
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 351

The Scottish Child Payment Regulations 2020

PART 3

Eligibility and assistance to be given

Duty to give assistance

17. 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 Scottish child payment.

Commencement Information

I1 Reg. 17 in force at 9.11.2020, see [reg. 2](#)

Eligibility for a Scottish child payment

- 18.** An individual is eligible for a Scottish child payment in respect of a child 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) the child is under 6 years of age on the day the application is made,
 - (c) no other individual has received, or is due to receive, a Scottish child payment in respect of the child and the period that the payment will cover (other than in circumstances where paragraph 10(1)(b) of the schedule applies),
 - (d) the individual is ordinarily resident in Scotland on the day the application is made,
 - (e) the individual is responsible for the child on the day the application is made, and
 - (f) the individual has been awarded, for the day the application is made (or for a period or universal credit assessment period which includes that day), assistance of a kind specified in regulation 14.

Commencement Information

I2 Reg. 18 in force at 9.11.2020, see [reg. 2](#)

Ongoing entitlement

19.—(1) A determination of an individual's entitlement to a Scottish child payment in respect of a child and a week may be made on the basis that the individual has an ongoing entitlement to a Scottish child payment.

Status: Point in time view as at 09/02/2022.

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(2) A determination of ongoing entitlement is made on the basis that the individual will continue to be entitled to a Scottish child payment in respect of that child in each subsequent week until—

- (a) the week following any week in which the individual ceases to have responsibility for the child,
- (b) the week following that in which the child attains the age of 6 years,
- (c) the week following any week in which the individual ceases to be ordinarily resident in Scotland,
- (d) any week in which no award of assistance of a kind specified in regulation 14 is made to the individual for any day in that week.

Commencement Information

I3 Reg. 19 in force at 9.11.2020, see [reg. 2](#)

[^{F1}Circumstances in which assistance may be suspended

19A.—(1) The Scottish Ministers may decide that an individual who has an ongoing entitlement to Scottish child payment in respect of a period by virtue of regulation 19 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 21 (time of payment) (referred to in these Regulations as a decision to suspend the individual’s Scottish child payment).

(2) Where such a decision is made in respect of an individual, payments of Scottish child payment to that individual are to be suspended until such time as the Scottish Ministers decide that the individual is once again to become entitled to be given Scottish child payment.

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

- (a) paragraph 25(2) of the schedule 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 Scottish child payment on the individual’s behalf, and the Scottish Ministers consider that it is necessary to suspend the Scottish child 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 Scottish child payment.

Textual Amendments

F1 [Regs. 19A-19G](#) inserted (9.2.2022) by [The Scottish Child Payment Regulations 2020 and the Disability Assistance for Children and Young People \(Scotland\) Regulations 2021 \(Miscellaneous Amendments\) Regulations 2022 \(S.S.I. 2022/41\)](#), regs. 1, **2(2)**

Having regard to financial circumstances

19B. 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 Scottish child payment.

Textual Amendments

- F1** Regs. 19A-19G inserted (9.2.2022) by The Scottish Child Payment Regulations 2020 and the Disability Assistance for Children and Young People (Scotland) Regulations 2021 (Miscellaneous Amendments) Regulations 2022 (S.S.I. 2022/41), regs. 1, **2(2)**

Information to be given following suspension

19C.—(1) Having made a decision to suspend an individual’s Scottish child payment, the Scottish Ministers must inform the individual of—

- (a) their decision to suspend the individual’s Scottish child 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 19D to require the Scottish Ministers to review their decision.

(2) The Scottish Ministers must fulfil their duty under 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.

Textual Amendments

- F1** Regs. 19A-19G inserted (9.2.2022) by The Scottish Child Payment Regulations 2020 and the Disability Assistance for Children and Young People (Scotland) Regulations 2021 (Miscellaneous Amendments) Regulations 2022 (S.S.I. 2022/41), regs. 1, **2(2)**

Right to review suspension

19D.—(1) An individual may require the Scottish Ministers to review a decision to suspend that individual’s Scottish child payment.

- (2) The Scottish Ministers must—
- (a) complete a review mentioned in 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 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.

