POLICY NOTE

THE SOCIAL SECURITY (UP-RATING) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2021

SSI 2021/XXX

The above instrument will be made in exercise of the powers conferred by section 28(2), 30(2), 32(2), 34(2) and 95 of the Social Security (Scotland) Act 2018 ('the 2018 Act') and sections 70(8) and 90 of the Social Security Contributions and Benefits Act 1992. The instrument is subject to the affirmative procedure. For the purposes of this note, the instrument will be referred to as the '2021 Regulations'.

Purpose of the instrument

The 2021 Regulations fulfil the duty on the Scottish Ministers under section 77 of the Social Security (Scotland) Act 2018 ("the Act") to consider the effects of inflation on the assistance that are in effect and under section 78(1) to bring forward legislation to increase the amount of 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.

After considering the effects of inflation the Scottish Ministers have decided to increase all the Chapter 2 assistance in effect by 1% which is 0.5% higher than the inflation-adjusted level of assistance. The 2021 Regulations increase the amount of;

- the Young Carer Grant payable under the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019;
- the amounts 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;
- the amounts payable under the the Early Years Assistance (Best Start Grants)(Scotland) Regulations 2018; namely, 1) The Pregnancy and Baby Payment, 2) The Early Learning Payment and 3) The School Age Payment; and
- the Child Winter Heating Assistance payable under the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020.

The increase comes into effect on 1 April 2021.

The opportunity has also been taken through these regulations to make some minor technical amendments to correct existing regulations.

Policy Objectives

Section 77 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 78 of the 2018 Act requires Scottish Ministers to bring forward legislation before the end of each financial year to replace the amounts of 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 and Child Winter Heating Assistance and explain their decision in the report as required under section 77.

It has been determined that there has been an increase in the general level of prices in the past financial year. However, in recognition of the exceptional circumstances arising through COVID-19 and the impact it has had on low income households an uplift of 1% will be applied to all assistance in effect. This is 0.5% higher than the inflation-adjusted sums of assistance uprated according to the September 2020 Consumer Price Index as published on 21 October 2020. Accordingly, the 2021 Regulations are brought forward in reliance on section 28, 30, 32 and 34 to increase the relevant sums by 1% with the payment rounded to the nearest multiple of 5 pence.

The 2021 Regulations provide for a 1% increase to the Young Carer Grant payment (from £305.10 to **£308.15)**; a 1% increase to the Funeral Support Payment of the standard amount that is available towards other funeral costs (from £1,000 to **£1,010**), a 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 £122.05 to **£123.25**) and a 1% increase to the Funeral Support Payment of the fee for removing an active implantable medical device from the deceased (from £20.35 to **£20.55)**; a 1% increase to Best Start Grant Pregnancy and Baby First Child Payment (from £600 to **£606**) and Subsequent Child Payment and Extra Payment for twins/triplets (from £300 to **£303**), The Early Learning Payment (from £250 to **£252.50**) and The School Age Payment (£250 to **£252.50**); and a 1% increase to the Child Winter Heating Assistance (from £200 to **£202**).

The opportunity has also been taken to make minor technical amendments to the Funeral Expense Assistance (Scotland) Regulations 2019 by removing a reference to Directive 2004/38/EC which is no longer needed in light of recent amendments to those regulations and to the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 by removing 'Swiss confederation' from a list of European Economic Area states and inserting a reference to Switzerland in the correct place instead (Switzerland is not an European Economic Area state but had been included in that list by mistake).

Regulation 4 of the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 is also amended so that applications from outside the UK can be made in respect of periods of care beginning on or after 22 July 2019, rather than 21 October 2019 as currently provided for. This will ensure that people applying from outside the UK can do so on the same basis as those who applied in Scotland for periods of care which began up to 13 weeks before 21 October 2019.

Regulation 6 of the 2021 Regulations makes an amendment remedying a defect within a provision of the Social Security Benefit (Dependency) Regulations 1977 to reflect the fact that persons in respect of whom child benefit is payable after their sixteenth birthdays are no longer referred to as children, but as qualifying young persons.

The Cabinet Secretary for Finance announced the proposed rates of devolved social security assistance for 2021-22 to the Scottish Parliament during the Scottish Budget on 28 January 2021. 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
There is no statutory requirement to consult on this instrument. However, a comprehensive report[1], including analytical evidence, on the measures that could be used to uprate devolved social security assistance was provided to the Social Security Committee and the Scottish Commission on Social Security to allow them to engage on the proposed uprating policy. The analytical report was prepared to provide a detailed review of relevant inflation measures to inform the options available to uprate devolved social security assistance. The Policy Paper set out the Scottish Government's proposed approach to uprating and recommended the use of the September Consumer Price Index with the payment rounded to the nearest multiple of 5 pence.

The section 77 report: duty to consider effects of inflation[2] was published following the Scottish Budget. This provided the Social Security Committee and the Scottish Commission on Social Security with the approach to uprating for the 2021-22 financial year.

These Regulations were also scrutinised by the Scottish Commission on Social Security (SCoSS) as required under section 97 of the 2018 Act. SCoSS board members were provided with the draft Regulations and their report on the Regulations was received on 8 February 2021 and contained 8 recommendations. Their report was also laid before the Scottish Parliament and published online[3]. The Scottish Government's response to SCoSS's report will be published at the same time as these draft Regulations are laid in the Scottish Parliament.

Impact Assessments
The full range of impact assessments were considered and completed where necessary for the Social Security (Scotland) Bill and have been published for Funeral Expense Assistance[4], Young Carer Grant[5], Best Start Grant[6] and Child Winter Heating Assistance[7]. 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 Young Carer Grant, Funeral Support Payment, Best Start Grant and Child Winter Heating Assistance ensures that the assistance people are eligible for in 2021 at least keep pace with inflation, then it is considered that there is no significant impact on the private, voluntary or public sector.

Financial Effects
A Financial Memorandum[8] 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

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[1] https://www.parliament.scot/S5_Social_Security/General%20Documents/20190902_CabSecSSOP_to_Convener_uprating_measures.pdf
[2] Social Security assistance - effects of inflation: report 2020-2021 - gov.scot (www.gov.scot)
[3] 2021+February+8+-+Uprating+2021+Report.pdf (www.gov.scot)
[4] https://www.gov.scot/publications/consultation-funeral-expense-assistance-regulations/pages/8/
[5] https://www.gov.scot/publications/consultation-young-carer-grant-regulations/pages/8/
[6] Best Start Grant: business and regulatory impact assessment - gov.scot (www.gov.scot)
[7] The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 (legislation.gov.uk)
[8] http://www.parliament.scot/S5_Bills/Social%20Security%20(Scotland)%20Bill/SPBill18FMS052017.pdf

policy differentials between Scotland and the UK for the method of uprating could result in additional pressures on the Scottish Budget.

The 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 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 from the existing Scottish Budget. The cost of the increase is included in the benefit expenditure forecasts set out in the Scottish Fiscal Commission Economic and Fiscal Forecasts January 2021[9].

Scottish Government
Social Security Directorate
10 February 2021

[9] Forecasts | Scottish Fiscal Commission