

Social Justice and Social Security Committee

5th Meeting, 2024 (Session 6), Thursday 22 February 2024

Subordinate Legislation Cover Note

Title of Instrument:	The Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2024
Laid Date:	26 January 2024
Reporting deadline:	14 March 2024
Type of instrument:	Affirmative
Motion to approve:	S6M-12001

Purpose of the regulations

1. According to the [Policy Note](#) and [Explanatory Note](#) (available in the Annexe), the regulations fulfil the duty on the Scottish Ministers under section 86B of the Social Security (Scotland) Act 2018 to create legislation that increases the amounts of the Scottish Child Payment, Child Disability Payment, Adult Disability Payment, Funeral Support Payment, Carer Support Payment and Young Carer Grant. The increases are intended to match or exceed the adjustment for price inflation.
2. The Policy Note states 6.7% is the annual rate of Consumer Prices Index for September 2023 and that this will be applied to the above forms of assistance.
3. The Regulations also uprate other benefits not subject to the mandatory uprating requirements in section 86B. Subsequently, Best Start Grants, Best Start Foods, Child Winter Heating Payment and Winter Heating Payment are all also increased by 6.7%.
4. The regulations also increase the earnings limits for Carer's Allowance and Carer Support Payment. These are not covered by the reporting or up-rating duties in sections 86A and 86B of the Social Security (Scotland) Act 2018.
5. The Policy Note also sets out the dates the increases will come into force:
 - The increases to Young Carers Grant, Funeral Support Payment, Best Start Grants, Best Start Foods, Child Winter Heating Payment and Winter Heating Payment come into force on 1 April 2024.
 - The increases to Child Disability Payment and Adult Disability Payment (including the Adult Disability Payment transitional rate) come into force on 8 April 2024.

- The increases to Carer Support Payment come into force on 7 April 2024.

Parliamentary procedure

6. The affirmative procedure means that an instrument cannot be made and come into force unless the Parliament has voted to approve it (rule 10.6.1 of standing orders).
7. Affirmative instruments are first looked at by the DPLR Committee before being considered by the lead committee (usually the committee that examined the Bill for the Act that the SSI is made under or whose remit is most aligned).
8. It is usual practice for the lead committee to take evidence from the relevant Scottish Minister in advance of considering the instrument. The committee can ask the Minister and any officials questions about the SSI.
9. During its formal consideration, a member of the Scottish Government proposes, by motion, that the lead committee recommend that the instrument or draft instrument be approved. The committee has up to 90 minutes to debate the motion.
10. The lead committee must report its recommendation to Parliament within 40 days of the SSI being laid. If the committee agrees the SSI should be approved, the whole of the Parliament then gets a chance to vote on it in the Chamber. If the lead committee decides the SSI should not be approved, the Parliamentary Bureau decides whether MSPs should vote on it in the Chamber.

Delegated Powers and Law Reform Committee consideration

11. The DPLR Committee considered the instrument at its meeting on [6 February 2024](#) and raised no points. The official report of the meeting is available [here](#).

Decisions

12. **The Committee must decide whether or not to agree the motion, and then report to Parliament accordingly, by 14 March 2024.**
13. **The Committee is also invited to delegate responsibility for the drafting and publication of a short, factual report to the Convener and Clerk.**

**Clerks to the Committee
19 February 2024**

POLICY NOTE**THE SOCIAL SECURITY (UP-RATING) (MISCELLANEOUS AMENDMENTS)
(SCOTLAND) REGULATIONS 2024****SSI 2024/XXX**

The above instrument will be made in exercise of the powers conferred by section 28(2), 30(2), 31(2), 32(2), 34(2) and 95 of the Social Security (Scotland) Act 2018 ('the 2018 Act'), section 70(8) of the Social Security Contributions and Benefits Act 1992 and section 13 of the Social Security Benefits Act 1988. Some of the amendments made by this instrument can be made under the negative procedure and others require to be made under the affirmative procedure, so the instrument is subject to the affirmative procedure. For the purposes of this note, the instrument will be referred to as the '2024 Regulations'.

