

EXPLANATORY MEMORANDUM TO
THE SOCIAL FUND MATERNITY GRANT AMENDMENT REGULATIONS 2011

2011 No. 100

1. This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 The purpose of this instrument is to restrict eligibility for a Sure Start Maternity Grant. This is part of the Government's plan to reduce the budget deficit.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. These Regulations breach the 21 day rule. The Department apologises to the Committees for this. The reason is that the Regulations must come into force on 24 January 2011 (as described in paragraph 3.2) but, because of the time taken for complex policy considerations, it was not possible to send the Regulations to the Social Security Advisory Committee (SSAC) until the end of November for the December meeting. The regulations were then referred formally to the Committee to enable consultation to take place. The period of consultation ran from 13 – 21 December 2010 and the final report from SSAC was sent to officials at the Department for Work and Pensions on 6 January 2011. The Secretary of State considered whether to make the Regulations before the Committee had made their report but thought it important to wait for the outcome of the consultation even though that meant delay before the Regulations were laid before Parliament.

3.2 The Regulations provide for changes to the Sure Start Maternity Grant announced in the June 2010 Budget as part of the Government's deficit reduction plan. The new rules must apply to babies born from 11th April 2011 to achieve the savings of £73 million agreed with Her Majesty's Treasury. As a grant can be claimed from 11 weeks before the week in which a baby is due this means that the legislation must come into force from 24th January 2011. If the legislation is delayed this will result in a loss of savings of around £1.4 million per week.

3.3 It took time to consider the complex variety of family situations and then to arrive at an approach which was able to deliver the savings necessary in the current financial climate and to reflect the Government policy intention as announced in the Budget that Sure Start Maternity Grants should be paid only to the first child in a family. There have been discussions with Ministers about the wide ranging impact of this proposal and numerous policy options have been explored. The resulting modifications to the original policy are explained at paragraph 7.4.

4. Legislative Context

4.1 This instrument makes changes to the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (SI No 2005/3061) following the June 2010

Budget announcement to make Sure Start Maternity Grants only in respect of first children as part of the Government's deficit reduction plan.

5. Territorial Extent and Application

5.1. This instrument applies to Great Britain. Equivalent provision will be made for Northern Ireland by statutory rules.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- *What is being done and why*

7.1 The £500 Sure Start Maternity Grant assists with the costs of maternity and baby items.

7.2 Currently, people in receipt of one of the following income-related benefits - Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance and State Pension Credit – are eligible for a Sure Start Maternity Grant in respect of each new child. People who receive Child Tax Credit at a rate higher than the family element (as set out in HMRC legislation) or Working Tax credit that includes the disability or severe disability element (also as set out in HMRC legislation) are also eligible. Grants are payable whether a child is born to the claimant or is new to the family (for example, under an adoption, residence or parental order or guardianship).

7.3 In the June 2010 Budget the Government announced that Sure Start Maternity Grants would be restricted to first children from April 2011. This is part of the Government's budget deficit reduction plan. The Government recognises that some families will be negatively affected by these changes but believes that concentrating help on those families where the baby will be the only child in the household under 16 provides the best use of limited resources. The policy has been modified since first announced as described in the following paragraph.

7.4 It has been decided that the fact there are children aged 16 years or above in the claimant's family will not affect eligibility for a Sure Start Maternity Grant. Likewise if a child is stillborn or dies, this will not affect the eligibility of any future child. However where there is already a child in the family aged less than 16 years, a Sure Start Maternity Grant will not be payable except –

where the claim relates to a multiple birth, grants will be made for each child so long as there are no other children aged less than 16 years in the family.

where dependent children or young people have a child (or multiple birth) themselves, the grandparents can apply for a Sure Start Maternity Grant (as long as the dependent child does not have any other children aged less than 16 who are

part of the same household). Grandparents may claim even though there may be other children aged less than 16 years in the family.

7.5 A new provision explaining the circumstances in which a person will be treated as responsible for a child has also been inserted into the regulations so as to clarify eligibility for Sure Start Maternity Grants.

