POLICY NOTE

THE SOCIAL SECURITY (UP-RATING) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2022

SSI 2022/XXX

The above instrument will be made in exercise of the powers conferred by section 28(2), 31(2), 32(2), 34(2) and 79 of the Social Security (Scotland) Act 2018 ('the 2018 Act') and section 13 of the Social Security Benefits Act 1988. The instrument is subject to the affirmative procedure. For the purposes of this note, the instrument will be referred to as the '2022 Regulations'.

Purpose of the instrument

The 2022 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 the assistance that are in effect, and under section 86B to bring forward legislation to increase the amount of Child Disability Payment, Adult Disability Payment, Scottish Child 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 and Child Winter Heating Assistance are increased by 6%.

After considering the effects of inflation, the Scottish Ministers have decided to increase Funeral Support Payment, Young Carer Grant, Best Start Grant and Child Winter Heating Assistance by 6%. Adult Disability Payment and Child Disability Payment are increased by 3.1% which is the September 2021 Consumer Price Index (CPI) rate. This is because Adult Disability Payment and Child Disability Payment must increase in line with benefits still administered by DWP under agency agreement to avoid creating a two-tier system. Scottish Child Payment will be increased by 100% to £20. The 2022 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 amount payable under the Scottish Child Payment Regulations 2020,
- 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 and

- the Child Winter Heating Assistance payable under the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020.

The increases to Young Carers Grant, Funeral Support Payment, Scottish Child Payment, Best Start Grant and Child Winter Heating Assistance come into effect on 1 April 2022. The increases to Child Disability Payment and Adult Disability Payment come into effect on 11 April 2022.

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 .

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 and Child Winter Heating Assistance and explain their decision in the report as required under section 86A.

It has been determined that there has been an increase in the general level of prices in the past financial year. Accordingly, the 2022 Regulations are brought forward in reliance on section 28, 31, 32 and 34 to increase the relevant sums for Adult Disability Payment and Child Disability Payment by 3.1% with the payment rounded to the nearest multiple of 5 pence. Scottish Child Payment will be increased to £20 and Young Carers Grant, Funeral Support Payment, Best Start Grant and Child Winter Heating Assistance are increased by 6%.

The 2022 Regulations provide for a 6% increase to the Young Carer Grant payment (from £308.15 to **£326.65)**; a 6% increase to the Funeral Support Payment of the standard amount that is available towards other funeral costs (from £1,010 to **£1,070.60**), a 6% 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 £123.25 to **£130.65**) and a 6% increase to the Funeral Support Payment of the fee for removing an active implantable medical device from the deceased (from £20.55 to **£21.55**; a 6% increase to Child Winter Heating Assistance (from £202 to **£214.10**); a 6% increase to Best Start Grant Pregnancy and Baby Payment (1st Child Payment) (from £606.00 to **£642.35**), Best Start Grant Pregnancy and Baby Payment (Subsequent Child Payment & Extra Payment for Twins/Triplets) (from £303.00 to **£321.20**), Best Start Grant Early Learning Payment (from £252.50 to **£267.65**) and Best Start Grant School Age Payment (from £252.50 to **£267.65**); a 3.1% increase to Child Disability Payment mobility component (higher rate from £62.55 to **£64.50** and lower rate from £23.70 to **£24.45**) and care components (highest rate from £89.60 to **£92.40**, middle rate from £60.00 to **£61.85** and lowest rate from £23.70 to **£24.45**); a 3.1% increase to Adult Disability Payment Daily Living Component (standard rate from £60.00 **to £61.85**, enhanced rate from £89.60 to

£92.40) and Mobility Component (standard rate from £23.70 to **£24.45** and enhanced rate from £62.55 to **£64.50)**; an increase to Scottish Child Payment (from £10.00 to **£20.00**).

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.

The Cabinet Secretary for Finance announced the proposed rates of devolved social security assistance for 2022-23 to the Scottish Parliament during the Scottish Budget on 9 December 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
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.

As the situation requires legislation to be laid immediately, it has not been possible to allow SCoSS sufficient time for the necessary time to scrutinise and publish a report on the regulations. SCoSS scrutinised the previous version of the Regulations and provided a report on 17 January 2022, to which Scottish Ministers responded on 28 January 2022.

As such we are laying this draft instrument under section 97(9)(b) of the Act without a report from the Commission having yet been prepared on the new version of the regulations. If SCoSS decide to provide a further scrutiny report, Ministers will respond to that report when it is published including to bring forward further legislation and to explain why they do not accept recommendations as appropriate.

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 Assistance[1], Young Carer Grant[2], Child Disability Payment[3], Adult Disability Payment[4] and Scottish Child Payment[5], and Child Winter Heating Assistance[6]. 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, 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 2022-23 at least keeps pace with inflation, then it is considered that there is no significant impact on the private, voluntary or public sector.

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[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 2022 (legislation.gov.uk)
[5] The Scottish Child Payment Regulations 2020 (legislation.gov.uk)
[6] The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 (legislation.gov.uk)

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 Memorandum[7] 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 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 Scottish Fiscal Commission used the September CPI rate of 3.1% and the £20 weekly amount for Scottish Child Payment when producing their forecasts of benefits expenditure which are set out in their Economic and Fiscal Forecasts December 2021[8].

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.

The Scottish Government has since opted to amend the regulations and to uprate the benefits described above by 6%. This means that the impact of uprating Funeral Support Payment will be 2.9% higher than what is set out in the Scottish Fiscal Commission's December 2021 forecast. Additionally, uprating for Child Winter Heating Assistance is 1% higher, and Best Start Grant is now included and will therefore receive a full uprate of 6%. The overall cost of these changes are expected to be below the Scottish Fiscal Commission's £5 million materiality threshold for small measures and a supplementary costing has therefore not been prepared to accompany these regulations. The new uprating policy will be included in the Scottish Fiscal Commission's forecasts in May.

Scottish Government
Social Security Directorate
17 March 2022

[7] http://www.parliament.scot/S5_Bills/Social%20Security%20(Scotland)%20Bill/SPBill18FMS052017.pdf
[8] Forecasts | Scottish Fiscal Commission