

SCHEDULE 1

Regulation 3(2)

Procedural matters

PART 1

Re-determination timescales

Deadline for requesting re-determination

1. The period for requesting a re-determination of entitlement to early years assistance under section 41 of the Social Security (Scotland) Act 2018⁽¹⁾ is 31 days beginning with the day that the individual is informed, in accordance with section 40 of that Act, of the right to make the request.

Period allowed for re-determination

2.—(1) In relation to determining entitlement to early years assistance, the period allowed for re-determination (within the meaning of section 43 of the Social Security (Scotland) Act 2018) is 16 working days beginning with the day that the request for a re-determination is received by the Scottish Ministers.

(2) For the purpose of this paragraph, a “working day” is a day other than—

- (a) a Saturday;
- (b) a Sunday; or
- (c) a bank holiday in Scotland under the Banking and Financial Dealings Act 1971⁽²⁾.

PART 2

Determination without application

Determination following application in connection with another child

3.—(1) The Scottish Ministers are to make a determination of an individual’s entitlement to early years assistance in connection with a child (without receiving an application) in the circumstance described in sub-paragraph (2).

(2) The circumstance referred to in sub-paragraph (1) is that—

- (a) the individual has applied for early years assistance in respect of a child; and
- (b) it appears to the Scottish Ministers from the available information that, unless circumstances change, the individual will become eligible for early years assistance in respect of another child within the period—
 - (i) beginning on the day the application is made; and
 - (ii) ending at the end of the day that falls 10 days later.

(3) The determination that sub-paragraph (1) requires to be made is to be made on, or as soon as reasonably practicable after, the day that the Scottish Ministers anticipate will be the day on which

(1) 2018 asp 9.

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

the individual first becomes eligible for early years assistance in respect of the child as mentioned in sub-paragraph (2)(b).

(4) The determination that sub-paragraph (1) requires to be made is to be made (subject to sub-paragraph (5)) on the basis that whatever can be discerned from the available information to have been the case on the day the application mentioned in sub-paragraph (2)(a) was made remains the case on the day the determination is made.

(5) A determination is not to be made on the basis of the assumption set out in sub-paragraph (4) if, and to the extent that, the Scottish Ministers have information suggesting the assumption is unsound.

(6) In this paragraph, “the available information” means—

- (a) the information provided in the application referred to in sub-paragraph (2)(a); and
- (b) any other information obtained by the Scottish Ministers in connection with that application.

SCHEDULE 2

Regulation 3(3)

Pregnancy and baby grant

PART 1

Eligibility

Eligibility

1. An individual is eligible for a pregnancy and baby grant in respect of a child if—
 - (a) the individual’s application for the grant is made before the deadline set by paragraph 2 (see regulation 4 in relation to when an application is to be treated as made);
 - (b) no-one else has received, or is due to receive, a pregnancy and baby grant or sure start maternity grant in respect of the child (but see paragraph 3);
 - (c) on the day the application is made the individual satisfies the residence requirement set by paragraph 4;
 - (d) at least one of these statements is true on the day the application is made—
 - (i) the individual is the person who—
 - (aa) is, or has been, more than 24 weeks pregnant with the child; or
 - (bb) gave birth to the child before or during the 24th week of the pregnancy;
 - (ii) the individual is the partner of the person described by head (i);
 - (iii) the person described by head (i) is a dependant of the individual or the individual’s partner (or both of them);
 - (iv) either the individual or the individual’s partner is (or both of them are) responsible for the child on the day the application is made;
 - (e) at least one of these statements is true—
 - (i) the individual or the individual’s partner has (or both of them have) been awarded, for the day the application is made (or for a period which includes that day), assistance of a kind specified in regulation 11;

- (ii) the individual or the individual's partner has (or both of them have) been awarded universal credit for—
 - (aa) the assessment period that includes the day the application is made; or
 - (bb) the assessment period that ended immediately before the assessment period mentioned in sub-head (aa) started;
- (iii) on the day the application is made the individual is under 18 years of age;
- (iv) on the day the application is made the individual is—
 - (aa) 18 or 19 years of age; and
 - (bb) a dependant of another individual; and
- (f) the child is not, on the day the application is made, living in a residential establishment as defined in section 202(1) of the Children's Hearings (Scotland) Act 2011(3).

Deadline for applying

2.—(1) The deadline for an individual to apply for a pregnancy and baby grant in respect of a child is—

- (a) the end of the day that falls 6 months after the day the child is born if sub-paragraph (2) applies to the individual;
 - (b) the end of the day before the child's first birthday if sub-paragraph (2) does not apply to the individual.
- (2) This sub-paragraph applies to—
- (a) the person who is, or has been, pregnant with the child; and
 - (b) any individual who is, or has been during the period described by sub-paragraph (3)—
 - (i) the partner of the person referred to in paragraph (a); or
 - (ii) an individual, or the partner of an individual, for whom the person referred to in paragraph (a) is a dependant.
- (3) The period referred to in sub-paragraph (2)(b)—
- (i) begins on the first day of the 24th week of the pregnancy that resulted, or is to result, in the child's birth; and
 - (ii) ends at the end of the day that falls 6 months after the day the child is born.

Exception to paragraph 1(b)

3.—(1) For the purpose of determining the entitlement of the individual referred to in this paragraph as the applicant, the eligibility condition in paragraph 1(b) is to be ignored in the circumstance described by sub-paragraphs (2) to (5).