7.6 Further details of the reasons why the government believes that the policy adopted is the best way of targeting limited resources is set out in the section on consultation below (paragraph 8.5).

- ***Consolidation***

7.7 Consolidation of the existing regulations is not proposed but ‘The Law Relating to Social Security’ (The Blue Volumes) provides a consolidated version of the regulations and will incorporate the amendments made by this instrument. This publication is available free of charge on the internet at

<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security>).

8. Consultation

8.1 A formal consultation exercise was not undertaken because the measure was announced in the emergency budget, and there was little scope to influence the overall outcome. However, following the announcement, Ministers received representations, for example from organisations representing multiple births. These were considered during the detailed policy development and are reflected in the final policy design.

8.2 The Social Security Advisory Committee was consulted and the Committee decided in December 2010 that these regulations should be referred to it formally. They carried out a consultation from 13 - 21 December 2010 and 11 responses were received, ten from different organisations and one from an interested individual.

8.3 The Committee’s report highlights a number of concerns about the approach and implications of the changes and proposes five recommendations. These were that:

i. the proposal should be delayed until the Social Fund budgeting loan scheme could be extended to loans for maternity items;

ii. the existing structure of the scheme should be retained but the amount of the payment reduced;

iii. the time limit for claiming the Sure Start Maternity Grant should be extended to twelve months;

iv. the Equality Impact Assessment should be redrafted to take account of comments in relation to child poverty and ethnicity and

v. the wording of a specific regulation (in relation to cases where the parent of the child for whom a grant is being claimed is under 20) should be clarified – the regulations have now been amended to deal with this point.

8.4 The Government has considered the recommendations put forward by the Committee and recognises that the Committee has significant concerns about its approach to reforming the Sure Start Maternity Grant. The Government recognises that some families will be negatively affected by these changes however it considers that the amendments to the legislation will create a more targeted and affordable system that will continue to provide an appropriate level of support to those families that need it most.

8.5 Expenditure is inevitably highest when a new baby is the only child in the household so the government believes that it is better to retain the existing amount of Sure Start Maternity Grant, and to restrict eligibility where there are other children in the family, rather than to retain the existing structure and reduce the amount of the grant. The Government recognises that there will be families who may need financial support when a second or subsequent child is born which is why the Social Fund budgeting loan scheme is being extended to loans for maternity items. A change to the primary legislation is required to extend the scope of budgeting loans. This will be delivered through the forthcoming Welfare Reform Bill. Coordinating the two changes would result in at least an eight-month delay to the introduction of the Sure Start Maternity Grants change. The Government is not prepared to delay implementation of this change as it would result in the loss of almost a full year's savings. The government also did not accept the Committee's arguments for extended time limits as the current three month time limit is consistent with most benefits. Neither could the government accept the Committee's arguments for revision of the Equality Impact Assessment as the individual level data requested is not available. Full details of the Government's response to the Social Security Advisory Committee, together with information on the consultation results are set out in the accompanying papers.

8.6 An unnumbered Act paper with the Government's response to the Social Security Advisory Committee's report and recommendations is being published alongside the statutory instrument. This will be available on the official documents website.

9. Guidance

9.1 Guidance on the changes will be provided to decision makers prior to the regulations coming into force, in the form of an internal memorandum. In addition claim forms and leaflets available for the public to download from Direct.gov.uk and from Jobcentre Plus will be amended to explain the circumstances in which a Sure Start Maternity Grant may be payable.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment has not been prepared for this instrument. However an equality impact assessment has been prepared because this change will impact on women and low income families.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 There are currently plans to monitor the impact of this policy by recording the number of claims where the reason for the refusal of a Sure Start Maternity Grant is that there is already a child in the family aged less than 16 years.

13. Contact

Andrea Teale at the Department for Work and Pensions Tel: 0113 232 7801 or email: Andrea.Teale@jobcentreplus.gsi.gov.uk can answer any queries regarding the instrument.