Textual Amendments

- F1** Regs. 19A-19G inserted (9.2.2022) by The Scottish Child Payment Regulations 2020 and the Disability Assistance for Children and Young People (Scotland) Regulations 2021 (Miscellaneous Amendments) Regulations 2022 (S.S.I. 2022/41), regs. 1, **2(2)**

Ending a suspension

19E. The Scottish Ministers are to make a decision to end a suspension where—

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- (a) the individual provides the information mentioned in paragraph 25(1) of the schedule and the Scottish Ministers consider that they do not require to make a determination without application,
- (b) regulation 19A(3)(a) 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 Scottish child payment in respect of another child), 12 (determination following cessation of award of a Scottish child 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,
- (d) the circumstances mentioned in regulation 19A(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.

Textual Amendments

F1 Regs. 19A-19G inserted (9.2.2022) by [The Scottish Child Payment Regulations 2020 and the Disability Assistance for Children and Young People \(Scotland\) Regulations 2021 \(Miscellaneous Amendments\) Regulations 2022 \(S.S.I. 2022/41\)](#), regs. 1, **2(2)**

Effect of suspension ending

19F. When—

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

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

Textual Amendments

F1 Regs. 19A-19G inserted (9.2.2022) by [The Scottish Child Payment Regulations 2020 and the Disability Assistance for Children and Young People \(Scotland\) Regulations 2021 \(Miscellaneous Amendments\) Regulations 2022 \(S.S.I. 2022/41\)](#), regs. 1, **2(2)**

Interpretation: regulations 19A to 19F

19G. In regulations 19A to 19F—

- (a) references to an individual’s Scottish child payment being suspended are to an individual not becoming entitled to be given some or all of the Scottish child payment in respect of a period that the individual otherwise would at the time, or times, prescribed by regulation 19 (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.]

Textual Amendments

- F1** Regs. 19A-19G inserted (9.2.2022) by The Scottish Child Payment Regulations 2020 and the Disability Assistance for Children and Young People (Scotland) Regulations 2021 (Miscellaneous Amendments) Regulations 2022 (S.S.I. 2022/41), regs. 1, **2(2)**

Value and form of a Scottish child payment

- 20.**—(1) The value of a Scottish child payment in respect of a child is £10 per week.
- (2) A Scottish child payment may only be given as money, except as provided for by 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), or under paragraph 29 of the schedule of these Regulations, the individual's Scottish child 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.

Commencement Information

- I4** Reg. 20 in force at 9.11.2020, see **reg. 2**

Time of payment

- 21.**—(1) Following a determination that an individual is entitled to a Scottish child payment, the payment is to be given in accordance with [^{F2}paragraph (2) or, where paragraph (3) applies, paragraph (4)].
- (2) [^{F3}Except where paragraph (3) applies, payments] are to be made in respect of periods of 4 weeks, in arrears, so that—
- (a) the first payment is made in the last week of the period of 4 weeks beginning with the day on which the application is made (the individual's first payment period), and
 - (b) subsequent payments are made 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.
- [^{F4}(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),

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- (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 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.
- (5) Where the period mentioned in paragraph (4)(b) includes a part-week, for the purpose only of that first payment the part-week is to be treated as a full week.]

Textual Amendments

- F2** Words in [reg. 21\(1\)](#) substituted (15.1.2021) by [The Scottish Child Payment Amendment Regulations 2021 \(S.S.I. 2021/16\)](#), [regs. 1, 4\(2\)](#)
- F3** Words in [reg. 21\(2\)](#) substituted (15.1.2021) by [The Scottish Child Payment Amendment Regulations 2021 \(S.S.I. 2021/16\)](#), [regs. 1, 4\(3\)](#)
- F4** [Reg. 21\(3\)-\(5\)](#) inserted (15.1.2021) by [The Scottish Child Payment Amendment Regulations 2021 \(S.S.I. 2021/16\)](#), [regs. 1, 4\(4\)](#)

Commencement Information

- I5** [Reg. 21](#) in force at 9.11.2020, see [reg. 2](#)

Individual's right to stop receiving assistance

22.—(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 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 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 paragraph (4).

Commencement Information

- I6** [Reg. 22](#) in force at 9.11.2020, see [reg. 2](#)

Later determination supersedes earlier

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

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

Commencement Information

I7 Reg. 23 in force at 9.11.2020, see [reg. 2](#)

Status:

Point in time view as at 09/02/2022.

Changes to legislation:

There are currently no known outstanding effects for the The Scottish Child Payment Regulations 2020, PART 3.