

EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND MATERNITY AND FUNERAL EXPENSES (GENERAL) AND SOCIAL SECURITY (CLAIMS AND PAYMENTS) (AMENDMENT) REGULATIONS 2023

2023 No. 545

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This instrument introduces three changes to the Sure Start Maternity Grant (SSMG), two of which follow the collapse of the Afghan Government on 15 August 2021 and the invasion of Ukraine by Russia on 24 February 2022. The first introduces an exemption to the rule that we only pay an SSMG where there are no other children in the claimant's household (the 'first child only rule') for those fleeing from Afghanistan and Ukraine in specific circumstances. The second introduces a limited extension to the SSMG claim time limit. The final change removes the requirement for claimants to provide evidence of receiving (or having received) health and welfare advice regarding the baby or mother prior to claiming SSMG.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, as SSMG is devolved to Scotland and remains a transferred matter in Northern Ireland.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales as SSMG is devolved to Scotland and remain a transferred matter in Northern Ireland.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 This instrument makes changes to The Social Fund Maternity and Funeral Expenses (General) Regulations 2005¹ (S.I. 2005/3061) ("2005 Regulations"). It also makes a specific change to Schedule 4 to The Social Security (Claims and Payments) Regulations 1987² (S.I. 1987/1968) ("1987 Regulations").

¹ <https://www.legislation.gov.uk/uksi/2005/3061/contents>

² <https://www.legislation.gov.uk/uksi/1987/1968/contents>

- 6.2 This instrument makes changes using Regulation 2 and 3 of The Social Fund Maternity and Funeral Expenses (General) and Social Security (Claims and Payments) (Amendment) Regulations 2023. The first change to Sure Start Maternity Grant (SSMG) uses Regulation 3(3) to add a further exemption to the ‘first child only rule’ related to those fleeing Afghanistan and Ukraine in specific circumstances. Under Regulation 2, a change is introduced to disapply the usual 6-month claim time limit so that it can be extended for those claiming SSMG immediately following the evacuation and invasion. These changes are outlined in 7.1, 7.2 and 7.3.
- 6.3 This instrument also removes Regulation 5(4) from the “2005 Regulations”³, in order to remove the requirement that SSMG claimants attain and certify maternal and/or child welfare and health advice. As per Regulation 5(1)(b) of the “2005 Regulations”⁴, claimants will still need to provide proof of confinement, birth, adoption or kinship care to qualify for SSMG. Claimants will be given more flexibility about how they demonstrate this, making the claim process easier. This change is outlined in 7.4.

7. Policy background

What is being done and why?

Sure Start Maternity Grant: Afghanistan and Ukraine

- 7.1 This instrument introduces a further exemption to the ‘first child only’ SSMG eligibility rule, covering those individuals who were evacuated from Afghanistan in connection with the collapse of the Afghan government on 15 August 2021, as well as those who left Ukraine in connection with the invasion by Russia on 24 February 2022. This policy change allows the decision maker to disregard previous children under the age of 16 who were part of the family before they arrived in the UK. In the case of Ukraine, the change will also require them to have been residing in Ukraine immediately before 1 January 2022.
- 7.2 The policy intention behind only usually allowing a SSMG for the first-born child is that it can be reasonably expected that items, such as a pram and other maternity items purchased for the first child, can be used for subsequent children. Because of the circumstances in which people were evacuated from Afghanistan following the collapse of the Afghan Government, and left Ukraine following the invasion by Russia, it is not likely that parents would have been able to bring maternity items with them and especially larger items such as a pram or a cot. Extending SSMG to these individuals recognises this and aligns with the broader approach of extending support to these groups via the welfare system, in recognition of the unique and compelling situation in both countries and commitments made by the UK Government.

Sure Start Maternity Grant: extension of claim time limit

- 7.3 Because, in some cases, those who were evacuated from Afghanistan and left Ukraine would have arrived and given birth to a subsequent child in the UK more than 6 months before these regulations come into force, we have also introduced a specific disapplication of the Sure Start Maternity Grant (SSMG) time limit for such cases. The time limit will extend from 15 August 2021 in the case of those arrived from Afghanistan and 24 February 2022 in the case of Ukraine, until 6 months after these

³ <https://www.legislation.gov.uk/uksi/2005/3061/contents>

⁴ <https://www.legislation.gov.uk/uksi/2005/3061/contents>

regulations come into force. This will ensure that everyone who arrived in the UK from the relevant dates will benefit.

