
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

SOCIAL SECURITY

The Carer's Allowance Up-rating (Scotland) Order 2020

Made - - - - 2020

Coming into force - - 6th April 2020

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

As required by section 150(1)(a)(i)(b) of that Act, 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.

In accordance with section 150(2) 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 Carer's Allowance Up-rating (Scotland) Order 2020 and comes into force on 6 April 2020.

(2) In this Order "the 1992 Act" means the Social Security Contributions and Benefits Act 1992(c).

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- (a) 1992 c.5. The function of making an order to up-rate carer's allowance was transferred to the Scottish Ministers on commencement of section 81 of the Social Security (Scotland) Act 2018 (asp 9), dealing with carer's allowance supplement. This is in terms of regulation 4 of the Scotland Act 2016 (Transitional) Regulations 2017 (S.I. 2017/444), which causes section 53(1) and (2) of the Scotland Act 1998 (c.46) to have effect on commencement of a provision which relies on the exception in relation to carer's benefits in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998. Section 81 was commenced on 3 September 2018 by regulation 2 of S.S.I. 2018/250. Accordingly, responsibility for the exercise of the functions exercisable by the Secretary of State for Work and Pensions in relation to carer's allowance as provided for under section 70 of the Social Security Contributions and Benefits Act 1992 (c.4) has transferred to the Scottish Ministers as regards provision of carer's allowance to people residing in Scotland. The function of up-rating carer's allowance, and the additional payments of adult dependency increase and child dependency increase, under section 150(9) of the Social Security (Administration) Act 1992 (c.5) also transferred to the Scottish Ministers on that date. Given the transfer is via section 53 of the Scotland Act 1998, the need to obtain Treasury Consent to the making of the Order is removed, by section 55 of that Act. 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.
- (b) A new section 150(1)(a)(i) was substituted by section 6(1) and (2)(a) of the Pensions Act 2007 (c.22). The function, under section 150(1)(a)(i), of reviewing the sums referred to in article 2 falls within the responsibility for carer's allowance which has transferred to the Scottish Ministers.
- (c) 1992 c.4.

Rate of carer’s allowance and date on which change takes effect

2.—(1) In the third column of paragraph 4(a) of the table in Part III of schedule 4 of the 1992 Act (which specifies the weekly rate of carer’s allowance), for “£66.15” substitute “£67.25”.

(2) The amendment made by paragraph (1) takes effect on 6 April 2020, 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 amendment takes effect on 8 April 2020.

Rate of increase for qualifying child

3. In the second column of paragraph 9 of the table in Part IV of schedule 4 of the 1992 Act (which specifies the weekly rate of increase for qualifying child), the weekly rate remains at £11.35.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(a) Paragraph 4 was relevantly amended by S.I. 2002/1457 and S.S.I. 2019/102.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order provides for an increase in the weekly rate of payment of carer's allowance.

Article 3 makes clear that the weekly rate of child dependency increase remains unaltered. This gives effect to the requirement in section 150(2)(c) of the Social Security Administration Act 1992 (c.5) to re-state amounts that are not being increased. Child dependency increase 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 (c.21) but saved for transitional cases by article 3 of the Tax Credits Act 2002 (Commencement No. 3 and Transitional Provisions and Savings) Order 2003 (S.I. 2003/938). 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.

The transitional arrangement for payment of adult dependency increase came to an end for all cases on 5 April 2020^(a). No business and regulatory impact assessment has been prepared for this Order as no impact upon business, charities or voluntary bodies is foreseen.

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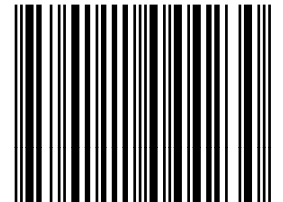
(a) See section 15(2) of the Welfare Reform Act 2009 (c.24). Adult dependency increase, provided for in paragraph 9 of the table in Part IV of schedule 4 of the Social Security Contributions and Benefits Act 1992, read with section 90, was an additional payment payable to a recipient of carer's allowance where the person receiving carer's allowance lived with a dependent who was an adult.

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