EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY BENEFITS UP-RATING REGULATIONS 2025

2025 No. 352

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Sir Stephen Timms, Minister of State for Social Security and Disability at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

2.2 Andrew Latto, Deputy Director for Devolution, Pensioner Benefits and Carer's Allowance, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Lois Teasdale at the Department for Work and Pensions Telephone: 07551 474 221 or email: lois.teasdale1@dwp.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Social Security Benefits Up-rating Regulations 2025 ("the Regulations") make provisions in consequence of the Social Security Benefits Up-rating Order 2025[1] ("the Up-rating Order") (S.I. 2025/295) which provides for the annual up-rating of social security benefits.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain save for regulations 2 (insofar as it applies to a benefit which is devolved under Part 3 of the Scotland Act 2016[2]) and 4 which extend to England and Wales only.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain save for regulations 2 (insofar as it applies to a benefit which is devolved under Part 3 of the Scotland Act 2016) and 4 which apply to England and Wales only.

[1] https://www.legislation.gov.uk/uksi/2025/295/made
[2] https://www.legislation.gov.uk/ukpga/2016/11/contents

5. Policy Context

What is being done and why?

5.1 Regulation 2 (Exceptions relating to payment of additional benefit by virtue of the Up-rating Order) applies to prevent the incorrect payment of benefit in circumstances where someone is entitled to more than one benefit which is paid for the same purpose ('overlapping benefits'). For example, both the State Pension and Carer's Allowance provide an income in place of expected or actual reduction in earnings capacity. To pay both would be to make double provision for the same purpose, so whilst they are up-rated individually, they are only paid after the overlapping benefit provisions have been applied to them.

5.2 Regulation 3 (Persons not ordinarily resident in Great Britain) triggers regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975[3] and regulation 21 of the State Pension Regulations 2015[4] which disallow State Pension up-rating for overseas residents where there is no legal requirement to up-rate.

5.3 Regulation 4 (Amendment of the Social Security (Invalid Care Allowance) Regulations 1976)[5] increases the amount which a person eligible for payment of Carer's Allowance can earn without being deemed gainfully employed and losing their entitlement. The amount is in line with 16 times the hourly National Living Wage rounded up to the nearest pound, increasing the limit from £151 net a week to £196 net a week.

5.4 Regulation 5 (Amendment of the Social Security (Claims and Payments) Regulations 1987)[6] increases by 1.7 per cent the amount of benefit that a person must be left with if they live in a care home and, because they find it difficult to budget for their care fees, the care home costs are paid direct from their benefit to the person or body charging for care. 1.7 per cent was the increase in the Consumer Prices Index in the year to September 2024.

5.5 Regulation 6 (Revocation) revokes the Social Security Benefits Up-rating Regulations 2024[7] (S.I. 2024/386).

What was the previous policy, how is this different?

5.6 The Regulations replace the Social Security Benefits Up-rating Regulations 2024 (S.I. 2024/386). Regulation 4 increases the Carer's Allowance earnings limit to equal 16 times the hourly National Living Wage rounded up to the nearest pound. This policy, announced by the Chancellor in her Budget on 30 October 2024, will apply from April 2025 and in future years, and replaces the more ad hoc approach to setting this level which has applied in previous years.

6. Legislative and Legal Context

How has the law changed?

6.1 The Regulations are consequential on the Up-rating Order which is made under sections 150, 150A, and 151A of the Social Security Administration Act 1992[8] ("the

[3] https://www.legislation.gov.uk/uksi/1975/563/contents
[4] https://www.legislation.gov.uk/uksi/2015/173/contents
[5] https://www.legislation.gov.uk/uksi/1976/409/contents
[6] https://www.legislation.gov.uk/uksi/1987/878/contents/made
[7] https://www.legislation.gov.uk/uksi/2024/386/made
[8] https://www.legislation.gov.uk/ukpga/1992/5/contents

1992 Act"). Under those sections the Secretary of State must review the rates of certain social security benefits.

6.2 The provisions in the Regulations cannot be included in the Up-rating Order because there is no power in section 150, 150A or 151A of the 1992 Act to make such provisions.

Carer's Allowance and Scotland

6.3 The Scotland Act 2016 amended the Scotland Act 1998[9] by inserting exceptions to reserved matters under Schedule 5, Part 2, section F1 (social security schemes). This devolved competence for certain areas of social security to the Scottish Parliament. This includes Carer's Allowance and any benefit replacing it. The functions of the Secretary of State in relation to Carer's Allowance, in so far as they relate to residents in Scotland, transferred to the Scottish Ministers with effect from 3 September 2018.

6.4 Following the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2018[10], the Secretary of State has entered into an agency agreement[11] with the Scottish Ministers to deliver Carer's Allowance in Scotland until such time as it is fully replaced by Carer Support Payment, which is currently being introduced by the Scottish Government to take the place of Carer's Allowance. Functions exercisable under an agency agreement cannot include the making of subordinate legislation and consequently the Scottish Ministers will make provision with regard to Carer's Allowance in Scotland.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Regulations form part of the regular annual up-rating requirements and consultation is therefore not necessary.

8. Applicable Guidance

8.1 Public information products are available on gov.uk[12] that reflect the provisions in this instrument where applicable, and corresponding guidance is currently being issued to operational staff.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it has no, or no significant, impact on business or civil society organisations. Increasing the Carer's Allowance earnings limit may increase labour supply, having an indirect positive impact.

[9] https://www.legislation.gov.uk/ukpga/1998/46/contents
[10] https://www.legislation.gov.uk/uksi/2018/626/contents/made
[11] https://www.gov.uk/government/publications/carers-allowance-in-scotland-agency-agreement-and-service-level-agreement
[12] https://www.gov.uk/government/publications/benefit-and-pension-rates-2025-to-2026

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies beyond their existing obligations. Increasing the Carer's Allowance earnings limit may increase labour supply, having an indirect positive impact.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector beyond their existing obligations as noted in paragraph 9.1.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through an Up-rating Order which is made annually in accordance with the requirements of the 1992 Act, and consequential Regulations are also made annually.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Unlike the other Regulations, regulation 3 is made in part under the power in section 53 of the Pensions Act 2014[13] to make consequential amendments in relation to new State Pension. This section provides that such amendments be made by an Order rather than Regulations. However, to avoid the need for a separate instrument these Regulations rely on section 105 of the Deregulation Act 2015[14] which enables different forms of subordinate legislation (Orders, Regulations and Rules) to be combined where it is administratively convenient and would result in a more coherent legislative story.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

[13] https://www.legislation.gov.uk/ukpga/2014/19/contents
[14] https://www.legislation.gov.uk/ukpga/2015/20/contents