POLICY NOTE

THE SOCIAL SECURITY UP-RATING (SCOTLAND) ORDER 2022

SSI 2022/XXX

The above instrument will be made in exercise of the powers conferred by sections 150(9) and 150A(6), and 189(1) and (4) of the Social Security Administration Act 1992 ('the 1992 Act'). These powers, in UK legislation, are excercised by the Scottish Government through their executive competence. The instrument is subject to the affirmative procedure and will come into force from the 1 April 2022. For the purposes of this note, the instrument will be referred to as 'the 2022 Order'.

Purpose of the instrument.
This Order fulfils the statutory duty on the Scottish Ministers to review the rates of social security benefits that they are responsible for and provides for the uprating of certain benefits. Various weekly rates of payment of Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Industrial Death Benefit, Personal Independence Payment and Severe Disablement Allowance will increase. The Order also restates the amount of Child Dependency Increase as an additional weekly payment payable to some recipients of Carer's Allowance and Severe Disablement Allowance and an increase to the Adult Dependency Increase as an additional weekly payment payable to some recipients of Severe Disablement Allowance. Other associated benefits of the Severe Disablement Allowance and Industrial Injuries Scheme benefits will also increase.

Policy Objectives

The purpose of the 2022 Order is to uprate the weekly rates of payment of Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Industrial Death Benefit, Personal Independence Payment and the Severe Disablement Allowance.

The functions of the Secretary of State for Work and Pensions in relation to Carer's Allowance payable to people resident in Scotland transferred to the Scottish Ministers, with effect from 3 September 2018 and for all the other remaining devolved benefits from 1 April 2020. The result is that the Scottish Ministers are responsible for the provision of these benefits to people who usually live in Scotland. Agency agreements have been entered with the Secretary of State for Work and Pensions, exercising powers arising from the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2018. This has the effect that the Secretary of State delivers these benefits on behalf of the Scottish Ministers. In terms of that agreement, the Scottish Ministers are committed to uprate these benefits at the same rate as the Department for Work and Pensions (DWP). It is, though, a matter for the Scottish Ministers to make an order effecting the uprating. Given the transfer of functions, it is policy for Scottish Ministers to make legislation relating to these benefits, insofar as they relate to Scotland.

Benefits linked to the general level of prices

Section 150(1) of the 1992 Act requires a review of Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Personal Independence Payment and the Severe Disablement Allowance and to uprate them where there has been in increase in the general level of prices. It has been determined that there has been an increase in the general level of prices in the past year. Accordingly, this Order is brought forward in reliance on section 150(2)(a), to increase the relevant sums so far as they fall within the competence of the Scottish Ministers. In line with the approach of the DWP, the uprate to be applied is according to the September 2021 Consumer Price Index (CPI) as published on 20 October 2020, in this case 3.1%. This is the 12-month inflation rate, which compares prices for September 2021 with the same month a year ago.

Other Miscellaneous Benefits

The Order restates the Child Dependency Increase which is an additional weekly payment payable to a recipient of Carer's Allowance or Severe Disablement Allowance who is entitled to receive Child Benefit. There is also an increase to the Adult Dependency Increase as an additional weekly payment payable to some recipients of Severe Disablement Allowance. The benefits associated with the Industrial Injuries Scheme such as Exceptionally Severe Disablement Allowance, Reduced Earnings Allowance and Retirement Allowance are also increased. The complete associated benefits are set out in the Order.

Benefits linked to earnings

Section 150A(1)(c) of the 1992 Act requires a review of the Industrial Death Benefit widow's and widower's pension as these are linked to earnings. The Industrial Death Benefit is normally uprated through the triple lock guarantee, which ensures that pensions increase by the greatest of average earnings, prices as measured by CPI or 2.5%. However, due to the impact of COVID-19, earnings growth has been exceptionally high at 8.8% and as a result the UK Government has determined that the increase will be in line with the September CPI of 3.1%.

The uprates will match the rate that the UK Government will apply to all of these benefits in England and Wales. The increase to these benefits will take effect as set out in the 2022 Order. The uprate will ensure that the benefits will keep pace with price inflation.

The Cabinet Secretary for Finance announced the proposed rates of the benefits for 2022/23 to the Scottish Parliament during the Scottish Budget on 9 December 2021. In accordance with the 1992 Act, a draft of this Order 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 (SCoSS) in 2019 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 CPI with the payment rounded to the

[1]https://www.parliament.scot/S5_Social_Security/General%20Documents/20190902_CabSecSSOP_to_Convener_uprating_measures.pdf

nearest multiple of 5 pence. The paper also noted that, during any period when a benefit is delivered by DWP on behalf of Scottish Ministers under an agency agreement, Scottish Ministers will be obliged to uprate on the same basis as DWP. The SCoSS were supportive of the Scottish Government's uprating policy in the short term and the Social Security Committee noted the Scottish Government's position and had no further views to report beyond the discussion at the Committee on 10 October 2019[2].

Impact Assessments

The full range of impact assessments were considered and completed where necessary for the Social Security (Scotland) Bill (which included provision for the Carer's Allowance Supplement) and will take place for each of the devolved benefits e.g. impact assessments have been published, for Best Start Grant[3], Funeral Expense Assistance[4], Young Carer Grant[5], Child Winter Heating Assistance[6], Scottish Child Payment[7], Child Disability Payment[8] and Adult Disability Payment[9]. Impact assessments for any new Scottish benefits will be undertaken at the point where policy is being developed and regulations are being drafted.

As the uprating of these benefits ensures that the benefits people receive keep pace with inflation, and maintain the current situation, then it is considered that there is no significant impact on the private, voluntary or public sector.

Financial Effects

A Financial Memorandum[10] was completed prior to introduction of the Social Security (Scotland) Bill.

The Financial Memorandum considers the costs of uprating and recognises that the methodology of uprating of benefits for inflation is a source of financial risk as any future policy differentials between Scotland and the UK for uprating could result in additional pressures on the Scottish Budget.

However, as this uprate to the devolved benefits for recipients in Scotland is the same as to recipients in England and Wales this means there will be no impact on the Scottish Budget. The block grant adjustment methodology detailed in the "Agreement between the Scottish Government and the UK Government on the Scottish Government's fiscal framework" published on 23 February 2016, continues to link adjustments to the Scottish block grant in respect of welfare to spending on equivalent policy areas in England and Wales. This means the Scottish Government is funded to provide the same level of benefits as in England and Wales.

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[2] http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12322&mode=pdf
[3] https://beta.gov.scot/publications/early-years-assistance-consultation-best-start-grant-regulations/pages/9/
[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] The Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 (legislation.gov.uk)
[7] The Scottish Child Payment Regulations 2020 (legislation.gov.uk)
[8] The Disability Assistance for Children and Young People (Scotland) Regulations 2021 (legislation.gov.uk)
[9] The Disability Assistance for Working Age People (Scotland) Regulations 2022 (legislation.gov.uk)
[10] http://www.parliament.scot/S5_Bills/Social%20Security%20(Scotland)%20Bill/SPBill18FMS052017.pdf

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