

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 (Scotland) Order 2024
Laid Date:	26 January 2024
Reporting deadline:	14 March 2024
Type of instrument:	Affirmative
Motion to approve:	S6M-12002

Purpose of the regulations

1. According to the [Policy Note](#) and [Explanatory Note](#) (available in the Annexe), the Order fulfils the duty on Scottish Ministers under sections 150 and 150A of the Social Security Administration Act 1992 to review the rates of social security benefits they are responsible for. It also says the regulations provide for the up-rating of certain benefits.
2. The functions of the Secretary of State for Work and Pensions related to Carer's Allowance in Scotland were transferred to the Scottish Ministers on 3 September 2018, and for all other devolved benefits from 1 April 2020. The Scottish Ministers are now responsible for providing these benefits to residents of Scotland.
3. Agency agreements with the Secretary of State for Work and Pensions allow the delivery of these benefits on behalf of the Scottish Ministers, and the Scottish Ministers are committed to up-rating these benefits at the same rate as the Department for Work and Pensions. However, Scottish Ministers must make the 2024 Order as this falls within their devolved competence.
4. As such, various weekly rates for Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Industrial Death Benefit, Personal Independence Payment and Severe Disablement Allowance will all increase according to the September 2023 Consumer Price Index (CPI) of 6.7%.
5. The Order also provides for an increase to the Adult Dependency Increase as an additional weekly payment for some of those who receive the Severe Disablement Allowance.
6. There will also be an increase to other benefits associated with the Severe Disablement Allowance and Industrial Injuries Scheme benefits. The Industrial Death Benefit (IDB) is usually up-rated by the triple lock guarantee by CPI or

2.5%. The UK Government has said IDB will increase by 8.5%, which aligns with growth in Average Weekly Earnings, May to July 2023.

Parliamentary procedure

7. 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).
8. 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).
9. 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.
10. 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.
11. 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

12. 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](#).

For decision

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

**Committee Clerks
19 February 2024**

POLICY NOTE

THE SOCIAL SECURITY UP-RATING (SCOTLAND) ORDER 2024 SSI 2024/XXX

The above instrument will be made in exercise of the powers conferred by sections 150(9) and 150A(6) of the Social Security Administration Act 1992 ('the 1992 Act'). These powers, in UK legislation, are exercised by the Scottish Government insofar as they are now within devolved competence. The instrument is subject to the affirmative procedure and will come into force from the 1 April 2024. For the purposes of this note, the instrument will be referred to as 'the 2024 Order'.

Purpose of the instrument

This Order fulfils the statutory duty on the Scottish Ministers under sections 150 and 150A of the 1992 Act to review the rates of social security benefits that they are responsible for and provides for the up-rating of certain benefits. Various weekly rates of payment of Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Industrial Death Benefit, Personal Independence Payment and Severe Disablement Allowance will increase. The Order will also make an increase to the Adult Dependency Increase as an additional weekly payment payable to some recipients of Severe Disablement Allowance. Other associated benefits of the Severe Disablement Allowance and Industrial Injuries Scheme benefits will also increase.

Policy Objectives

The purpose of the 2024 Order is to up-rate the weekly rates of payment of Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Industrial Death Benefit, Personal Independence Payment and the Severe Disablement Allowance.

The functions of the Secretary of State for Work and Pensions in relation to Carer's Allowance payable to people resident in Scotland transferred to the Scottish Ministers, with effect from 3 September 2018 and for all the other remaining devolved benefits from 1 April 2020. The result is that the Scottish Ministers are responsible for the provision of these benefits to people who usually live in Scotland. Agency agreements have been entered into with the Secretary of State for Work and Pensions, exercising powers arising from the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2018. This has the effect that the Secretary of State delivers these benefits on behalf of the Scottish Ministers. In terms of that agreement, the Scottish Ministers are committed to up-rate these benefits at the same rate as the Department for Work and Pensions (DWP). It is, though, a matter for the Scottish Ministers to make an order effecting the up-rating as the duty to up-rate and the power to make the 2024 Order rest with the Scottish Ministers insofar as these benefits are within devolved competence.

