POLICY NOTE

THE SOCIAL SECURITY UP-RATING (SCOTLAND) ORDER 2025

SSI 2025/XXX

The above instrument will be made in exercise of the powers conferred by sections 150(9) and 150A(6) of the Social Security Administration Act 1992 ('the 1992 Act'). These powers, in UK legislation, are exercised by the Scottish Government insofar as they are now within devolved competence. The instrument is subject to the affirmative procedure and will come into force from the 1 April 2025. For the purposes of this note, the instrument will be referred to as 'the 2025 Order'.

Purpose of the instrument.

This Order fulfils the statutory duty on the Scottish Ministers under sections 150 and 150A of the 1992 Act to review the rates of social security benefits that they are responsible for and provides for the up-rating 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 will also make 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 2025 Order is to up-rate 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 into 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 up-rate 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 up-rating as the duty to up-rate and the power to make the 2025 Order rest with the Scottish Ministers insofar as these benefits are within devolved competence.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Social Security Up-rating (Scotland) Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

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 up-rate 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 up-rate to be applied is according to the September 2024 Consumer Price Index (CPI) as published on 16 October 2024, in this case 1.7%. This is the 12-month inflation rate, which compares prices for September 2024 with the same month a year ago.

Other Miscellaneous Benefits

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 2025 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 up-rated through the triple lock guarantee, which ensures that pensions increase by the greatest of average earnings, prices as measured by CPI or 2.5%. The UK Government has determined that IDB will increase by 4.1% in line with the growth in Average Weekly Earnings in the year from May-July 2024.

The up-rates 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 2025 Order. The up-rate will ensure that the benefits will keep pace with price inflation.

The Cabinet Secretary for Finance and Local Government announced the proposed rates of the benefits for 2025-26 to the Scottish Parliament during the Scottish Budget on 4 December

2024. 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 up-rate devolved social security assistance was provided to the Social Security Committee and the Scottish Commission on Social Security in 2019 to allow them to engage on the proposed up-rating policy. The analytical report was prepared to provide a detailed review of relevant inflation measures to inform the options available to up-rate devolved social security assistance. The Policy Paper set out the Scottish Government's proposed approach to up-rating and recommended the use of the annual rate of September CPI with the payment rounded to the nearest multiple of 5 pence. The paper also noted that, during any period when a benefit is delivered by the DWP on behalf of Scottish Ministers under an agency agreement, Scottish Ministers will be obliged to up-rate on the same basis as the DWP. 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]. The Commission was also supportive of the Scottish Government's up-rating policy in the short term but recommended reviewing the use of CPI in up-rating methodology. Further analysis carried out by the Scottish Government and published on 29 January 2024[3] assessed a range of inflation metrics and periods against a carefully chosen set of criteria to determine which approach scored most highly. Although Scottish Ministers are required to up-rate on the same basis as the DWP for the benefits delivered under agency agreements, this analysis concluded that the annual September CPI rate was the highest scoring of available options.

Impact Assessments

Impact assessments were not undertaken for the benefits covered by the 2025 Order as these were pre-existing benefits which were devolved and continue to be provided by the DWP on behalf of Scottish Ministers through agency agreements.

A Child Rights and Wellbeing Impact Assessment was carried out for the 2025 Order in accordance with the Act. It was concluded that the 2025 Order has has the potential to positively impact articles 23 (best interest of the child), article 23 (children with a disability), article 26 (social security) and article 27 (an adequate standard of living).

As the up-rating of the benefits covered by the 2025 Order ensures that the payments people receive keep pace with inflation, and maintain the current situation, then it is considered that there is no additional significant impact on the private, voluntary or public sector.

Financial Effects

---

[1] https://www.gov.scot/publications/scottish-commission-on-social-security-uprating-report-2019/
[2]https://webarchive.nrscotland.gov.uk/3/archive2021.parliament.scot/parliamentarybusiness/report.aspx?r=12322&mode=pdf
[3] https://www.gov.scot/publications/multi-criteria-decision-analysis-approach-up-rating-devolved-social-security-assistance-january-2024/

A Financial Memorandum[4] was completed prior to introduction of the Social Security (Scotland) Bill.

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

However, as this up-rate 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[5]" 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.

The Cabinet Secretary for Social Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Social Security Directorate
January 2025

[4] https://www.parliament.scot/-/media/files/legislation/bills/previous-bills/social-security-scotland-bill/introduced/financial-memorandum-social-security-scotland-bill.pdf
[5]https://assets.publishing.service.gov.uk/media/5a7f44a5ed915d74e62296c1/fiscal_framework_agreement_25_feb_16_2.pdf