Sure Start Maternity Grant: Removal of the health professional statement

- 7.4 As outlined in 6.3, this change relates to the removal of the requirement to provide a health professional statement as part of the claim process for a Sure Start Maternity Grant (SSMG). It is now accepted that the provision of the separate statement places an additional burden on health care staff, such as doctors, nurses and midwives, over and above other documentation required to verify a pregnancy or a birth. There will still be a requirement for a pregnancy to be certified, as well as confirmation of the earliest week of confinement, in order to qualify for a SSMG. In most cases this will be achieved via a claimant providing their MAT B1 form, which is already used to certify a pregnancy in respect of claims to Maternity Allowance, as well as Statutory Maternity Pay. A suitable letter completed by a qualified health professional such as a doctor, registered nurse or midwife that includes their appropriate medical registration would also be valid.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.5 Since 2020, an exemption was introduced following an Upper Tribunal case, that meant that those granted refugee status or humanitarian protection who already had children under the age of 16 when they arrived in the UK had those children excluded from the ‘first child only’ SSMG provision. That exemption did not apply to those not granted refugee status or humanitarian protection.
- 7.6 The usual maximum time limit for making a claim for SSMG is 6 months from the date of birth.
- 7.7 There was previously a requirement for a separate declaration by a health professional in respect of a claim to SSMG of health and welfare advice being given. An easement was made during COVID at the request of midwives. Further enquires with Department of Health and Social Care indicated that there was no objection at removal of the requirement on an ongoing basis.

Why is it being changed?

- 7.8 As set out in 7.2, the policy intention behind only usually allowing a SSMG for the first-born child is that it can be reasonably expected that items, such as a pram and other maternity items purchased for the first child, can be used for subsequent children. Because of the circumstances in which people were evacuated from Afghanistan following the collapse of the Afghan Government, and left Ukraine following the invasion by Russia, it is not likely that parents would have been able to bring maternity items with them and especially larger items such as a pram or a cot. Extending Sure Start Maternity Grant (SSMG) to these individuals recognises this and aligns with the broader approach of extending support to these groups via the welfare system, in recognition of the unique and compelling situation in both countries and commitments made by the UK Government.
- 7.9 The time limit for making a claim has been temporarily extended to ensure that those arriving around 15 August 2021 from Afghanistan and 24 February 2022 from Ukraine do not lose out because they are outside the 6-month time limit for making claims.

- 7.10 Removal of the requirement for a health professional statement will streamline the process for placing, and authorising, claims for Sure Start Maternity Grant (SSMG). This will include using the MATB1, which is used for a claim to Maternity Allowance and Statutory Maternity Pay to verify the pregnancy.

What will it now do?

- 7.11 A Sure Start Maternity Grant can be awarded for a first UK born child, or children of a multiple birth, for people fleeing Afghanistan or Ukraine due to the conflicts, if there are pre-flight children. The time limit for making a claim has been temporarily extended to ensure those arriving following the collapse of the Afghan government and invasion of Ukraine will be covered.
- 7.12 It will now be possible to use alternative ways to verify a claim for a SSMG including the MAT B1, letter from a doctor or other medical professional, birth certificate for a child, evidence of an award of child element for Universal Credit or Child Benefit.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 Informal consolidated text of instruments is available to the public free of charge via ‘the National Archive’ website legislation.gov.uk.

10. Consultation outcome

- 10.1 These Regulations were referred to the Social Security Advisory Committee on 26 April 2023, who confirmed they are content for the regulations to proceed without formal reference.

11. Guidance

- 11.1 Department for Work and Pensions decision maker guidance will be updated in line with these Regulations coming into force to ensure that they are aware of these exceptions and how to apply them.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because there is no impact on business.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Department for Work and Pensions is firmly committed to evaluating and monitoring the impact of its policies. These changes are intended to benefit people leaving Afghanistan as a result of the collapse of Afghan government as well as those leaving Ukraine as a result of the Russian invasion. It will also simplify the

application process for all Sure Start Maternity Grant (SSMG) claims and remove a requirement for a separate authorisation of pregnancy or birth.

- 14.2 The Department will continue to review these provisions in response to developments but the instrument does not include a statutory review clause.

15. Contact

- 15.1 Ron Butler at the Department for Work and Pensions email: socialfundstrategy.singlepointofcontact@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Helen Walker, Deputy Director for Poverty, Families and Disadvantage Directorate, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Laura Trott MBE MP, Minister for Pensions at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.