EU Alignment Consideration

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

Benefits linked to the general level of prices

Section 150(1) of the 1992 Act requires a review of Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Personal Independence Payment and the Severe Disablement Allowance and to up-rate them where there has been an increase in the general level of prices. It has been determined that there has been an increase in the general level of prices in the past year. Accordingly, this Order is brought forward in reliance on section 150(2)(a), to increase the relevant sums so far as they fall within the competence of the Scottish Ministers. In line with the approach of the DWP, the up-rate to be applied is according to the September 2023 Consumer Price Index (CPI) as published on 18 October 2023, in this case 6.7%. This is the 12-month inflation rate, which compares prices for September 2023 with the same month a year ago.

Other Miscellaneous Benefits

There is also an increase to the Adult Dependency Increase as an additional weekly payment payable to some recipients of Severe Disablement Allowance. The benefits associated with the Industrial Injuries Scheme such as Exceptionally Severe Disablement Allowance, Reduced Earnings Allowance and Retirement Allowance are also increased. The complete associated benefits are set out in the 2024 Order.

Benefits linked to earnings

Section 150A(1)(c) of the 1992 Act requires a review of the Industrial Death Benefit widow's and widower's pension as these are linked to earnings. The Industrial Death Benefit is normally up-rated through the triple lock guarantee, which ensures that pensions increase by the greatest of average earnings, prices as measured by CPI or 2.5%. The UK Government has determined that IDB will increase by 8.5% in line with the growth in Average Weekly Earnings in the year from May-July 2023.

The up-rates will match the rate that the UK Government will apply to all of these benefits in England and Wales. The increase to these benefits will take effect as set out in the 2024 Order. The up-rate will ensure that the benefits will keep pace with price inflation.

The Cabinet Secretary for Finance announced the proposed rates of the benefits for 2024-25 to the Scottish Parliament during the Scottish Budget on 19 December 2023. In accordance with the 1992 Act, a draft of this Order is laid before the Scottish Parliament for approval by resolution.

Consultation

There is no statutory requirement to consult on this instrument. However, a comprehensive report¹, including analytical evidence, on the measures that could be used to up-rate devolved social security assistance was provided to the Social Security Committee and the Scottish Commission on Social Security in 2019 to allow

them to engage on the proposed up-rating policy. The analytical report was prepared to provide a detailed review of relevant inflation measures to inform the options available to up-rate devolved social security assistance. The Policy Paper set out the Scottish Government's proposed approach to up-rating and recommended the use of the annual rate of September CPI with the payment rounded to the nearest multiple of 5 pence. The paper also noted that, during any period when a benefit is delivered by the DWP on behalf of Scottish Ministers under an agency agreement, Scottish Ministers will be obliged to up-rate on the same basis as the DWP. The Social Security Committee noted the Scottish Government's position and had no further views to report beyond the discussion at the Committee on 10 October 2019². The Commission was also supportive of the Scottish Government's up-rating policy in the short term but recommended reviewing the use of CPI in up-rating methodology. This year, further analysis assessed a range of inflation metrics and periods against a carefully chosen set of criteria to determine which approach scored most highly. Although Scottish Ministers are required to up-rate on the same basis as the DWP for the benefits delivered under agency agreements, this analysis concluded for 2024-25 that, the annual September CPI rate was the highest scoring of available options.

Impact Assessments

The full range of impact assessments were considered and completed where necessary for the Social Security (Scotland) Bill (which included provision for the Carer's Allowance Supplement) and will take place for each of the devolved benefits delivered under the Social Security (Scotland) Act 2018 e.g. impact assessments have been published, for Best Start Grant³, Best Start Foods⁴, Funeral Support Payment⁵, Young Carer Grant⁶, Child Winter Heating Payment⁷, Winter Heating Payment⁸, Scottish Child Payment⁹, Carer Support Payment¹⁰, Child Disability Payment¹¹ and Adult Disability Payment¹². Impact assessments for any new Scottish benefits will be undertaken at the point where policy is being developed and regulations are being drafted. Impact assessments were not undertaken for many of the benefits covered by the 2024 Order as these were pre-existing benefits which were devolved and continue to be provided by DWP on behalf of Scottish Ministers through agency agreements.