Purpose of the instrument

The 2024 Regulations fulfil the duty on the Scottish Ministers under section 86B of the 2018 Act to bring forward legislation to increase the amount of Scottish Child Payment, Child Disability Payment, Adult Disability Payment, Funeral Support Payment, Carer Support Payment and Young Carer Grant to an amount which is at least as high as if the existing amount was adjusted in line with price inflation. Following Ministers having complied with their duties under section 86A of the 2018 Act to consider the effects of inflation on certain existing forms of assistance, these Regulations give effect to the Ministers' intentions to up-rate other benefits which are not subject to the mandatory up-rating requirements in section 86B. Accordingly, increases of 6.7% are also made to Best Start Grants, Best Start Foods, Child Winter Heating Payment and Winter Heating Payment. Finally, the Regulations also increase the earnings limits for Carer's Allowance and Carer Support Payment which are not subject to the reporting or up-rating duties in sections 86A and 86B of the 2018 Act.

After considering the effects of inflation, the Scottish Ministers have decided to increase Scottish Child Payment, Child Disability Payment, Adult Disability Payment, Funeral Support Payment, Carer Support Payment, Young Carer Grant, Best Start Grant, Best Start Foods, Child Winter Heating Payment and Winter Heating Payment by 6.7%, which is the annual rate of Consumer Prices Index for September 2023.

The 2024 Regulations increase the amount of;

- Scottish Child Payment payable under the Scottish Child Payment Regulations 2020,
- Child Disability Payment payable under the Disability Assistance for Children and Young People (Scotland) Regulations 2020; namely 1) the mobility component and 2) the care component;

- Adult Disability Payment payable under the Disability Assistance for Working Age People (Scotland) Regulations 2021; namely 1) the daily living component, and 2) the mobility component,
- The transitional rate of Adult Disability Payment payable under the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022,
- Funeral Support Payment payable under the Funeral Expense Assistance (Scotland) Regulations 2019; namely, 1) the standard amount of assistance that is available towards other funeral costs, 2) the amount which is payable towards other funeral costs if the deceased has a pre-paid funeral plan and 3) the amount which is payable towards a fee for removing an active implantable medical device from the deceased,
- Carer Support Payment payable under the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023,
- the Young Carer Grant payable under the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019,
- The amount of Best Start Grant 1) Pregnancy and Baby Payment (1st Child Payment),
2) Pregnancy and Baby Payment (Subsequent Child Payment & Extra Payment for multiple pregnancy supplement), 3) Early Learning Payment and 4) School Age Payment payable under the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018,
- The amount of Best Start Foods payable under the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019,
- the Child Winter Heating Payment payable under the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020, and
- The Winter Heating Payment payable under the Winter Heating Assistance (Low Income) (Scotland) Regulations 2023.

The increases to Young Carers Grant, Funeral Support Payment, Best Start Grants, Best Start Foods, Child Winter Heating Payment and Winter Heating Payment come into force on 1 April 2024. The increases to Child Disability Payment and Adult Disability Payment (including the Adult Disability Payment transitional rate) come into force on 8 April 2024. The increases to Carer Support Payment come into force on 7 April 2024.

Lastly, the opportunity has also been taken through these regulations to make amendments to the Social Security (Invalid Care Allowance) Regulations 1976. These amendments make changes to earnings limits used to determine entitlement to Carer's Allowance so far as prescribing earnings limits is within devolved competence. The Regulations also make changes to the earnings limits used to determine entitlement to Carer Support Payment which was introduced in Scotland on 19 November 2023. Both changes increase the earnings limits for the respective payments.

Policy Objectives

Section 86A of the 2018 Act requires Scottish Ministers to calculate the inflation-adjusted level of each amount of assistance prescribed in regulations under any section in Chapter 2 of Part 2 of that Act or section 79 and report to the Scottish Parliament, before the end of each financial year, on what they have done or intend to do as a result of the changes to prices.

