

Draft Order laid before the Scottish Parliament under sections 150(2) and 150A(2A) of the Social Security Administration Act 1992 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

SOCIAL SECURITY

The Social Security Up-rating (Scotland) Order 2021

Made - - - - 2021
Coming into force in accordance with regulation 1(2),
(3) and (4)

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 150(9), 150A(6), and 189(1) and (4) of the Social Security Administration Act 1992⁽¹⁾ and all other powers enabling them to do so.

As required by section 150(1)(a)(i)⁽²⁾, 150(1)(b) and 150(1)(o)⁽³⁾ of the Social Security Administration Act 1992, the Scottish Ministers have made a review and it appeared to the Scottish Ministers that the general level of prices was greater at the end of the period under review than it was at the beginning of the period.

As required by section 150A(1)(c)⁽⁴⁾ of that Act, the Scottish Ministers have also made a review and it appeared to the Scottish Ministers that the general level of earnings was no greater at the end of the period under review than it was at the beginning of the period and the Scottish Ministers consider

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- (1) 1992 c.5. The function of making an order to up-rate or restate the rate of carers', disability and industrial injuries benefits transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46) as read with sections 22(2) and 32 of the Scotland Act 2016 (c.11). Section 22(2) of that Act inserted exceptions into the social security reservation in Head F1 of Part 2 of Schedule 5 of the Scotland Act 1998 relating to carers', disability and industrial injuries benefits. Section 22(2) was brought into force on 17th May 2017 by S.I. 2017/455, subject to transitional arrangements set out in S.I. 2017/444 which provided that pre-commencement functions would not transfer to the Scottish Ministers until the occurrence of a specified event or date. The transitional arrangements in respect of carers' benefits were ended by the commencement of section 81 of the Social Security (Scotland) Act 2018 (asp 9) on 3rd September 2018 (see S.S.I. 2018/250). The transitional arrangements in respect of disability benefits and industrial injuries benefits ended on 31st March 2020 (see regulation 4 of S.I. 2017/444). Accordingly, in so far as the functions under sections 150 and 150A are exercisable within devolved competence for various benefits, they are now exercisable by the Scottish Ministers instead of by the Secretary of State. Section 189(1) of the Social Security Administration Act 1992 (c.5) was amended by paragraph 109(a) of schedule 7, and schedule 8, of the Social Security Act 1998 (c.14) ("the 1998 Act"), paragraph 57 of schedule 3 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and schedule 6 of the Tax Credits Act 2002 (c.21). Section 189(4) was amended by section 86, paragraph 109(c) of schedule 7, and schedule 8 of the 1998 Act and article 4 and Part 1 of the schedule of S.I. 2013/252.
- (2) A new section 150(1)(a)(i) was substituted by section 6(1) and (2)(a) of the Pensions Act 2007 (c.22).
- (3) Section 150(1)(o) was amended by paragraph 17 of schedule 9 of the Welfare Reform Act 2012 (c.5).
- (4) Section 150A was inserted by section 5(1) of the Pensions Act 2007 (c.22) and amended by paragraphs 8, 19 and 82 of Schedule 12 of the Pensions Act 2007 and S.I. 2014/2888. Section 150A of the Social Security Administration Act 1992 was modified by section 1 of the Social Security (Up-rating of Benefits) Act 2020 (c.23) to include, by inserting subsection (2A), the discretion to increase the amounts referred to in section 150A(1). Section 1 of that Act also inserted subsection (2B) into section 150A of the Social Security Administration Act 1992 which allows, where provision in respect of the amounts referred to in subsection (1)(c) is within the legislative competence of the Scottish Parliament, for references in that subsection to the Secretary of State to be treated as a reference to the Scottish Ministers, and the references to Parliament to be treated as references to the Scottish Parliament.

it appropriate having regard to the national economic situation and other matters which the Scottish Ministers consider relevant to increase the amounts referred to in section 150A(1)(c) of that Act.

In accordance with sections 150(2) and 150A(2A)(5) of that Act a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

- 1.—(1) This Order may be cited as the Social Security Up-rating (Scotland) Order 2021.
- (2) Subject to paragraphs (3) and (4), this Order comes into force on 1 April 2021.
- (3) Article 2 comes into force, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 1 April 2021.
- (4) Articles 3, 4, 5, 6(1)(b), 7, 8 and 9 come into force on 12 April 2021.
- (5) In this Order—
 - “the 1992 Act” means the Social Security Contributions and Benefits Act 1992, and
 - “benefit week” has the same meaning as in regulation 2(1) of the Social Security Benefit (Computation of Earnings) Regulations 1996(6).

Mandatory restatement of earnings limits

2. In section 80(4)(7) of the 1992 Act (earnings limits in respect of child dependency increases)—
 - (a) “£245.00”, in both places where it occurs, remains unchanged, and
 - (b) “£33.00” remains unchanged.

