POLICY NOTE

THE SOCIAL SECURITY (UP-RATING) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2026

SSI 2026/170

The above instrument will be made in exercise of the powers conferred by section 28(2), 30(2), 31(2), 32(2), 34(2), 79(1) and 95 of the Social Security (Scotland) Act 2018 ('the 2018 Act'), section 70(8) of the Social Security Contributions and Benefits Act 1992 and section 13(1) of the Social Security Benefits Act 1988. Some of the amendments made by this instrument can be made under the negative procedure and others require to be made under the affirmative procedure, so the instrument is subject to the affirmative procedure. For the purposes of this note, the instrument will be referred to as the 'the 2026 Regulations'.

Summary Box

The 2026 Regulations fulfils the statutory duty on the Scottish Ministers under sections 86A and 86B of the 2018 Act to review the rates of social security assistance that they are responsible and where appropriate, to bring forward legislation to increase the rates to an amount in line with inflation.

Although not subject to the up-rating duties, the 2026 Regulations increase the earnings limits for Carer's Allowance and Carer Support Payment.

This instrument will also be used to make some minor changes to:

- The Carer's Assistance (Miscellaneous and Consequential Amendments Revocation, Transitional and Saving Provisions) (Scotland) Regulations 2025;
- The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023;
- The Disability Assistance (Scottish Adult Disability Living Allowance) (Consequential Amendment, Revocation and Saving Provision) Regulations 2024;
- The Disability Assistance for Working Age People (Scotland) Regulations 2022; and
- The Winter Heating Assistance (Pension Age) (Scotland) Regulations 2024.

These changes involve correcting small errors and providing clarity on how the specific regulations should operate.

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 of Part 2 of that Act or sections 79 and 93A 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 all benefits delivered under the 2018 Act with amounts which are at least as high as the inflation-adjusted level of each amount.

It has been determined that there has been an increase in the general level of prices in the past

financial year. Accordingly, the 2026 Regulations are brought forward to increase the rates of Scottish Child Payment (SCP); Child Disability Payment (CDP); Adult Disability Payment (ADP); transitional rate of ADP; Pension Age Disability Payment (PADP); Scottish Adult Disability Living Allowance (SADLA); Funeral Support Payment (FSP); Young Carer Grant (YCG); Best Start Grants (BSG); Best Start Foods (BSF); Child Winter Heating Payment (CWHP); Winter Heating Payment (WHP); Pension Age Winter Heating Payment (PAWHP); Carer Support comprising of Carer Support Payment (CSP), Carer Additional Person Payment (CAPP) and Scottish Carer Supplement (SCS) by 3.8% in line with inflation.

These regulations will also make amendments to the Social Security (Invalid Care Allowance) Regulations 1976 and the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023. These amendments increase the earnings limits used to determine entitlement to Carer's Allowance and Carer Support Payment respectively from £196 to £204.

These Regulations also make the following amendments:

- correct a typographical error identified during scrutiny where the year 2026 was omitted at the end of regulation 17(1)(b) of the Carer's Assistance (Miscellaneous and Consequential Amendments, Revocation, Transitional and Saving Provisions) (Scotland) Regulations 2025.
- amend the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 to specify the 'effective date' of the end of a Carer Support award when a client has died. The amendment, at regulation 27(1), would provide that, when a determination without application is made because a client has died, it would take effect from the first day of the award week following the week in which they died.
- amend the Winter Heating Assistance (Pension Age) (Amendment) Regulations 2025 to provide that each member of the couple is treated for the purposes of the regulations as though they are entitled to the benefit in question. So that all determinations of entitlement made in respect of the qualifying week in 2025 are made consistently, applying the legislation as it was in 2025, a saving provision is included to preserve the legal effect of the Pension Age Winter Heating Payment regulations as they would be before 1 April 2026.

The Regulations also contain saving and transitional provisions so that the previous values of the various forms of assistance are still payable in certain circumstances. This includes provisions addressing an issue related to the transitional rate of ADP in 2025-26 where it was not effectively up-rated in the legislation. The Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2025 sought to up-rate the transitional rate of ADP in the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022 ("the 2022 Regulations"), however those Regulations were revoked, subject to saving provisions, by the Disability Assistance (Scottish Adult Disability Living Allowance) (Consequential Amendment, Revocation and Saving Provision) Regulations 2024 before the up-rating took effect. As such, saving

provisions in the 2026 Regulations will allow the correct up-rated transitional rate of ADP for 2025-26 to be read in the required specific circumstances.

The Cabinet Secretary for Finance and Local Government announced the proposed approach for the benefit rates for 2026-27 to the Scottish Parliament during the Scottish Budget on 13 January 2026. In accordance with the Social Security (Scotland) 2018 Act, a draft of these Regulations is laid before the Scottish Parliament for approval by resolution.

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) (Miscellaneous Amendments) (Scotland) Regulations 2026 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.

Consultation

Section 97(2) of the 2018 Act requires Scottish Ministers to inform the Scottish Commission on Social Security of proposals in the form of draft regulations to meet the scrutiny and consultation process. That section also requires that the Scottish Ministers notify the Scottish Parliament that they have done so. Section 97(9) requires Scottish Ministers to lay a response to the Commission's report on the proposals for the Regulations before the Scottish Parliament. Scottish Ministers can here confirm that a response from the Commission has been received and that these requirements have been carried out. The response from Scottish Ministers to the Commission's report will be laid in the Scottish Parliament along with this policy note.

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]; Pension Age Disability Payment[5]; Scottish Adult Disability Living Allowance[6]; Scottish Child Payment[7]; Best Start Grant[8]; Best Start Foods[9]; Child Winter Heating Payment[10];

[1] https://www.legislation.gov.uk/ssi/2019/292/resources
[2] https://www.legislation.gov.uk/ssi/2019/324/resources
[3] https://www.legislation.gov.uk/ssi/2021/174/resources
[4] https://www.legislation.gov.uk/ssi/2022/54/resources
[5] https://www.legislation.gov.uk/ssi/2024/166/resources
[6] https://www.legislation.gov.uk/sdsi/2025/9780111061145/resources
[7] https://www.legislation.gov.uk/ssi/2020/351/resources
[8] https://www.legislation.gov.uk/ssi/2018/370/resources
[9] https://www.legislation.gov.uk/ssi/2019/193/resources
[10] https://www.legislation.gov.uk/ssi/2020/352/resources

Winter Heating Payment[11]; Pension Age Winter Heating Payment[12], Carer Support[13] comprising of Carer Support Payment[14]; Carer Additional Person Payment and Scottish Carer Supplement[15].

Financial Effects

A Financial Memorandum [16] 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 up-rating and recognises that the methodology of up-rating 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 up-rating could result in additional pressures on the Scottish Budget.

The Scottish Fiscal Commission used the September CPI rate of 3.8% when producing their forecasts of benefits expenditure which are set out in their Economic and Fiscal Forecasts January 2026.

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
28 January 2026

[11] https://www.legislation.gov.uk/ssi/2023/16/resources
[12] https://www.legislation.gov.uk/ssi/2025/282/resources
[13] https://www.gov.scot/publications/carers-assistance-young-carer-grant-carer-support-payment-miscellaneous-amendment-saving-provision-scotland-regulations-2025-carer-support-payment-priority-improvements-impact-assessment-updates/
[14] https://www.legislation.gov.uk/ssi/2023/302/resources
[15] https://www.legislation.gov.uk/ssi/2025/340/resources
[16] https://www.parliament.scot/-/media/files/legislation/bills/previous-bills/social-security-scotland-bill/introduced/financial-memorandum-social-security-scotland-bill.pdf