

*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.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**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<sup>(1)</sup> and all other powers enabling them to do so.

As required by section 150(1)(a)(i)<sup>(2)</sup>, 150(1)(b) and 150(1)(o)<sup>(3)</sup> 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)<sup>(4)</sup> 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.

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(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.