If the individual fails to provide information requested under sub-paragraph (1) within the period specified under sub-paragraph (1) or (3) the Scottish Ministers may, without further consideration, proceed to make the determination on the basis that the individual does not satisfy the eligibility rules in regulation 15, or (as the case may be) that the individual has no ongoing entitlement under regulation 17.

(5) A determination made in accordance with sub-paragraph (4) takes effect on the date the individual's two child limit payment was suspended.

Duty to notify change of circumstances

26.—(1) The Scottish Ministers may place a duty to notify them about a change in circumstances on a person to whom sub-paragraph (3) or (4) applies.

(2) The Scottish Ministers place a duty under sub-paragraph (1) on a person by informing the person—

- (a) of the changes in circumstances which the person has a duty to notify them about,
- (b) of the way in which the person is to notify them, and
- (c) that failing to notify them about a change in any of those circumstances in that way may be an offence under section 72 of the 2018 Act.

(3) This sub-paragraph applies to an individual who is to be given a two child limit payment under a determination made on the basis that the individual has ongoing entitlement to a two child limit payment.

(4) This sub-paragraph applies to a person acting on behalf of an individual to whom sub-paragraph (3) applies in relation to any application for a two child limit payment or the determination of the individual's entitlement.

Lifting of duty to notify change of circumstances

27.—(1) A duty to notify the Scottish Ministers about a change of circumstances placed on a person under paragraph 26 (duty to notify change of circumstances) ceases to apply when—

- (a) it is lifted under sub-paragraph (2), or
- (b) it stops being the case that a change in any of the circumstances to which the duty relates can affect someone's entitlement to be given a two child limit payment.

(2) The Scottish Ministers may lift a duty placed on a person under paragraph 26 (duty to notify change of circumstances) by informing the person that the duty is lifted.

(3) Under sub-paragraph (2), the Scottish Ministers may lift a duty as it relates to some or all of the changes in circumstances which the person has a duty to notify them about.

Right to support

28.—(1) The Scottish Ministers must comply with an individual's wish to have another person ("a supporter") present during any discussion relating to the individual's entitlement to a two child limit payment, unless the wish is unreasonable.

(2) The Scottish Ministers' duty under sub-paragraph (1) includes ensuring that any person acting on their behalf complies with such a wish, unless the wish is unreasonable.

(3) The role of a supporter is to support the individual in question during the discussion, and includes making representations on the individual's behalf.

(4) Nothing in this paragraph is to be read as requiring the Scottish Ministers to provide or pay for a supporter.

PART 6

Recovery of value of assistance

Liability for assistance given in error

29.—(1) An individual is liable to pay the Scottish Ministers the value of any assistance that was given to the individual due to an error (but see paragraph 30 (exclusion from liability)).

(2) For the avoidance of doubt, the individual's liability under sub-paragraph (1) is limited to the difference in value between—

- (a) the assistance that was given, and

- (b) the assistance (if any) that would have been given had the error not been made.
- (3) If the assistance was given in a form other than money, its value for the purposes of this paragraph is what giving it cost the Scottish Ministers (excluding any administration costs).
- (4) In this paragraph and paragraph 30 (exclusion from liability), references to an error are to—
 - (a) an error in the performance of a function conferred by virtue of these Regulations, including a decision under regulation 9 (meaning of determination of entitlement to a two child limit payment) being made—
 - (i) wrongly, or
 - (ii) correctly but on the basis of—
 - (aa) incorrect information, or
 - (bb) an assumption which proves to be wrong.
 - (b) a new decision under regulation 9 (meaning of determination of entitlement to a two child limit payment) not being made after an assumption on the basis of which an earlier decision was made has proved to be wrong.

Exclusion from liability

- 30.**—(1) An individual has no liability under paragraph 29(1) (liability for assistance given in error) in respect of assistance given due to an error if the error is neither—
- (a) the individual's fault, nor
 - (b) the kind of error that an individual could reasonably be expected to notice.
- (2) For the purpose of this paragraph, an error is an individual's fault if it is caused or contributed to by the individual—
- (a) providing false or misleading information,
 - (b) failing to notify the Scottish Ministers about a change in circumstances in breach of a duty to do so under paragraph 26 (duty to notify change of circumstances), or
 - (c) causing another person to do either of those things.
- (3) In considering whether an error is of a kind that an individual could reasonably be expected to notice, the following are amongst the matters to which regard is to be had—
- (a) the extent to which the value of the assistance given in error exceeds the value of the assistance that would have been given (if any) had the error not been made,
 - (b) whether any information given to the individual by the Scottish Ministers prior to, or immediately after, the assistance being given would have alerted a reasonable person to the fact that a decision had been, or was to be, made on the basis of incorrect information or a wrong assumption.
- (4) In—
- (a) sub-paragraph (2)(a), the reference to providing information includes making a statement,
 - (b) sub-paragraph (3)(b), the reference to information given to the individual by the Scottish Ministers does not include information explaining why the Ministers consider the assistance to have been given in error.

Consideration for debtor's circumstances

- 31.**—(1) This paragraph applies to decisions of the Scottish Ministers about—
- (a) whether to seek to recover money owed under paragraph 29 (liability for assistance given in error), and
 - (b) the method by which money owed under that paragraph is to be recovered.
- (2) In making a decision to which this paragraph applies, the Scottish Ministers must have regard to the financial circumstances of the individual who owes the money (so far as those circumstances are known to the Ministers).

Exclusion of other rights of recovery

32.—(1) An individual given assistance in error has no non-statutory obligation based on redress or unjustified enrichment to pay the value of that assistance to the Scottish Ministers.

(2) In sub-paragraph (1)—

- (a) “non-statutory obligation” means an obligation that arises from a rule of law rather than an enactment,
- (b) the reference to assistance being given in error is to be construed in accordance with paragraph 29(4) (liability for assistance given in error).

Liability where two child limit payment given for period after death

33.—(1) An individual’s estate is liable to pay the Scottish Ministers the value of any two child limit payment that was given to the individual in the performance of a function conferred by virtue of these Regulations in respect of a period after the individual’s death.

(2) For the avoidance of doubt, a two child limit payment may be regarded as having been given to an individual for the purposes of this paragraph despite being given after the individual’s death.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the two child limit payment, a type of assistance to be given by the Scottish Ministers under section 79 of the Social Security (Scotland) Act 2018 (“the 2018 Act”). The payment will be provided as an additional payment to top-up the universal credit payment specified in regulation 10, to persons who meet the eligibility criteria in regulation 15.

Part 2 of the Regulations provides for interpretation.

Part 3 of the Regulations sets out who is eligible to be given a two child limit payment and provides for when continuing eligibility is to cease. It also states the value of the assistance that is to be given. Assistance can only be given in monetary form or given (in whole or in part) by way of deduction from an outstanding liability to the Scottish Ministers under these Regulations or section 63 of the 2018 Act.

The schedule to the Regulations deals with procedural matters connected with applications for a two child limit payment, decisions on applications and appeals. Part 2 of the schedule provides for circumstances in which a determination must, or can, be made without an application for assistance having been made. Part 3 of the schedule provides for the process for re-determinations. Part 4 of the schedule provides for the process for appeals. Part 5 of the schedule provides for further provision in relation to determining entitlement setting out the circumstances where Scottish Ministers may request further information to make a determination, the duty to notify Scottish ministers of a change in circumstances, the ability for Scottish Ministers to lift the duty and a right to support. Part 6 of the schedule provides for circumstances where the value of assistance given may be recovered by Scottish Ministers.