

**Business and Regulatory Impact Assessment
(BRIA)**

**The Early Years Assistance
(Best Start Grants) (Scotland)
Regulations 2018**

September 2018



Scottish Government
Riaghaltas na h-Alba
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Business and Regulatory Impact Assessment (BRIA)

The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018

Purpose and intended effect

The Best Start Grant (BSG) aims to support eligible families with the additional costs associated with having a child in their early years.

By providing support at key transition points in a child's early years, the BSG aims to help alleviate material deprivation, tackle inequality, and contribute to closing the educational attainment gap.

Background

The Social Security (Scotland) Act 2018¹ (the Act) was brought forward as a result of measures following the changes to the devolution settlement enacted in the Scotland Act 2016.

Section 32² and Schedule 6³ of the Act make provision for early years assistance and require that Scottish Ministers make regulations to set out eligibility criteria, responsibility for a child who will qualify and the value of payments. The BSG will be a form of early years assistance, intended to support lower income families with children by offering financial support at key transition points in the early years, intended to improve children's wellbeing and life chances. The BSG pregnancy and baby payment will replace the Sure Start Maternity Grant (SSMG) which is provided by Department for Work and Pensions (DWP).

The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 (the regulations) provide detailed rules relating to the BSG pregnancy and baby payment only but this screening assessment relates to all 3 BSG payments:

- pregnancy and baby;
- early learning; and
- school age payments.

The regulations include provision for eligibility, including residence, what assistance is available, the value of the payments and when to apply. The regulations also include provision for timescales for the processing of redeterminations and certain issues of process relating to application dates.

¹ The Social Security (Scotland) Act 2018 <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

² Section 32 <http://www.legislation.gov.uk/asp/2018/9/section/32/enacted>

³ Schedule 6 <http://www.legislation.gov.uk/asp/2018/9/schedule/6/enacted>

Objective

Scottish Ministers want to make Scotland the best place in the world for a child to grow up. Early interventions and preventative work will target the earliest years of a child's life, to build strong foundations and reduce the number of adverse childhood experiences that we know have lasting impacts on our children and shape their lives as adults⁴.

The BSG is one of a range of measures aimed at giving children the best start in life and will pay qualifying families £600 at around the time of the birth of the first child and £300 on the birth of every subsequent child. An additional payment of £300 is payable in the case of a multiple birth. Qualifying families will also receive £250 around the time the child starts nursery and a further £250 when they start primary school.

BSG will contribute to fulfilling the Scottish Government's National Outcomes and will specifically contribute towards the following Outcomes:

- We grow up loved, safe and respected so that we realise our full potential
- We tackle poverty by sharing opportunities, wealth and power more equally
- We are well educated, skilled and able to contribute to society

Building on the Social Security (Scotland) Act's framework of a benefit that is founded on dignity, respect and a human based approach, Scottish Ministers are committed to assisting people in accessing their full entitlement.

The BSG pregnancy and baby payment represents a significant additional investment by comparison to SSMG. The additional spend is as a result of the extension of eligibility criteria for the BSG, providing payments for 2nd and subsequent children and introducing 2 further payments during a child's early years.

Consultation

During the development of the policy we have engaged with colleagues from within the Scottish Government, a range of external stakeholders, service users and the wider public.

A New Future for Social Security Consultation⁵ ran during summer 2016 (the report on BSG can be found on page 199 of the analysis of written responses to the Consultation on Social Security in Scotland⁶). The BSG section sought views on key aspects of the benefit and received over 100 responses from both individuals and organisations. The views expressed, along with the findings from a stakeholder event held in May 2016, helped shape the initial proposals for BSG discussed with the BSG Reference Group.

⁴ A Nation with Ambition <https://www.gov.scot/Resource/0052/00524214.pdf>

⁵ A New Future for Social Security Consultation on Social Security in Scotland <https://www.gov.scot/Publications/2016/07/9955>

⁶ Analysis of Social Security Consultation <https://www.gov.scot/Resource/0051/00514351.pdf>

Scottish businesses, including the third sector, responded to the consultation. Responses were received from 14 private businesses and 5 business organisations all of which requested that their responses remain anonymous.