As the up-rating of these benefits ensures that the benefits people receive keep pace with inflation, and maintain the current situation, then it is considered that there is no significant impact on the private, voluntary or public sector.

Financial Effects

A Financial Memorandum¹³ was completed prior to introduction of the Social Security (Scotland) Bill.

The Financial Memorandum considers the costs of up-rating and recognises that the methodology of up-rating of benefits for inflation is a source of financial risk as any future policy differentials between Scotland and the UK for up-rating could result in additional pressures on the Scottish Budget.

However, as this up-rate to the devolved benefits for recipients in Scotland is the

same as to recipients in England and Wales this means there will be no impact on the Scottish Budget. The block grant adjustment methodology detailed in the “Agreement between the Scottish Government and the UK Government on the Scottish Government’s fiscal framework¹⁴” published on 23 February 2016, continues to link adjustments to the Scottish block grant in respect of welfare to spending on equivalent policy areas in England and Wales. This means the Scottish Government is funded to provide the same level of benefits as in England and Wales.

Scottish Government
Social Security
Directorate

January 2024

¹https://www.parliament.scot/S5_Social_Security/General%20Documents/20190902_CabSecSSOP_to_Conven

[er_uprating_measures.pdf](#)

² <http://www.parliament.scot/parliamentarybusiness/report>

³ <https://beta.gov.scot/publications/early-years-assistance-consultation-best-start-grant-regulations/pages/9/>

⁴ The Welfare Foods (Best Start Foods) (Scotland) Regulations 2019

⁵ <https://www.gov.scot/publications/consultation-funeral-expense-assistance-regulations/pages/8/>

⁶ <https://www.gov.scot/publications/consultation-young-carer-grant-regulations/pages/8/>

⁷ The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020

⁸ Winter Heating Payment (Low Income) (Scotland): equality impact assessment

⁹ The Scottish Child Payment Regulations 2020

¹⁰ The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023

¹¹ The Disability Assistance for Children and Young People (Scotland) Regulations 2022

¹² The Disability Assistance for Working Age People (Scotland) Regulations 2023

¹³ [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)

¹⁴ Fiscal Framework - Agreement between the Scottish Government and the UK [Government](#)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for an increase in the various rates of carer's allowance, attendance allowance, disability living allowance, industrial injuries disablement benefit, industrial death benefit, severe disablement allowance, and personal independence payment. Articles 2, 4, 6, 7 and 8 come into force on 8 April 2024 and Articles 3 and 5 come into force on 11 April 2024. All other articles in this order come into force on 1 April 2024. Articles 2, 3, 4, 5 and 6 set out the dates on which certain increases take effect.

Article 2 amends Part III of schedule 4 of the Social Security Contributions and Benefits Act 1992 ("the 1992 Act") to provide increases in both the higher and lower weekly rates of attendance allowance.

Article 3 amends Part III of schedule 4 of the 1992 Act to provide increases in the weekly rate of severe disablement allowance and all three weekly rates of the age related addition of that allowance.

Article 4 amends Part III of schedule 4 of the 1992 Act to provide for the increase in the weekly rate of carer's allowance.

Article 5 amends Part IV of schedule 4 of the 1992 Act to increase the rates for adult dependants payable with severe disablement allowance.

Article 6 amends Part V of schedule 4 of the 1992 Act to amend various weekly rates of industrial injuries benefit, as set out in the schedule.

Article 7 amends regulation 4 of the Social Security (Disability Living Allowance) Regulations 1991 to increase the five weekly rates, as divided across both the care and mobility components, of disability living allowance.

Article 8 amends regulation 24 of the Social Security (Personal Independence Payment) Regulations 2013 to increase the four weekly rates, as divided across both the daily living and mobility components, of personal independence payment.

No business and regulatory impact assessment has been prepared for this Order as no impact upon business, charities or voluntary bodies is foreseen.