Rate of attendance allowance and date on which changes take effect

- 3.—(1) In the table in Part III of schedule 4 (non-contributory periodical benefits) of the 1992 Act—
 - (a) in paragraph (a) in the third column of entry 1 (which specifies the higher weekly rate of attendance allowance)(8), for “£89.15” substitute “£89.60”, and
 - (b) in paragraph (b) in the third column of entry 1 (which specifies the lower weekly rate of attendance allowance), for “£59.70” substitute “£60.00”.
- (2) The increases made by paragraph (1) take effect on 12 April 2021.

Rate of severe disablement allowance and age related addition and date on which changes take effect

- 4.—(1) In the table in Part III of schedule 4 (non-contributory periodical benefits) of the 1992 Act—

(5) Section 150A(2A) was inserted by section 1(a) of the Social Security (Up-rating of Benefits) Act 2020 (c.23). Section 1(a) of that Act also inserted section 150A(2B) of the Social Security Administration Act 1992 which allows, where provision in respect of the amounts referred to in subsection (1)(c) is within the legislative competence of the Scottish Parliament, for references in section 150A(2A) to the Secretary of State to be treated as a reference to the Scottish Ministers, and the references to Parliament to be treated as references to the Scottish Parliament.

(6) S.I. 1996/2745. Regulation 2(1) is relevantly amended by S.I. 2016/267 and S.I. 1999/3178.

(7) Section 80 was repealed by paragraph 6 of schedule 6 of the Tax Credits Act 2002 (c.21). Article 3 of S.I. 2003/938 saves the repealed provision in certain circumstances. Relevant amending instrument is S.I. 2020/234.

(8) Entry 1 is relevantly amended by S.I. 2020/234.

- (a) in the third column of entry 2(9) (which specifies the weekly rate of severe disablement allowance), for “£80.85” substitute “£81.25”, and
 - (b) in the third column of entry 3(10)—
 - (i) in paragraph (a) (which specifies the higher weekly rate of the age related addition), for “£12.10” substitute “£12.15”,
 - (ii) in paragraph (b) (which specifies the middle weekly rate of the age related addition), for “£6.70” substitute “£6.75”, and
 - (iii) in paragraph (c) (which specifies the lower weekly rate of the age related addition), for “£6.70” substitute “£6.75”.
- (2) The increases made by paragraph (1) take effect on 15 April 2021.

Mandatory restatement and increase of rates of carer’s allowance and date on which changes take effect

- 5.—(1) In schedule 4 (rates of benefits) of the 1992 Act—
- (a) in the third column of entry 4 of the table in Part III (which specifies the weekly rate of carer’s allowance)(11), for “£67.25” substitute “£67.60”, and
 - (b) in the second column of entry 9 of the table in Part IV (which specifies the weekly rate of increase for qualifying child)(12), “£11.35” remains unchanged.
- (2) The increases made by paragraph (1) take effect on 12 April 2021, subject to paragraph (3).
- (3) Where arrangements have been made by or on behalf of the Scottish Ministers for carer’s allowance to be paid on a Wednesday, the increase takes effect on 14 April 2021.

Mandatory restatement and increase of rates for dependants payable with severe disablement allowance and date on which change takes effect

- 6.—(1) In entry 8 of the table in Part IV of schedule 4 (increases for dependants)(13) of the 1992 Act—
- (a) in the second column (which specifies the increase for qualifying child for severe disablement allowance), “£11.35” remains unchanged, and
 - (b) in the third column (which specifies the increase for adult dependant for severe disablement allowance), for “£39.75” substitute “£39.95”.
- (2) The increase made by paragraph (1)(b) takes effect on 15 April 2021.

Rate of industrial injuries disablement benefit and industrial death benefit and date on which changes take effect

- 7.—(1) The sums specified in Part V of schedule 4(14) (rates of industrial injuries benefit) of the 1992 Act are increased so that Part V has effect as set out in the schedule of this Order.
- (2) The increases made by paragraph (1) take effect on 12 April 2021 except those set out in—
- (a) entry 1 in the table set out in the schedule (the weekly rates of disablement pension),

(9) Entry 2 is relevantly amended by [S.I. 2020/234](#).

(10) Entry 3 is relevantly amended by [S.I. 2020/234](#).

(11) Entry 4 is amended by [S.I. 2014/516](#), [S.I. 2020/298](#) and [S.S.I. 2020/116](#).

(12) Entry 9 is amended by [S.S.I. 2019/102](#).

(13) Entry 8 is relevantly amended by [S.I. 2019/480](#).

(14) Part V of schedule 4 is relevantly amended by section 65(2) and (3) and of the Welfare Reform Act 2012 (c.5), paragraph 15(3) of schedule 1 of the Child Benefit Act 2005 (c.6), [S.I. 2012/780](#), [S.I. 2014/516](#), [S.I. 2018/281](#) and [S.I. 2019/480](#).