Section 86B of the 2018 Act requires Scottish Ministers to bring forward legislation before the end of each financial year to replace the amounts of Scottish Child Payment, Child Disability Payment, Adult Disability Payment (including the Adult Disability Payment transitional rate), Carer Support Payment, Funeral Support Payment and Young Carer Grant with amounts which are at least as high as the inflation-adjusted level of each amount.

Scottish Ministers also decide whether to apply this up-rate to Best Start Grant, Child Winter Heating Payment and Winter Heating Payment, and explain their decision in the report as required under section 86A. This year, Best Start Foods and Job Start Payment is also included for completeness in the report.

It has been determined that there has been an increase in the general level of prices in the past financial year. Accordingly, the 2024 Regulations are brought forward in reliance on section 31 of the 2018 Act to increase the relevant sums for Adult Disability Payment (including the Adult Disability Payment transitional rate) and Child Disability Payment by 6.7% with the payment rounded to the nearest multiple of 5 pence. Carer Support Payment, Young Carers Grant, Funeral Support Payment, Best Start Grant, Child Winter Heating Payment and Winter Heating Payment are also increased by 6.7%, through the Regulations brought forward in reliance on section 28, 30, 32 and 34 of the 2018 Act. Best Start Foods rates are also increased by 6.7% brought forward in reliance on section 13 of the Social Security Act 1988. Job Start Payment is a benefit provided pursuant to a non-statutory scheme and is accordingly not up-rated through the 2024 Regulations.

The 2024 Regulations provide for a 6.7% increase to the Carer Support Payment (from £76.75 to **£81.90**); a 6.7% increase to Scottish Child Payment (from £25.00 to **£26.70**); Young Carer Grant Payment (from £359.65 to **£383.75**); a 6.7% increase to the Funeral Support Payment of the standard amount that is available towards other funeral costs (from £1,178.75 to **£1,257.75**), a 6.7% increase to the Funeral Support Payment that is available towards funeral costs where the deceased has left in place a pre-paid funeral plan (from £143.85 to **£153.50**) and a 6.7% increase to the Funeral Support Payment of the fee for removing an active implantable medical device from the deceased (from £23.75 to **£25.35**); a 6.7% increase to Child Winter Heating Payment (from £235.70 to **£251.50**); a 6.7% increase to Winter Heating Payment (from £55.05 to **£58.75**); a 6.7% increase to Best Start Grant Pregnancy and Baby Payment (1st Child Payment) (from £707.25 to **£754.65**), Best Start Grant Pregnancy and Baby Payment (Subsequent Child Payment & Extra Payment for Twins/Triples) (from £353.65 to **£377.35**), Best Start Grant Early Learning Payment (from £294.70 to **£314.45**) and Best Start Grant School Age Payment (from £294.70 to **£314.45**); a 6.7% increase to Best Start Foods (basic rate from £4.95 to **£5.30** and the higher rate is then defined as double the basic rate from £9.90 to **£10.60**); a 6.7% increase to Child Disability Payment mobility component (higher rate from £71.00 to **£75.75** and lower rate from £26.90 to **£28.70**) and care components (highest rate from £101.75 to **£108.55**, middle rate from £68.10 to **£72.65** and lowest rate from £26.90 to **£28.70**); a 6.7% increase to Adult Disability Payment Daily Living Component (standard rate from £68.10 to **£72.65**, enhanced rate from £101.75 to **£108.55**) and Mobility Component (standard rate from £26.90 to **£28.70** and enhanced rate from £71.00 to **£75.75**) and a 6.7% increase to the transitional rate of Adult Disability Payment (from

£26.90 to **£28.70**).

These regulations will also make amendments to the Social Security (Invalid Care Allowance) Regulations 1976. These amendments make changes to earnings limits used to determine entitlement to carer's allowance so far as prescribing earnings limits is within devolved competence. The Regulations also make changes to the earnings limits used to determine entitlement to carer support payment which was introduced in Scotland on 19 November 2023. Both changes increase the earnings limits for the respective payments.

