

POLICY NOTE

THE SOCIAL SECURITY (UP-RATING) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2023

SSI 2023/XXX

The above instrument will be made in exercise of the powers conferred by section 28(2), 30(2), 31(2), 32(2), 34(2) and 95 of the Social Security (Scotland) Act 2018 ('the 2018 Act'), sections 70(8) and 90 of the Social Security Contributions and Benefits Act 1992 and section 13 of the Social Security Benefits Act 1988. Some of the amendments made by this instrument can be made under the negative procedure and others require to be made under the affirmative procedure, so the instrument is subject to the affirmative procedure. For the purposes of this note, the instrument will be referred to as the '2023 Regulations'.

Purpose of the instrument

The 2023 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 certain existing forms of assistance, and under section 86B to bring forward legislation to increase the amount of Child Disability Payment, Adult Disability 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, Best Start Grants, Best Start Foods, Child Winter Heating Assistance and Winter Heating Payment are also increased by 10.1%.

After considering the effects of inflation, the Scottish Ministers have decided to increase Funeral Support Payment, Young Carer Grant, Best Start Grant, Best Start Foods, Child Winter Heating Assistance and Winter Heating Payment by 10.1%, which is the September 2022 Consumer Price Index (CPI) rate. Adult Disability Payment and Child Disability Payment are also increased by 10.1%, in line with equivalent benefits still administered by DWP under agency agreement to avoid creating a two-tier system. Scottish Child Payment has been increased to £25 per week in November 2022, which is an above-inflation increase of 25%. The 2023 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 transitional rate of Adult Disability Payment payable under the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022,
- The amount of Best Start Grant 1) Pregnancy and Baby Payment (1st Child Payment), 2) Pregnancy and Baby Payment (Subsequent Child Payment & Extra Payment for Twins/Triplets), 3) Early Learning Payment and 4) School Age Payment payable under the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018,
- The amount of Best Start Foods payable under the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019,
- the Child Winter Heating Assistance payable under the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020, and
- The Winter Heating Payment, for which Regulations which came into force on 25 January 2023.

The increases to Young Carers Grant, Funeral Support Payment, Best Start Grants, Child Winter Heating Assistance and Winter Heating Payment come into effect on 1 April 2023. The increases to Best Start Foods will come into effect on 3 April 2023. The increases to Child Disability Payment and Adult Disability Payment come into effect on 10 April 2023.

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 .

Lastly, the opportunity has also been taken through these regulations to make amendments to the Social Security (Invalid Care Allowance) Regulations 1976 and the Social Security Benefit (Dependency) Regulations 1977. These amendments are made by exercising the Scottish Ministers' executive competence and make changes to earnings limits used to determine entitlement to carer's allowance and to additional payments payable to carer's allowance recipients, so far as payment is the responsibility of the Scottish Ministers.

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, Child Winter Heating Assistance and Winter Heating Payment, and explain their decision in the report as required under section 86A. This year, Best Start Foods is also included for completeness.

It has been determined that there has been an increase in the general level of prices in the past financial year. Accordingly, the 2023 Regulations are brought forward in reliance on section 31 of the 2018 Act to increase the relevant sums for Adult Disability Payment and Child Disability Payment by 10.1% with the payment rounded to the nearest multiple of 5 pence. Young Carers Grant, Funeral Support Payment, Best Start Grant, Best Start Foods, Child Winter Heating Assistance and Winter Heating Payment are also increased by 10.1%,

through the Regulations brought forward in reliance on section 28, 30, 32 and 34 of the 2018 Act.