(2) An individual ("the first grant recipient") has been, or is due to be, given in respect of the child—

- (a) a pregnancy and baby grant; or
 - (b) a sure start maternity grant.
- (3) Another individual ("the applicant") first came to be responsible for the child after—
- (a) the first grant recipient applied for a pregnancy and baby grant or a sure start maternity grant in respect of the child; or

(3) 2011 asp 1. The definition of "residential establishment" in section 202 is amended by S.S.I. 2013/211.

- (b) a decision about the first grant recipient's entitlement to such a grant was taken by, or on behalf of, the public authority responsible for giving them (despite no application for a grant having been made).
- (4) Since first coming to be responsible for the child, the applicant has not been—
 - (a) the partner of the first grant recipient;
 - (b) a dependant of the first grant recipient; or
 - (c) an individual, or the partner of an individual, for whom the first grant recipient is a dependant.
- (5) On the day the applicant's application for a pregnancy and baby grant in respect of the child is made, no-one other than the first grant recipient has been, or is due to be, given a pregnancy and baby grant or a sure start maternity grant in respect of that child.

Residence requirement

- 4.—(1) The residence requirement referred to in paragraph 1(c) is satisfied by an individual on a day if, on that day—
- (a) the individual is ordinarily resident in Scotland; and
 - (b) in a case where neither the individual nor the individual's partner has been awarded assistance as mentioned in paragraph 1(e)(i) or (ii), the condition set by sub-paragraph (2) is also met.
- (2) The condition referred to in sub-paragraph (1)(b) is met on any day that the individual is—
- (a) habitually resident in the European Economic Area or Switzerland;
 - (b) a refugee within the definition in Article 1 of the Convention relating to the status of refugees done at Geneva on 28th July 1951, as extended by article 1(2) of the Protocol relating to the status of refugees done at New York on 31st January 1967;
 - (c) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971(4), where that leave is—
 - (i) discretionary leave to enter or remain in the United Kingdom;
 - (ii) leave to remain under the destitution domestic violence concession; or
 - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005(5);
 - (d) a person who has humanitarian protection granted under the rules made under section 3(2) of the Immigration Act 1971; or
 - (e) a person who—
 - (i) is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999(6); and
 - (ii) is in the United Kingdom as a result of deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

(4) 1971 c.77.

(5) S.I. 2005/1379.

(6) 1999 c.33.

PART 2

Assistance to be given

Value of grant

5. The value of a pregnancy and baby grant is—
- (a) the basic amount determined in accordance with paragraph 6; and
 - (b) any amount that falls to be added to the basic amount by way of a multiple pregnancy supplement (see paragraph 7).

The basic amount

- 6.—(1) The basic amount is—
- (a) £600 if sub-paragraph (2) applies in relation to the child in respect of whom the grant is to be given; or
 - (b) £300 if it does not.
- (2) This sub-paragraph applies in relation to the child (subject to sub-paragraph (3)) if, on the day the application for the grant is made—
- (a) there is no-one under 16 years of age living in the same household as the individual to whom the grant is to be given; or
 - (b) if there is, that person is (or all of those persons are) one of the following:—
 - (i) the child;
 - (ii) a sibling of the child born as a result of the same pregnancy that resulted in the child's birth;
 - (iii) a parent of the child;
 - (iv) a sibling of a parent of the child;
 - (v) a child for whom the individual is not responsible.
- (3) Where more than one child is born, or is to be born, as a result of the same pregnancy—
- (a) sub-paragraph (2) applies in relation to only one of the children; and
 - (b) it is for the Scottish Ministers to decide which.

Multiple pregnancy supplement

- 7.—(1) Subject to sub-paragraphs (2) and (3) a supplement of £300 is to be added to the basic amount in respect of a child born, or to be born, as a result of a multiple pregnancy.
- (2) The supplement is to be added to the grant in respect of only one of the children born, or to be born, as a result of the pregnancy, and it is for the Scottish Ministers to decide which child's grant to supplement.
- (3) No supplement is to be added if the individual to whom the grant is to be given—
- (a) has not applied for a pregnancy and baby grant in respect of all of the children born, or to be born, as a result of the pregnancy; or
 - (b) is not eligible for a pregnancy and baby grant in respect of any of those children.

Form in which grant is given

- 8.—(1) Subject to sub-paragraph (2), a pregnancy and baby grant is to be given as money.

(2) If—

- (a) the Scottish Ministers offer to give an individual some or all of the value of a pregnancy and baby grant in a form other than money; and
- (b) the individual agrees to be given the grant in that form,

the grant is to be given in that form, unless the individual withdraws agreement before the grant is given.

PART 3

Interpretation

Meaning of “child”, “birth” and “born”

9.—(1) In this schedule, except in paragraph 1(d)(i)(bb)—

“child” includes still-born child;

“birth” includes still-birth and “born” is to be construed accordingly;

“still-born child” and “still-birth” have the meanings given in section 56(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(7).

(2) Sub-paragraph (1) also applies for the purpose of interpreting—

- (a) the definition of “application window” in regulation 5(5) (which relates to the nomination of a date on which an application for assistance is to be treated as having been made); and
- (b) paragraph 3 of schedule 1 (which describes circumstances in which a determination of entitlement is to be made by the Scottish Ministers without an application).

Meaning of “sure start maternity grant”

10. In this schedule, “sure start maternity grant” means a payment under—

- (a) regulation 5(1) of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005(8); or
- (b) regulation 5(1) of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005(9).

(7) 1965 c.49. The definition of “still-born child” is amended by the Still-Birth (Definition) Act 1992 (c.29), section 1(2).

(8) S.I. 2005/3061; there are amendments but none relevant for the purposes of these Regulations.

(9) S.I. 2005/506; there are amendments but none relevant for the purposes of these Regulations.