The Deputy First Minister announced the proposed rates of devolved social security assistance for 2024-25 to the Scottish Parliament during the Scottish Budget on 19 December 2023. In accordance with the Social Security (Scotland) 2018 Act, a draft of these Regulations is laid before the Scottish Parliament for approval by resolution.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Section 97(2) of the Social Security (Scotland) Act 2018 requires Scottish Ministers to inform the Scottish Commission on Social Security of proposals in the form of draft regulations to meet the scrutiny and consultation process. That section also requires that the Scottish Ministers notify the Scottish Parliament that they have done so. Section 97(9) requires Scottish Ministers to lay a response to the Commission's report on the proposals for the Regulations before the Scottish Parliament. Scottish Ministers can here confirm that a response from the Commission has been received and that these requirements have been carried out. The response from Scottish Ministers to the Commission's report will be laid in the Scottish Parliament along with this policy note.

Impact Assessments

The full range of impact assessments were considered and completed where necessary for the Social Security (Scotland) Act 2018 and have been published for Funeral Expense Assistance¹, Young Carer Grant², Carer Support Payment³, Child Disability Payment⁴, Adult Disability Payment⁵, Scottish Child Payment⁶, Best Start Grant⁷, Best Start Foods⁸, Child Winter Heating Payment⁹ and Winter Heating Payment¹⁰. Impact assessments for any new Scottish assistance will be undertaken at the point where policy is being developed and regulations are being drafted. As the increase to Scottish Child Payment, Carer Support Payment, Child Disability Payment, Adult Disability Payment, Young Carer Grant, Funeral Support Payment, Best Start Grant, Winter Heating Payment and Child Winter Heating Payment ensures that the assistance people are eligible for in 2024-25 at least keeps pace with inflation, then it is considered that there is no significant impact on the private, voluntary or public sector.

It is not considered necessary to carry out additional impact assessments for the amendments to the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019. These Regulations do not seek to substantively change the policy intent of the regulations.

Financial Effects

A Financial Memorandum¹¹ was completed prior to introduction of the Social Security (Scotland) Bill.

The Financial Memorandum states that funding for existing benefits will be transferred from the UK Government under the terms of the Fiscal Framework agreement. The Financial Memorandum also considers the costs of up-rating and recognises that the methodology of up-rating of benefits for inflation is a source of financial risk. This is because any future policy differentials between Scotland and the UK for the method of up-rating could result in additional pressures on the Scottish Budget.

Scottish Child Payment, Young Carer Grant and Child Winter Heating Payment are forms of assistance only available in Scotland, therefore there is no funding transfer from the UK government and the cost of these and the up-rating increase will be met from the existing Scottish Budget. The equivalents of Funeral Support Payment, Best Start Grant and Best Start Foods are not up-rated annually by inflation in England and Wales and therefore the cost of the up-rating increase will be met from the existing Scottish Budget. The Scottish Fiscal Commission used the September CPI rate of 6.7% when producing their forecasts of benefits expenditure which are set out in their Economic and Fiscal Forecasts December 2023¹².

Scottish Government
Social Security
Directorate
January 2024

1 <https://www.gov.scot/publications/consultation-funeral-expense-assistance-regulations/pages/8/>

2 <https://www.gov.scot/publications/consultation-young-carer-grant-regulations/pages/8/>

3 The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023

4 The Disability Assistance for Children and Young People (Scotland) Regulations 2021

5 The Disability Assistance for Working Age People (Scotland) Regulations 2023 (legislation.gov.uk)

6 The Scottish Child Payment Regulations 2020

7 Section 7 - Impact Assessments - Early years assistance: consultation on the Best Start Grant regulations

8 The Welfare Foods (Best Start Foods) (Scotland) Regulations 2019

9 The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 (legislation.gov.uk)

10 Winter Heating Payment (Low Income) (Scotland): equality impact assessment - gov.scot (www.gov.scot)

11 [http://www.parliament.scot/S5_Bills/Social%20Security%20\(Scotland\)%20Bill/SPBill18FMS052017.pdf](http://www.parliament.scot/S5_Bills/Social%20Security%20(Scotland)%20Bill/SPBill18FMS052017.pdf)

