

POLICY NOTE

THE SOCIAL SECURITY (UP-RATING) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2022

SSI 2022/XXX

The above instrument will be made in exercise of the powers conferred by section 28(2), 31(2), 32(2), 34(2) and 79 of the Social Security (Scotland) Act 2018 ('the 2018 Act') and section 13 of the Social Security Benefits Act 1988. The instrument is subject to the affirmative procedure. For the purposes of this note, the instrument will be referred to as the '2022 Regulations'.

Purpose of the instrument

The 2022 Regulations fulfil the duty on the Scottish Ministers under section 86A of the Social Security (Scotland) Act 2018 ("the Act") to consider the effects of inflation on the assistance that are in effect, and under section 86B to bring forward legislation to increase the amount of Child Disability Payment, Adult Disability Payment, Scottish Child Payment, Funeral 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. In addition, Child Winter Heating Assistance is increased by 5%.

After considering the effects of inflation, the Scottish Ministers have decided to increase all the Chapter 2 assistance in effect by 3.1%, which is the September 2021 Consumer Price Index (CPI) rate, except Scottish Child Payment which will be increased to £20. The 2022 Regulations increase the amount of;

- the Young Carer Grant payable under the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019;
- 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;
- 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 amount payable under the Scottish Child Payment Regulations 2020, and
- the Child Winter Heating Assistance payable under the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020.

The increases to Young Carers Grant, Funeral Support Payment, Scottish Child Payment and Child Winter Heating Assistance come into effect on 1 April 2022. The increases to Child Disability Payment and Adult Disability Payment come into effect on 11 April 2022.

The opportunity has also been taken through these regulations to make amendments to The Welfare Foods (Best Start Foods) (Scotland) Regulations 2019 to increase the income thresholds for Best Start Foods to take account of the increases in the National Living Wage and the increased levels of Working Tax Credit and Child Tax Credit .

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 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, 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 uprate to Best Start Grant and Child Winter Heating Assistance and explain their decision in the report as required under section 86A.

It has been determined that there has been an increase in the general level of prices in the past financial year. Accordingly, the 2022 Regulations are brought forward in reliance on section 28, 31, 32 and 34 to increase the relevant sums for Adult Disability Payment, Child Disability Payment, Young Carers Grant and Funeral Support Payment by 3.1% with the payment rounded to the nearest multiple of 5 pence. Scottish Child Payment will be increased to £20 and Child Winter Heating Assistance is increased by 5%.

The 2022 Regulations provide for a 3.1% increase to the Young Carer Grant payment (from £308.15 to **£317.70**); a 3.1% increase to the Funeral Support Payment of the standard amount that is available towards other funeral costs (from £1,010 to **£1,041.30**), a 3.1% 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 £123.25 to **£127.05**) and a 3.1% increase to the Funeral Support Payment of the fee for removing an active implantable medical device from the deceased (from £20.55 to **£21.20**); a 3.1% increase to Child Disability Payment mobility component (higher rate from £62.55 to **£64.50** and lower rate from £23.70 to **£24.45**) and care components (highest rate from £89.60 to **£92.40**, middle rate from £60.00 to **£61.85** and lowest rate from £23.70 to **£24.45**); a 3.1% increase to Adult Disability Payment Daily Living Component (standard rate from £60.00 to **£61.85**, enhanced rate from £89.60 to **£92.40**) and Mobility Component (standard rate from £23.70 to **£24.45** and enhanced rate from £62.55 to **£64.50**); an increase to Scottish Child Payment (from £10.00 to **£20.00**) and a 5% increase to Child Winter Heating Assistance (from £202 to **£212.10**).

The opportunity has also been taken to make minor technical amendments to The Welfare Foods (Best Start Foods) (Scotland) Regulations 2019 by increasing the income threshold amounts for certain qualifying benefits. This change will ensure that families on the lowest incomes retain their eligibility to Best Start Foods.

The Cabinet Secretary for Finance announced the proposed rates of devolved social security assistance for 2022-23 to the Scottish Parliament during the Scottish Budget on 9 December 2021. In accordance with the Social Security (Scotland) 2018 Act, a draft of these Regulations 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 uprate devolved social security assistance was provided to the Social Justice and Social Security Committee and the Scottish Commission on Social Security (SCoSS) to allow them to engage on the proposed uprating policy. The analytical report was prepared to provide a detailed review of relevant inflation measures to inform the options available to uprate devolved social security assistance. The Policy Paper set out the Scottish Government's proposed approach to uprating and recommended the use of the September Consumer Price Index with the payment rounded to the nearest multiple of 5 pence.

The section 86A report: duty to consider effects of inflation² was published following the Scottish Budget. This provided the Social Justice and Social Security Committee and the SCoSS with the approach to uprating for the 2022-23 financial year.

These Regulations were also scrutinised by the SCoSS as required under section 97 of the 2018 Act. The SCoSS board members were provided with the draft Regulations and their report on the Regulations was received on XX date and contained X recommendations. Their report was also laid before the Scottish Parliament and published online. The Scottish Government's response to the SCoSS's report will be published at the same time as these draft Regulations are laid in the Scottish Parliament.

There has been no specific consultation with stakeholders on the amendments to The Welfare Foods (Best Start Foods) (Scotland) Regulations 2019. However, as part of the policy development work for Best Start Foods, the Scottish Government consulted and engaged with a range of stakeholders. As required under section 13(2) of the Social Security Act 1988 we have consulted with the National Assembly for Wales.

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 Assistance³, Young Carer Grant⁴, Child Disability Payment, Adult Disability Payment and Scottish Child Payment, and Child Winter Heating Assistance⁵. 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, Child Disability Payment⁶, Adult Disability Payment⁷, Young Carer Grant, Funeral Support Payment and Child Winter Heating Assistance⁸ ensures that the assistance people are eligible for in 2022-23 at least keeps pace with inflation, then it is considered that there is no significant impact on the private, voluntary or public sector.

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

² TBC

³ <https://www.gov.scot/publications/consultation-funeral-expense-assistance-regulations/pages/8/>

⁴ <https://www.gov.scot/publications/consultation-young-carer-grant-regulations/pages/8/>

⁵ [The Winter Heating Assistance for Children and Young People \(Scotland\) Regulations 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)

⁶ [The Disability Assistance for Children and Young People \(Scotland\) Regulations 2021 \(legislation.gov.uk\)](https://legislation.gov.uk)

⁷ TBC

⁸ [The Winter Heating Assistance for Children and Young People \(Scotland\) Regulations 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)

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 Memorandum⁹ 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 uprating and recognises that the methodology of uprating 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 uprating could result in additional pressures on the Scottish Budget.

Scottish Child Payment, Young Carer Grant and Child Winter Heating Assistance are new forms of assistance, therefore there is no funding transfer from the UK government and the cost of these and the uprating increase will be met from the existing Scottish Budget. The Funeral Support Payment is not uprated annually by inflation in England and Wales and therefore the cost of the uprating increase will be met from the existing Scottish Budget. The cost of the increase is included in the benefit expenditure forecasts set out in the Scottish Fiscal Commission Economic and Fiscal Forecasts December 2021¹⁰.

For the amendments to The Welfare Foods (Best Start Foods) (Scotland) Regulations 2019 the Scottish Fiscal Commission said in their December forecast publication that the cost of this measure is below their materiality threshold.

Scottish Government
Social Security Directorate
XX January 2022

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[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)

¹⁰ Forecasts | Scottish Fiscal Commission