

SCHEDULE

Procedural matters

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 Scottish child 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 Scottish child payment applied for if the application were treated as made on the day they received it, and
- (b) would be eligible for the Scottish child 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 Scottish child 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).

Withdrawal of application

2.—(1) An individual who has made an application for a Scottish child 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 Scottish child payment on the basis of the application, and
- (b) accordingly, their duty to do so under paragraph 3 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 Scottish child payment—

- (a) on receiving an application for a Scottish child payment from the individual, or
- (b) when required to do so by Part 2 of this schedule.

Notice of determination

4.—(1) Having made a determination under paragraph 3 of an individual's entitlement to a Scottish child 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 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 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 child

5.—(1) Where the Scottish Ministers are required by paragraph 3 to make a determination of the entitlement of two or more individuals for a Scottish child payment in respect of the same child and the same period, the determination must be made in accordance with sub-paragraphs (2) to (4).

(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 Scottish child payment in respect of the child (and continue to receive that payment), and
- (b) in so doing, determine which (if any) of the individuals is to be entitled to a Scottish child payment in respect of the child.

(3) Where the Scottish Ministers decide that two or more individuals are eligible for a Scottish child payment in respect of the child and the period (see regulations 18 and 19), they must apply the rules in sub-paragraph (4) to determine which of the individuals is to be entitled to the payment.

(4) The rules are that—

- (a) where only one individual has been awarded child tax credit, state pension credit or universal credit for the day, or assessment period that includes the day, in question (and the child is recognised to be a child for whom the individual has responsibility in terms of that award of assistance), that individual is entitled to the payment,
- (b) where none of the individuals have been awarded assistance as described in sub-paragraph (4)(a), and only one individual has been awarded child benefit for the day in question (and the child is recognised to be a child for whom the individual has responsibility in terms of that award of assistance), that individual is entitled to the payment,
- (c) where the individuals are kinship carers for the child, and none of them have been awarded any kind of assistance as described in sub-paragraph (4)(a) or (4)(b), the individual whose determination is to be made first is entitled to the payment,

(d) where one individual has been awarded child benefit for the day in question, and another individual is a kinship carer for the child, the individual who is the kinship carer for the child is entitled to the payment.

(5) For the purposes of sub-paragraph (4), the Scottish Ministers must determine the entitlement of the individual whose entitlement first fell to be determined in accordance with paragraph 3 (whether on receipt of an application from the individual or by virtue of Part 2 of this schedule) before making any other determination.