- (b) entry 4 in the table set out in the schedule (the maximum of the aggregate of weekly benefit payable for successive accidents under section 107(1) of the 1992 Act),
 - (c) entries 7, 8 and 12 in the table set out in the schedule (increases in disablement pension and industrial death benefit in respect of dependants),
 - (d) entry 9 in the table set out in the schedule (the maximum disablement gratuity under paragraph 9(2) of schedule 7 of the 1992 Act), and
 - (e) entries 10 and 11 in the table set out in the schedule (industrial death benefit by way of widow's and widower's pension),
- which take effect on 14 April 2021.

Rate of disability living allowance

8. In regulation 4 (rate of benefit) of the Social Security (Disability Living Allowance) Regulations 1991**(15)**—

- (a) in paragraph (1)(a), for “£89.15” substitute “£89.60”,
- (b) in paragraph (1)(b), for “£59.70” substitute “£60.00”,
- (c) in paragraph (1)(c), for “£23.60” substitute “£23.70”,
- (d) in paragraph (2)(a), for “£62.25” substitute “£62.55”, and
- (e) in paragraph (2)(b), for “£23.60” substitute “£23.70”.

Rate of personal independence payment

9. In regulation 24 of the Social Security (Personal Independence Payment) Regulations 2013**(16)** (rate of personal independence payment)—

- (a) in paragraph (1)(a), for “£59.70” substitute “£60.00”,
- (b) in paragraph (1)(b), for “£89.15” substitute “£89.60”,
- (c) in paragraph (2)(a), for “£23.60” substitute “£23.70”, and
- (d) in paragraph (2)(b), for “£62.25” substitute “£62.55”.

St Andrew's House,
 Edinburgh
 Date

Name
 A member of the Scottish Government

(15) S.I. 1991/2890. Regulation 4 is relevantly amended by S.I. 1993/1939 and S.I. 2020/234.

(16) S.I. 2013/377. Regulation 24 is relevantly amended by S.I. 2020/234.

SCHEDULE

Article 7

INCREASES TO PART V OF SCHEDULE 4 OF THE 1992 ACT

Table 1

<i>Description of benefit, etc.</i>	<i>Rate</i>	
1. Disablement pension (weekly rates).	For the several degrees of disablement set out in column (1) of the following Table, the respective amounts in column (2) of that Table.	
	<i>Degree of disablement</i>	<i>Amount</i>
	<i>(1)</i>	<i>(2)</i>
	<i>Percent</i>	<i>£</i>
	100	182.90
	90	164.61
	80	146.32
	70	128.03
	60	109.74
	50	91.45
	40	73.16
	30	54.87
	20	36.58
2. Maximum increase of weekly rate of (a) disablement pension where constant attendance needed.	except in cases of exceptionally severe disablement	£73.20
	(b) in any case	£146.40
3. Increase of weekly rate of disablement pension (exceptionally severe disablement).		£73.20
4. Maximum of aggregate of weekly benefit payable for successive accidents.		£182.90
5. Unemployability supplement under paragraph 2 of Schedule 7.		£113.10
6. Increase under paragraph 3 of Schedule 7 of weekly rate of unemployability supplement.	(a) if on the qualifying date the beneficiary was under the age of 35 or if that date fell before 5th July 1948	£23.40
	(b) if head (a) above does not apply and on the qualifying date the beneficiary was under the age of 40 and had not	£23.40

<i>Description of benefit, etc.</i>	<i>Rate</i>
	attained pensionable age before 6th April 1979
	(c) if heads (a) and (b) above do not apply and on the qualifying date the beneficiary was under the age of 45
	(d) if heads (a), (b) and (c) above do not apply and on the qualifying date the beneficiary was under the age of 50 and had not attained pensionable age before 6th April 1979
	(e) in any other case
7. Increase under paragraph 4 of Schedule 7 of weekly rate of disablement pension.	£11.35
8. Increase under paragraph 6 of Schedule 7 of weekly rate of disablement pension.	£67.60
9. Maximum disablement gratuity under paragraph 9 of Schedule 7.	£12,140.00
10. Widow's pension (weekly rates).	(b) higher permanent rate £137.60
	(c) lower permanent rate
	30 per cent of the first sum specified in section 44(4) (Category A basic retirement pension)
	(the appropriate rate being determined in accordance with paragraph 16 of schedule 7)
11. Widower's pension (weekly rate).	£137.60
12. Weekly rate of allowance in respect of children and qualifying young persons under paragraph 18 of schedule 7.	In respect of each child or qualifying young person £11.35

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. The Order comes into force on 1 April 2021. Article 2 comes into force on the first day of the first benefit week to commence for a particular beneficiary on or after 1 April 2021. Articles 3, 4, 5, 6(1)(b), 7, 8 and 9 come into force on 12 April 2021. Articles 3, 4, 5, 6 and 7 set out the dates on which the increases take effect.

