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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 110**

**The Early Years Assistance (Best Start Grants)  
(Scotland) Amendment (No. 1) Regulations 2019**

**PART 2**

**Amendments to the principal Regulations**

**Amendment of Part 2 of schedule 1 of the principal Regulations**

**8.**—(1) Part 2 of schedule 1 of the principal Regulations (determination without application) is amended as follows.

(2) In paragraph 3 (determination following application in connection with another child), after sub-paragraph (5) insert—

“(5A) 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 determination is made.”.

(3) After paragraph 3 insert—

**“Determination following official error**

**4.**—(1) The Scottish Ministers are to make a determination of an individual’s entitlement to a best start grant in connection with a child (without receiving an application) where—

- (a) they have previously made a determination of the individual’s entitlement to the grant in connection with the child (“the original determination”),
- (b) they establish that due to an official error the original determination was wrongly made resulting in the individual—
  - (i) not being given a grant for which the individual was eligible, or
  - (ii) being given a grant of lesser value than the grant 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 grant, 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 grant.

(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—

“best start grant” means one of the forms of early years assistance mentioned in regulation 3,

“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 backdated award of assistance**

5.—(1) The Scottish Ministers are to make a determination of an individual’s entitlement to a best start grant in connection with a child (without receiving an application) where—

(a) a determination has previously been made that the individual is not entitled to the grant in connection with the child (“the original determination”), and

(b) the Scottish Ministers establish that—

(i) following an appeal, an award of universal credit or assistance of a kind specified in regulation 11 is made that is a backdated award, and

(ii) had that award been made before the original determination, a determination that the individual is entitled to the grant in connection with the child would have been made instead.

(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, “best start grant” means one of the forms of early years assistance mentioned in regulation 3 and “backdated award” has the same meaning as in regulation 5.”.