There was no clear message from businesses regarding BSG. The BSG represents an additional spend into the Scottish economy and therefore there are likely to be impacts upon businesses. Some people will buy items that they would not have bought without a payment. The impact of additional spending by parents will be dispersed across the country and sectors of the economy.

The BSG Reference Group⁷ was established in October 2016 to help gather evidence, bring a variety of informed perspectives and provide feedback on proposals.

Illustrative regulations for the BSG were issued to the Social Security Committee and the Delegated Powers and Law Reform Committee of the Scottish Parliament on 28th September 2017, during the passage of the Social Security (Scotland) Bill, and were subsequently published on the Scottish Parliament's website. They were also shared with a range of stakeholders.

Early Years Assistance, a Consultation on the Best Start Grant Regulations⁸ ran from 26 March to 15 June 2018, allowing us to gather further feedback on our proposals and develop final policy. A specific question was asked about the findings from the BRIA so far, to identify whether there were any gaps. There were 51 responses to the consultation from individuals, local authorities and the third sector.

Responses highlighted that the Scottish social security system will cause additional requests for information and support from existing advice services and that training may be required across a range of agencies.

Social Security Scotland is actively engaging with the advice sector to understand the impacts and identify how we can work in partnership to support clients. We held an initial workshop on 21 August and will continue to develop the work moving forward. We will ensure advice services get the information they need to be able to advise clients effectively and we are training our client advisers to be able to give people comprehensive advice and support on our benefits.

The Scottish Government has undertaken an internal strategic policy review of our support for advice services. As a consequence of this review we will focus our investment in advice services to ensure advice is accessible for everyone but that extra effort is made to engage and support those people who can benefit most from advice to prevent negative outcomes, particularly those at risk of poverty and inequality.

⁷ Best Start Grant Reference Group <https://beta.gov.scot/groups/best-start-grant-reference-group/>

⁸ Early Years Assistance, Consultation on BSG Regulations
<https://www.gov.scot/Publications/2018/03/2016>

We continue to provide funding to support advice services to alleviate the impact of welfare reforms and have increased our welfare advice services budget from £3.1 million in 2017/18 to £3.6 million in 2018/19 to enable us to improve our support for advice, informed by key recommendations emerging from the review.

One respondent outlined the potential benefits of enabling people to build and own their own 'Digital Identity' to offer evidence of eligibility. A Digital Privacy Impact Assessment is being updated for the Programme to implement the BSG and will be published in due course.

Options

Option 1 - Do Nothing

Transfer of powers to Scotland to make provision for Early Years Assistance is set out in the Scotland Act 2016 and Social Security (Scotland) Act 2016. Therefore, not taking over powers from the DWP is not considered to be a viable option.

There are not considered to be any benefits to this option.

If the DWP were to stop making SSMG payments to Scottish applicants and the Scottish Government did not provide a benefit to replace this provision, then around 5,000 families per year would be worse off as they would no longer receive a payment. This loss of support would total around £3m initially.

Option 2 - Introduce benefit on same basis as current DWP provision:

The Scottish Government could have "lifted and shifted" the benefit with no changes made to eligibility, level of payment, application process or integration with other benefits. However, this would have been inconsistent with the Social Security principles set out in the Social Security (Scotland) Act 2018⁹ and would not have fitted with wider Scottish Government policy on early years.

It would have left a benefit being administered that users found difficult to access due to short application periods and where children were disadvantaged because they are not the first born or live with kinship carers.

Option 3: Introduce BSG (recommended option):

The Scottish Government will make first payments of the pregnancy and baby payments before Christmas 2018, replacing the current SSMG. By Summer 2019 it will introduce 2 further payments of £250 during early years. This decision followed extensive engagement with stakeholders as set out in the Consultation section of this BRIA.