Articles 2, 5 and 6 provide for a mandatory re-statement of amounts of payments which are not to be increased. These give effect to the requirement in section 150(2)(c) of the Social Security Administration Act 1992 to re-state amounts of payments that are not being increased.

Article 2 provides solely for the mandatory restatement of the earnings limits which relate to child dependency increase. This is an additional payment payable to a recipient of carer's allowance who is entitled to receive child benefit in relation to a child or children. It is payable only to those with transitional protection. Child dependency increase was abolished by section 1(3)(e) and schedule 6 of the Tax Credits Act 2002 but saved for transitional cases by article 3 of the Tax Credits Act 2002 (Commencement No. 3 and Transitional Provisions and Savings) Order 2003. Given that child benefit is payable, in certain circumstances, until a child reaches the age of 20, child dependency increase is potentially payable until 2023.

Article 3 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 4 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 5 amends Part III and Part IV of schedule 4 of the 1992 Act to provide for the increase in the weekly rate of carer's allowance. It also restates the weekly rate of carer's allowance increase for a qualifying child.

Article 6 amends Part IV of schedule 4 of the 1992 Act to increase the rates for adult dependants payable with severe disablement allowance. It also restates the rate of increase for a qualifying child.

Article 7 amends Part V of schedule 4 of the 1992 Act to increase various weekly rates of industrial injuries benefit and industrial death benefit, as set out in the table below.

Article 8 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 9 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.

<i>Description of benefit, etc.</i>	<i>Rate</i>	
1. Disablement pension (weekly rates).	For the several degrees of disablement set out in column (1) of the following Table, the respective amounts in column (2) of that Table.	
	<i>Degree of disablement</i>	<i>Amount</i>
	<i>(1)</i>	<i>(2)</i>
	<i>Percent</i>	<i>£</i>
	100	Increases from £182 to £182.90
	90	Increases from £163.80 to £164.61
	80	Increases from £145.60 to £146.32
	70	Increases from £127.40 to £128.03
	60	Increases from £109.20 to £109.74
	50	Increases from £91 to £91.45
	40	Increases from £72.80 to £73.16
	30	Increases from £54.60 to £54.87
	20	Increases from £36.40 to £36.58
2. Maximum increase of weekly rate of disablement pension where constant attendance needed.	(a) except in cases of exceptionally severe disablement	increases from £72.80 to £73.20
	(b) in any case	increases from £145.60 to £146.40
3. Increase of weekly rate of disablement pension (exceptionally severe disablement).		Increases from £72.80 to £73.20
4. Maximum of aggregate of weekly benefit payable for successive accidents.		Increases from £182 to £182.90
5. Unemployability supplement under paragraph 2 of Schedule 7		Increases from £112.55 to £113.10

<i>Description of benefit, etc.</i>	<i>Rate</i>	
6. Increase under paragraph 3 of Schedule 7 of weekly rate of unemployability supplement.	(a) if on the qualifying date the beneficiary was under the age of 35 or if that date fell before 5th July 1948	increases from £23.30 to £23.40
	(b) if head (a) above does not apply and on the qualifying date the beneficiary was under the age of 40 and had not attained pensionable age before 6th April 1979	increases from £23.30 to £23.40
	(c) if heads (a) and (b) above do not apply and on the qualifying date the beneficiary was under the age of 45	increases from £14.90 to £15.00
	(d) if heads (a), (b) and (c) above do not apply and on the qualifying date the beneficiary was under the age of 50 and had not attained pensionable age before 6th April 1979	increases from £14.90 to £15.00
	(e) in any other case	increases from £7.45 to £7.50
7. Increase under paragraph 4 of Schedule 7 of weekly rate of disablement pension.		£11.35 remains the same
8. Increase under paragraph 6 of Schedule 7 of weekly rate of disablement pension.		Increases from £67.25 to £67.60
9. Maximum disablement gratuity under paragraph 9 of Schedule 7.		Increases from £12,080 to £12,140
10. Widow's pension (weekly rates).	(b) higher permanent rate	increases from £134.25 to £137.60
	(c) lower permanent rate 30 per cent of the first sum specified in section 44(4)	

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Social Security Up-rating (Scotland) Order 2021 No. 169

<i>Description of benefit, etc.</i>	<i>Rate</i>
	(Category A basic retirement pension) (the appropriate rate being determined in accordance with paragraph 16 of schedule 7)
11. Widower's pension (weekly rate).	Increases from £134.25 to £137.60
12. Weekly rate of allowance in respect of children and qualifying young persons under paragraph 18 of schedule 7.	In respect of each child or qualifying young person £11.35 remains the same.