12 Scotland's Economic and Fiscal Forecasts | Scottish Fiscal Commission

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for an increase in various values and amounts of forms of assistance payable by virtue of regulations made under the Social Security (Scotland) Act 2018 and make amendments to the Social Security (Invalid Care Allowance) Regulations 1976, and the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019. The Regulations come into force on 1 April 2024 with the exception of regulations 2, 3 and 8, which come into force on 8 April 2024 and regulation 7 which comes into force on 7 April 2024.

Regulation 2 increases the amount of Adult Disability Payment payable under the Disability Assistance for Working Age People (Scotland) Regulations 2022. Paragraph 1 of the schedule makes saving provision so that the previous amount of this assistance is still payable in certain circumstances.

Regulation 3 increases the amount of a transitional rate of Adult Disability Payment payable under the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022. Paragraph 2 of the schedule makes saving provision so that the previous amount of this assistance is still payable in certain circumstances.

Regulation 4 increases the value of the basic rate of Best Start Foods benefit under the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019. Paragraph 3 of the schedule make transitional provision so that the previous values of this assistance are still payable in certain circumstances.

Regulation 5 increases the amount of the pregnancy and baby grant payable under the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018. Regulation 5 also increases the value of the early learning grant and the school-age grant, payable under those Regulations. Paragraph 4 of the schedule makes saving provision so that the previous values or amount of this assistance are still payable in certain circumstances.

Regulation 6 amends regulation 8 of the Social Security (Invalid Care Allowance) Regulations 1976 (“the 1976 Regulations”) to increase the amount that a person eligible for payment of carer’s allowance from the Scottish Ministers can earn in a given week without being deemed to be gainfully employed and, therefore, losing their entitlement to carer’s allowance. The Social Security Amendment (Carer’s Allowance) Regulations 2002 replaces references to “Invalid Care Allowance” with references to “Carer’s Allowance” in certain legislative provisions, but “Invalid Care Allowance” remains part of the title of the 1976 Regulations for statutory purposes.

Regulation 7 amends regulation 14 of the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023 (the Carer Support Payment Regulations) to increase the earnings limit for payment of carer support payment. Regulation 7 also increases the amount of carer support payment payable under regulation 16 of the Carer Support Payment Regulations. Paragraph 5 of the schedule makes saving provision so that the previous amount of this assistance is still payable in certain circumstances.

Regulation 8 increases the amount of Child Disability Payment payable under the Disability Assistance for Children and Young People (Scotland) Regulations 2021. Paragraph 6 of the schedule makes saving provision so that the previous amount of this assistance is still payable in certain circumstances.

Regulation 9 increases the value of child winter heating payment payable under the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020. Paragraph 7 of the schedule makes saving provision so that the previous value of this assistance is still payable in certain circumstances.

Regulation 10 increases the amounts of funeral expense assistance payable under the Funeral Expense Assistance (Scotland) Regulations 2019. Paragraph 8 of the schedule makes saving provision so that the previous amounts of this assistance are still payable in certain circumstances.

Regulation 11 increases the value of Scottish Child Payment payable under the Scottish Child Payment Regulations 2020. Paragraph 9 of the schedule makes saving provision so that the previous value of this assistance is still payable in certain circumstances.

Regulation 12 increases the value of winter heating payment payable under the Winter Heating Assistance (Low Income) (Scotland) Regulations 2023. Paragraph 10 of the schedule makes saving provision so that the previous value of this assistance is still payable in certain circumstances.

Regulation 13 increases the amount of Young Carer Grant payable under the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019. Paragraph 11 of the schedule makes saving provision so that the previous value of this grant is still payable in certain circumstances.