
STATUTORY INSTRUMENTS

2021 No. 312

SOCIAL SECURITY

The Social Security Benefits Up-rating Regulations 2021

<i>Made</i>	- - - -	<i>at 10.38 a.m. on 15th March 2021</i>
<i>Laid before Parliament</i>		<i>at 4.30 p.m. on 15th March 2021</i>
<i>Coming into force</i>	- -	<i>12th April 2021</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 70(8), 90, 113(1)(a), 122(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1), sections 5(1)(p), 155(3), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(2) and sections 53 and 54(5) of the Pensions Act 2014(3).

These Regulations contain provisions in consequence of an order under sections 150 and 150A(4) of the Social Security Administration Act 1992.

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(5).

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Social Security Benefits Up-rating Regulations 2021 and come into force on 12th April 2021.

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- (1) 1992 c.4. Section 90 was amended by paragraph 26 of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c.30) and by article 2 of, and paragraphs 1 and 2 of the Schedule to, S.I. 2002/1457. Section 90 was repealed by Schedule 6 to the Tax Credits Act 2002 (c.21) (“the 2002 Act”) in respect of child dependency increases, subject to savings by article 3 of S.I. 2003/938. Section 90 was repealed for remaining purposes by sections 15(1)(b) and 58(2)(a) of, and Part 2 of Schedule 7 to, the Welfare Reform Act 2009 (c.24), subject to a saving by section 15(2)(b) of that Act. Section 113(1) was amended by paragraph 38 of Schedule 24 to the Civil Partnership Act 2004 (c.33). Subsections (1) and (4) of section 175 were amended by paragraph 29(2) and (4) respectively of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) (“the 1999 Act”). Section 122(1) is cited for the meaning assigned to the word “prescribed”.
- (2) 1992 c.5. Section 189(1) was amended by section 86 of, and paragraph 109(a) of Schedule 7 and Schedule 8 to, the Social Security Act 1998 (c.14) (“the 1998 Act”), paragraph 57(2) of Schedule 3 to the 1999 Act and Schedule 6 to the 2002 Act. Section 189(4) was amended by section 86 of, and paragraph 109(c) of Schedule 7 and Schedule 8 to, the 1998 Act and article 4 of, and Part 1 of the Schedule to, S.I. 2013/252. Section 189(5) was amended by section 86 of, and paragraph 109(d) of Schedule 7 and Schedule 8 to, the 1998 Act. Section 191 is cited for the meaning assigned to the word “prescribed” and was amended by paragraph 10 of Schedule 5 to the Welfare Reform Act 2007 (c.5).
- (3) 2014 c.19.
- (4) Section 150A was inserted by section 5(1) of the Pensions Act 2007 (c.22).
- (5) Section 173(1)(b) of the Social Security Administration Act 1992 (c.5) provides that proposals in respect of regulations which would otherwise be referable to the Social Security Advisory Committee need not be referred with the agreement of that Committee.

- (2) These Regulations extend to England and Wales and Scotland save for—
- (a) regulation 2, insofar as it applies to a benefit which is devolved under Part 3 of the Scotland Act 2016⁽⁶⁾;
 - (b) regulation 4; and
 - (c) paragraphs (a) to (c) of regulation 6,

which extend to England and Wales only.

(3) In these Regulations, “the Up-rating Order” means the Social Security Benefits Up-rating Order 2021⁽⁷⁾.

Exceptions relating to payment of additional benefit by virtue of the Up-rating Order

2. Section 155(3) of the Social Security Administration Act 1992 (effect of alteration of rates of benefit under Parts 2 to 5 of the Social Security Contributions and Benefits Act 1992) shall not apply if a question arises as to either—

- (a) the weekly rate at which the benefit is payable by virtue of the Up-rating Order, or
- (b) whether the conditions for receipt of the benefit at the altered rate are satisfied,

until that question has been determined in accordance with the provisions of the Social Security Act 1998⁽⁸⁾.

