

Draft Order laid before the Scottish Parliament under sections 150(2), 150A(2) and 190(1) of the Social Security Administration Act 1992, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

SOCIAL SECURITY

The Social Security Up-rating (Scotland) Order 2023

*Made - - - - 2023
Coming into force in accordance with article 1(2), (3)
and (4)*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 150(9) and 150A(6) 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 that Act, the Scottish Ministers have carried out a review and it appeared to them 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 carried out a review and it appeared to them that the general level of earnings was greater at the end of the period under review than it was at the beginning of the period.

In accordance with sections 150(2), 150A(2) and 190(1)(a)(5) of that Act a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

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- (1) 1992 c. 5. The function of making an order to up-rate or re-state the rate of carer's, 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 carer's, disability and industrial injuries benefits. Section 22(2) was brought into force on 17 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 carer's benefits were ended by the commencement of section 81 of the Social Security (Scotland) Act 2018 (asp 9) on 3 September 2018 (see S.S.I. 2018/250). The transitional arrangements in respect of disability benefits and industrial injuries benefits ended on 31 March 2020 (see regulation 4 of S.I. 2017/444). Accordingly, in so far as the functions under sections 150 and 150A of the Social Security Administration Act 1992 (c. 5) ("the Administration Act") are exercisable within devolved competence for various benefits, they are now exercisable by the Scottish Ministers instead of by the Secretary of State. Subsections (1) and (4) of section 189 of the Administration Act make provision about the exercise of the powers conferred by that Act. Section 189(1) of that Act is 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) of the Administration Act is 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) Section 150(1)(a)(i) is substituted by section 6(2)(a) of the Pensions Act 2007 (c. 22).
- (3) Section 150(1)(o) is amended by paragraph 17 of schedule 9 of the Welfare Reform Act 2012 (c. 5).
- (4) Section 150A is inserted by section 5(1) of the Pensions Act 2007 and amended by paragraphs 8, 19 and 82 of schedule 12 of that Act and S.I. 2014/2888.
- (5) Section 190(1)(a) is amended by paragraph 27 of schedule 12 of the Pensions Act 2014 (c. 19).

Citation, commencement and interpretation

- 1.—(1) This Order may be cited as the Social Security Up-rating (Scotland) Order 2023.
- (2) Subject to paragraphs (3) and (4), this Order comes into force on 1 April 2023.
- (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 2023.
- (4) Articles 3, 4, 5, 6(1)(b), 7, 8 and 9 come into force on 10 April 2023.
- (5) In this Order—
- “the 1992 Act” means the Social Security Contributions and Benefits Act 1992(6),
- “benefit week” has the same meaning as in regulation 2(1) of the Social Security Benefit (Computation of Earnings) Regulations 1996(7).

Earnings limits

2. In section 80(4) of the 1992 Act(8) (earnings limits in respect of child dependency increases)—
- (a) for “£255.00”, in both places where it occurs, substitute “£280.00”,
- (b) for “£34.00” substitute “£37.00”.

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(9)—
- (a) in paragraph (a) of entry 1 (higher weekly rate of attendance allowance), for “£92.40” substitute “£101.75”,
- (b) in paragraph (b) of entry 1 (lower weekly rate of attendance allowance), for “£61.85” substitute “£68.10”.
- (2) The increases made by paragraph (1) take effect on 10 April 2023.

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(10)—
- (a) in entry 2 (weekly rate of severe disablement allowance), for “£83.75” substitute “£92.20”,
- (b) in entry 3—
- (i) in paragraph (a) (higher weekly rate of the age related addition), for “£12.55” substitute “£13.80”,
- (ii) in paragraph (b) (middle weekly rate of the age related addition), for “£6.95” substitute “£7.65”,
- (iii) in paragraph (c) (lower weekly rate of the age related addition), for “£6.95” substitute “£7.65”.

(6) 1992 c. 4.

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

(8) 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. Section 80(4) is relevantly and most recently amended by S.S.I. 2022/128.

(9) Entry 1 is relevantly and most recently amended by S.S.I. 2022/128.

(10) Entries 2 and 3 are relevantly and most recently amended by S.S.I. 2022/128.

(2) The increases made by paragraph (1) take effect on 10 April 2023.

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⁽¹¹⁾—

- (a) in entry 4 of the table in Part III (weekly rate of carer’s allowance), for “£69.70” substitute “£76.75”,
- (b) in the second column of entry 9 of the table in Part IV (increase for qualifying child for carer’s allowance), “11.35” remains unchanged.

(2) The increase made by paragraph (1)(a) takes effect on 10 April 2023, 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 12 April 2023.