BSG will provide up to 3 one-off payments to support families on certain benefits or tax credits with a contribution towards the costs of raising a child at key transition

⁹ The Social Security (Scotland) Act 2018 <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

points in the early years. This is intended to alleviate the financial pressures on the household which can have negative effects on maternal health, mental health, parenting skills and family relationships.

Changes to BSG compared to the current SSMG benefit include:

- The payment to the first child will increase from £500 under SSMG to £600.
- BSG re-introduces £300 birth payments for second and subsequent children (SSMG was limited to the first child only as part of welfare reform in 2011)
- Eligibility has been simplified and expanded and applications windows extended so more children benefit.
- Administration of BSG will be integrated with Best Start Foods (BSF) (currently UK Healthy Start Vouchers (HSV)) to reduce effort for the applicant and administration for Social Security Scotland.

Under proposed eligibility, BSG has the potential to reach (where there is a birth/child at the appropriate age of payments):

- Almost 90% of families in the bottom 3 income deciles, both in and out of work.
- 97% of workless households.
- More than 80% of households with no full time work (ie one or more working part time).
- Potentially more than 90% of lone parent households.
- More than half of families with 3 or more children.

Costs

The Scottish Fiscal Commission (SFC) is responsible for producing independent forecasts of devolved social security expenditure. For BSG Pregnancy and Baby payment, the SFC will publish forecasts alongside the laying of the BSG regulations.

Based on assumptions from the SFC model, in the first full year of running 2018-19, we estimate that there will be 12,500 BSG Pregnancy and Baby payments with a total cost of £5.5m. Once the Early Learning and School payments are added, we estimate that the total number of payments annually will be in the region of 39,000 at a cost of £12.1m, based on 2019-20 figures.

Scottish Firms Impact Test

Scottish businesses, including the third sector, responded to A New Future for Social Security consultation¹⁰ during summer 2016. Responses were received from 14 private businesses and 5 business organisations all of which requested that their responses remain anonymous.

Stakeholder events were also run in tandem to obtain as wide a view as possible on the forthcoming Scottish social security system, including the BSG. Views were received from many different types of interested party as possible, such as Engender,

¹⁰ A New Future for Social Security https://consult.gov.scot/social-security/social-security-in-scotland/user_uploads/consultation-on-social-security-in-scotland---full-version.pdf

Inclusion Scotland, Scottish Youth Parliament, Coalition of Carers, SAMH, Scottish Pensioners Forum, CEMVO, the Multicultural Family Centre, Cyrenians, Scottish Refugee Council, Deaf Action, CAS, CPAG, Scottish Rural, Parliament and the Poverty Alliance, Equalities and Human Rights Commission, Scottish Human Rights Commission, SCVO, the Humanist Society, Quaker Social Action, LGBT Youth Scotland, Woman's Aid, Coalition for Racial Equalities and Rights, and the Scottish Disability Equalities Forum.

Competition Assessment

The Scottish Government does not believe that the BSG will have an adverse impact on the competitiveness of Scottish companies or the third sector within the Scotland UK, or elsewhere.

There may be some impact on businesses and third sector organisations operating in Scotland in relation to the way Social Security Scotland delivers the devolved benefits compared to the status quo. These impacts could be both positive and negative and it is not possible to identify all possible impacts at this stage. For example, businesses that are currently involved in the delivery system under DWP governance may be affected if the arrangements are different when the governance is passed to Social Security Scotland. Also, the demands placed on third sector organisations providing advice and support for people receiving and enquiring about social security payments may change, and could require a change to their operations.

Any procurement required to support the administration of the BSG will be subject to the Public Contracts Scotland (2015) Regulations¹¹ and the Procurement Reform (Scotland) Act 2014¹² which together provide a national legislative framework for sustainable public procurement which supports Scotland's economic growth through improved procurement practice. The Regulations and the Act provide the statutory foundations for the Scottish Model of Procurement.