Persons not ordinarily resident in Great Britain

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975⁽⁹⁾ (application of disqualification in respect of up-rating of benefit) and regulation 21 of the State Pension Regulations 2015⁽¹⁰⁾ (entitlement to state pension for overseas residents) shall apply to any additional benefit payable by virtue of the Up-rating Order and to any up-rating increase as defined in section 22(1) of the Pensions Act 2014⁽¹¹⁾ respectively.

Amendment of the Social Security Benefit (Dependency) Regulations 1977

4. In paragraph 2C of Schedule 2 to the Social Security Benefit (Dependency) Regulations 1977⁽¹²⁾ (interpretation) before the definition of “couple” insert—

““child” includes a qualifying young person and “children” includes qualifying young persons;”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

5. In paragraph 4(2A) of Schedule 9 to the Social Security (Claims and Payments) Regulations 1987⁽¹³⁾ (deductions from benefit and direct payment to third parties) for “£26.05”, in each place where it occurs, substitute “£26.20”.

⁽⁶⁾ 2016 c.11.

⁽⁷⁾ S.I. 2021/162.

⁽⁸⁾ 1998 c.14.

⁽⁹⁾ S.I. 1975/563; amending instruments are S.I. 1977/342, 1979/1432, 1989/1642, 1990/621, 1992/1700, 1994/1832, 2000/2876, 2005/1551 and 2877, 2010/788 and 2017/422.

⁽¹⁰⁾ S.I. 2015/173; regulation 21 was inserted by S.I. 2016/199.

⁽¹¹⁾ Relevant amending instrument is S.I. 2016/199.

⁽¹²⁾ S.I. 1977/343. Paragraph 2C was inserted by S.I. 1984/1699; relevant amending instruments are S.I. 2005/2877, 2014/107 and 3229 and 2019/1458.

⁽¹³⁾ S.I. 1987/1968. Sub-paragraph (2A) was inserted by S.I. 2003/2325; relevant amending instruments are S.I. 2013/2536 and 2020/266.

Revocation

6. The Social Security Benefits Up-rating Regulations 2020(**14**) are revoked save for—
- (a) regulation 1(1) and (2);
 - (b) regulation 4; and
 - (c) regulation 5.

Signed by authority of the Secretary of State for Work and Pensions

At 10.38 a.m. on 15th March 2021

Will Quince
Parliamentary Under Secretary of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument contains provisions necessary to give full effect to the 2021 benefits and pensions up-rating exercise.

Regulation 2 provides that where a question has arisen about the effect of the Social Security Benefits Up-rating Order 2021 ([S.I. 2021/162](#)) on a benefit already in payment, the altered rates will not apply until that question is determined by the Secretary of State, the First-tier Tribunal or the Upper Tribunal.

Regulation 3 applies the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975 ([S.I. 1975/563](#)) and regulation 21 of the State Pension Regulations 2015 ([S.I. 2015/173](#)) so as to restrict the application of the increases specified in the Social Security Benefits Up-rating Order 2021 in cases where the beneficiary is not ordinarily resident in Great Britain.

Regulation 4 amends paragraph 2C of Schedule 2 to the Social Security Benefit (Dependency) Regulations 1977 ([S.I. 1977/343](#)), an interpretation provision, to put beyond doubt the fact that child dependency increases paid with a carer's allowance can include an increase for a qualifying young person.

Regulation 5 increases from £26.05 to £26.20 the amount allowed for personal expenses for a person in certain accommodation, where that person's benefit is paid to the accommodation provider.

Regulation 6 revokes the Social Security Benefits Up-rating Regulations 2020 ([S.I. 2020/266](#)) save for:

- regulation 4 which increased to £128 the amount which a person eligible for payment of carer's allowance can earn in the immediately preceding week without being deemed to be gainfully employed and, therefore, losing their entitlement to carer's allowance, and
- regulation 5 which increased the earnings limit for child dependency increases payable with a carer's allowance so that where the claimant's partner has earnings of £245 or more, no increase is paid for the first child or qualifying young person. After that the rule operates in steps of £33. For each multiple of £33 by which the earnings exceed £245, the increase for a further child or qualifying young person is not payable.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sector is foreseen.