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)⁽¹²⁾ of the 1992 Act—

- (a) in the second column (increase for qualifying child for severe disablement allowance), “11.35” remains unchanged,
- (b) in the third column (increase for adult dependant for severe disablement allowance), for “£41.20” substitute “45.35”.

(2) The increase made by paragraph (1)(b) takes effect on 13 April 2023.

Rates of industrial injuries benefit and date on which changes take effect

7.—(1) The sums specified in Part V of schedule 4⁽¹³⁾ (rates of industrial injuries benefit) of the 1992 Act are amended 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 10 April 2023 except those set out in the following entries in the schedule—

- (a) entry 1 (the weekly rates of disablement pension),
- (b) entry 4 (the maximum of aggregate of weekly benefit payable for successive accidents under section 107(1) of the 1992 Act),
- (c) entries 7, 8 and 12 (increases in disablement pension and industrial death benefit in respect of dependants),
- (d) entry 9 (the maximum disablement gratuity under paragraph 9(2) of schedule 7 of the 1992 Act),
- (e) entries 10 and 11 (the weekly rates of industrial death benefit by way of widow’s and widower’s pension),

which take effect on 12 April 2023.

⁽¹¹⁾ Entry 4 of the table in Part III of schedule 4 of the 1992 Act is relevantly amended by [S.I. 2002/1457](#) and [S.I. 2014/516](#) and most recently amended by [S.S.I. 2022/128](#) and entry 9 of that table in the Part IV of that schedule is relevantly and most recently amended by [S.S.I. 2019/102](#).

⁽¹²⁾ Entry 8 is relevantly amended by [S.S.I. 2022/128](#).

⁽¹³⁾ Part V of schedule 4 is relevantly amended by section 65(2) and (3) of the Welfare Reform Act 2012 (c. 5), paragraph 15(3) of schedule 1 of the Child Benefit Act 2005 (c. 6) and [S.S.I. 2022/128](#).

Rate of disability living allowance

8. In regulation 4 (rate of benefit) of the Social Security (Disability Living Allowance) Regulations 1991(**14**)—

- (a) in paragraph (1)(a), for “£92.40” substitute “£101.75”,
- (b) in paragraph (1)(b), for “£61.85” substitute “£68.10”,
- (c) in paragraph (1)(c), for “£24.45” substitute “£26.90”,
- (d) in paragraph (2)(a), for “£64.50” substitute “£71.00”,
- (e) in paragraph (2)(b), for “£24.45” substitute “£26.90”.

Rate of personal independence payment

9. In regulation 24 (rate of personal independence payment) of the Social Security (Personal Independence Payment) Regulations 2013(**15**)—

- (a) in paragraph (1)(a), for “£61.85” substitute “£68.10”,
- (b) in paragraph (1)(b), for “£92.40” substitute “£101.75”,
- (c) in paragraph (2)(a), for “£24.45” substitute “£26.90”,
- (d) in paragraph (2)(b), for “£64.50” substitute “£71.00”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(14) S.I. 1991/2890. Regulation 4 is relevantly amended by S.I. 1993/1939 and S.S.I. 2022/128.

(15) S.I. 2013/377. Regulation 24 is relevantly amended by S.S.I. 2022/128.

SCHEDULE

Article 7

INCREASES TO PART V OF SCHEDULE 4 OF THE 1992 ACT

<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	207.60
	90	186.84
	80	166.08
	70	145.32
	60	124.56
	50	103.80
	40	83.04
	30	62.28
	20	41.52
2. Maximum increase of weekly rate of disablement pension where constant attendance needed.	(a) except in cases of exceptionally severe disablement	£83.10
	(b) in any case	£166.20
3. Increase of weekly rate of disablement pension (exceptionally severe disablement).		£83.10
4. Maximum of aggregate of weekly benefit payable for successive accidents.		£207.60
5. Unemployability supplement under paragraph 2 of schedule 7.		£128.40
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	£26.60
	(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	£26.60

<i>Description of benefit, etc.</i>	<i>Rate</i>
	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 £17.10
	(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 £17.10
	(e) in any other case £8.55
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.	£76.75
9. Maximum disablement gratuity under paragraph 9 of schedule 7.	£13,780.00
10. Widow's pension (weekly rates).	(b) higher permanent rate £156.20
	(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).	£156.20
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. 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 2023. Articles 3, 4, 5, 6(1)(b), 7, 8 and 9 come into force on 10 April 2023. All other articles in this order come into force on 1 April 2023. Articles 3, 4, 5, 6 and 7 set out the dates on which certain increases take effect.

Articles 5 and 6 include mandatory re-statements 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 amends section 80(4) of the Social Security Contributions and Benefits Act 1992 ("the 1992 Act") to provide increases in 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 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 re-states 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 re-states the rate of increase for a qualifying child.

Article 7 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 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.