<ul style="list-style-type: none"> • Will the measure directly or indirectly limit the number or range of suppliers? 	No
<ul style="list-style-type: none"> • Will the measure limit the ability of suppliers to compete? 	No
<ul style="list-style-type: none"> • Will the measure limit suppliers' incentives to compete vigorously? 	No
<ul style="list-style-type: none"> • Will the measure limit the choices and information available to consumers? 	No

Test run of business forms

No new business forms will be brought in with the implementation of the proposed legislation.

¹¹ http://www.legislation.gov.uk/ssi/2015/446/pdfs/ssi_20150446_en.pdf

¹² <http://www.legislation.gov.uk/asp/2014/12/contents>

Legal Aid Impact Test

Someone who has applied for an BSG payment but whose application has been unsuccessful will be able to ask Social Security Scotland (the agency) for a re-determination without having to supply further evidence, but the agency will take into consideration any new evidence provided. The timescales for a requesting a re-determination and the time period allowed for the agency to complete the re-determination is set out in the BSG regulations.

If the individual is dissatisfied with the re-determination outcome, they can appeal to the First-tier Tribunal. Advice and assistance is available to enable solicitors to provide initial advice on social security appeals. Assistance in the form of representation is not available, but this is available for an onward appeal to the upper tribunal dependent on eligibility.

Legal assistance through the statutory scheme of Advice and Assistance, and Advice by Way of Representation will continue.

Enforcement, sanctions and monitoring

The Social Security (Scotland) Act 2018¹³ places a duty on the Scottish Ministers to publish an annual report on the performance of the Scottish social security system. It also places a duty on Scottish Ministers to prepare and publish a charter, and to report on it regularly. The Charter will set out the overarching social security principles; communicating in clear terms what people are entitled to expect from the Scottish system and framing the positive, supportive ethos of Social Security Scotland.

The Charter will enable the principles to be embedded in a way that is open to monitoring, reporting and scrutiny and available in a format that can be easily understood. It will create an additional device for both the Parliament and the public to scrutinise and hold Ministers to account for the delivery of a fairer, more inclusive and rights-based system.

Audit Scotland will monitor and report on the delivery of the social security system, including Social Security Scotland.

Implementation and delivery plan

The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 will be laid in the Scottish Parliament on 11 September 2018 providing details of eligibility, the payments and application windows. The first payments of the pregnancy and baby payment will be made by Social Security Scotland before Christmas 2018. The two further BSG payments will be introduced before Summer 2019.

Delivery of the BSG will be through Social Security Scotland, an Executive Agency, with operational staff based in the Dundee Headquarters and Glasgow office, supplemented by a local delivery function.

¹³ The Social Security (Scotland) Act 2018 <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

Summary and recommendation

Option 3 – to introduce the expanded BSG is being recommended.

Summary costs and benefits table

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
3	<p>Introduce Expanded BSG</p> <p>It is estimated that BSG will be paid to 39,000 children.</p> <p>Families will have more disposable income to spend on essential items for their baby or child</p> <p>Families more likely to reduce their accumulated debt</p> <p>Families' additional spend could potentially increase business activity.</p>	<p>The Scottish Fiscal Commission (SFC) is responsible for producing independent forecasts of devolved social security expenditure. For BSG Pregnancy and Baby payment, the SFC will publish forecasts alongside the laying of the BSG regulations.</p> <p>Based on assumptions from the SFC model, in the first full year of running 2018-19, we estimate that there will be 12,500 BSG Pregnancy and Baby payments with a total cost of £5.5m. Once the Early Learning and School payments are added, we estimate that the total number of payments annually will be in the region of 39,000 at a cost of £12.1m, based on 2019-20 figures.</p>

Declaration and publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication.

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Shirley-Anne Somerville, Cabinet Secretary for Social Security and Older People

Date: 5 September 2018

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