The 2023 Regulations provide for a 10.1% increase to the Young Carer Grant payment (from £326.65 to **£359.65**); a 10.1% increase to the Funeral Support Payment of the standard amount that is available towards other funeral costs (from £1,070.60 to **£1,178.75**), a 10.1% 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 £130.65 to **£143.85**) and a 10.1% increase to the Funeral Support Payment of the fee for removing an active implantable medical device from the deceased (from £21.55 to **£23.75**); a 10.1% increase to Child Winter Heating Assistance (from £214.10 to **£235.70**); a 10.1% increase to Winter Heating Payment (from £50.00 to **£55.05**); a 10.1% increase to Best Start Grant Pregnancy and Baby Payment (1st Child Payment) (from £642.35 to **£707.25**), Best Start Grant Pregnancy and Baby Payment (Subsequent Child Payment & Extra Payment for Twins/Triplets) (from £321.20 to **£353.65**), Best Start Grant Early Learning Payment (from £267.65 to **£294.70**) and Best Start Grant School Age Payment (from £267.65 to **£294.70**); a 10.1% increase to Best Start Foods (higher rate from £9.00 to **£9.90** and lower rate from £4.50 to **£4.95**); a 10.1% increase to Child Disability Payment mobility component (higher rate from £64.50 to **£71.00** and lower rate from £24.45 to **£26.90**) and care components (highest rate from £92.40 to **£101.75**, middle rate from £61.85 to **£68.10** and lowest rate from £24.45 to **£26.90**); a 10.1% increase to Adult Disability Payment Daily Living Component (standard rate from £61.85 to **£68.10**, enhanced rate from £92.40 to **£101.75**) and Mobility Component (standard rate from £24.45 to **£26.90** and enhanced rate from £64.50 to **£71.00**) and a 10.1% increase to the transitional rate of Adult Disability Payment (from £24.45 to **£26.90**).

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.

Lastly, the opportunity has also been taken through these regulations to make amendments to the Social Security (Invalid Care Allowance) Regulations 1976 and the Social Security Benefit (Dependency) Regulations 1977. These amendments are made by exercising the Scottish Ministers' executive competence and make changes to earnings limits used to determine entitlement to carer's allowance and to additional payments payable to carer's allowance recipients, so far as payment is the responsibility of the Scottish Ministers.

The Deputy First Minister announced the proposed rates of devolved social security assistance for 2023-24 to the Scottish Parliament during the Scottish Budget on 15 December 2022. 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

Section 97(2) of the Social Security (Scotland) Act 2018 requires Scottish Ministers to inform the Scottish Commission on Social Security (SCoSS) of proposals in the form of draft regulations to meet the scrutiny and consultation process. That section also requires that the Scottish Ministers notify the Scottish Parliament that they have done so. Section 97(9) requires Scottish Ministers to lay a response to the SCoSS report on the proposals for the regulations before the Scottish Parliament. Scottish Ministers can here confirm that a response from SCoSS has been received and that these requirements have been carried out.

The response from Scottish Ministers to the SCoSS report will be laid in the Scottish Parliament along with this policy note.

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 Assistance¹, Young Carer Grant², Child Disability Payment³, Adult Disability Payment⁴, Scottish Child Payment⁵, Best Start Grant⁶, Child Winter Heating Assistance⁷ and Winter Heating Payment⁸. 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 (which came into force in November 2022), Child Disability Payment, Adult Disability Payment, Young Carer Grant, Funeral Support Payment, Best Start Grant and Child Winter Heating Assistance ensures that the assistance people are eligible for in 2023-23 at least keeps pace with inflation, then it is considered that there is no significant impact on the private, voluntary or public sector.

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 equivalents of Funeral Support Payment and Best Start Grant are not uprated annually by inflation in England and Wales and therefore the cost of the uprating increase will be met

¹ <https://www.gov.scot/publications/consultation-funeral-expense-assistance-regulations/pages/8/>

² <https://www.gov.scot/publications/consultation-young-carer-grant-regulations/pages/8/>

³ The Disability Assistance for Children and Young People (Scotland) Regulations 2021 (legislation.gov.uk)

⁴ The Disability Assistance for Working Age People (Scotland) Regulations 2023 (legislation.gov.uk)

⁵ The Scottish Child Payment Regulations 2020 (legislation.gov.uk)

⁶ Section 7 - Impact Assessments - Early years assistance: consultation on the Best Start Grant regulations - gov.scot (www.gov.scot)

⁷ The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 (legislation.gov.uk)

⁸ Winter Heating Payment (Low Income) (Scotland): equality impact assessment - gov.scot (www.gov.scot)

⁹ [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)

from the existing Scottish Budget. The Scottish Fiscal Commission used the September CPI rate of 10.1% and the £25 weekly amount for Scottish Child Payment when producing their forecasts of benefits expenditure which are set out in their Economic and Fiscal Forecasts December 2022¹⁰.

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

January 2023

¹⁰ Scotland's Economic and Fiscal Forecasts | Scottish Fiscal Commission