
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

SOCIAL SECURITY

**The Social Security (Up-rating) (Miscellaneous Amendment)
(Scotland) Regulations 2023**

Made - - - - *2023*

Coming into force in accordance with regulation 1(2) and (3)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 28(2), 30(2), 31(2), 32(2), 34(2), and 95 of the Social Security (Scotland) Act 2018(a), sections 70(8), 90, 122(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(b) and section 13 of the Social Security Act 1988(c) and all other powers enabling them to do so.

In accordance with section 97(2) of that Act, the Scottish Ministers have informed the Scottish Commission on Social Security of their proposals, notified the Scottish Parliament that they have done so and made their proposals publicly available by such means as they consider appropriate.

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- (a) 2018 asp 9. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.
- (b) 1992 c. 4. The function of prescribing the circumstances in which a person is or is not to be treated as gainfully employed, for the purpose of section 70(1)(b) of the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”), transferred to the Scottish Ministers on the commencement of section 81 of the Social Security (Scotland) Act 2018 (asp 9), dealing with carer’s allowance supplement. The same applies to exercising the power in section 175 of the 1992 Act to make regulations setting out earnings limits in relation to entitlement to child dependency increase. In both cases the transfer is in terms of regulation 4 of the Scotland Act 2016 (Transitional) Regulations 2017 (S.I. 2017/444), which causes section 53(1) and (2) of the Scotland Act 1998 (c. 46) to have effect upon commencement of a provision which relies on the exception in relation to carer’s benefits in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998. Section 81 was commenced on 3 September 2018 by regulation 2 of S.S.I. 2018/250. Accordingly, responsibility for the exercise of the functions exercisable by the Secretary of State in relation to carer’s allowance as provided for under section 70 of the 1992 Act has transferred to the Scottish Ministers as regards provision of carer’s allowance to people residing in Scotland. The setting of relevant earnings limits falls within that responsibility. The requirement to consult the Social Security Advisory Committee under section 172 of the 1992 Act does not apply to the Scottish Ministers by virtue of section 33 of the Scotland Act 2016 (c. 11). Section 90 of the Social Security Contributions and Benefits Act 1992 was relevantly amended by paragraph 26 of schedule 8 of the Welfare Reform and Pensions Act 1999 (c. 30) and by article 2 of, and paragraphs 1 and 2 of the schedule of, S.I. 2002/1457. Section 90 was repealed by schedule 6 of the Tax Credits Act 2002 (c. 21) in respect of Child Dependency Increase, subject to savings by article 3 of S.I. 2003/938. Section 90 was repealed for remaining purposes, namely in relation to Adult Dependency Increase, by Part 2 of schedule 7 of the Welfare Reform Act 2009 (c. 24), subject to a saving by section 15(2)(b) of that Act. Section 122(1) of the 1992 Act is cited for the meaning assigned to the word “prescribed.” An amendment was made to section 175(1) which is not relevant to these Regulations.
- (c) 1988 c. 7. Section 13 was substituted by section 185(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) and amended by section 27(5) of the Scotland Act 2016 (c. 11) (“the 2016 Act”). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46) as read with section 32 of the 2016 Act.

They have laid a response to the Commission’s report on the proposals for the regulations before the Scottish Parliament in accordance with section 97(9)(a) of that Act.

In accordance with section 13(2) of the Social Security Act 1988, they have consulted with the Welsh Ministers(a).

In accordance with section 96(2) of the Social Security (Scotland) Act 2018, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Up-rating) (Miscellaneous Amendment) (Scotland) Regulations 2023.

(2) Subject to paragraph (3), these Regulations come into force on 1 April 2023.

(3) Regulations 2, 5, 6 and 8 come into force on 10 April 2023.

(4) In these Regulations—

“the Adult Disability Payment Regulations” means the Disability Assistance for Working Age People (Scotland) Regulations 2022(b),

“the Best Start Foods Regulations” means the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019(c),

“the Best Start Grants Regulations” means the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018(d),

“the Carer’s Allowance Regulations” means the Social Security (Invalid Care Allowance) Regulations 1976(e)

“the Child Disability Payment Regulations” means the Disability Assistance for Children and Young People (Scotland) Regulations 2021(f),

“the Child Winter Heating Assistance Regulations” means the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020(g),

“the Dependency Regulations” means the Social Security Benefit (Dependency) Regulations 1977(h),

“the Low Income Winter Heating Assistance Regulations” means the Winter Heating Assistance (Low Income) (Scotland) Regulations 2023(i),

“the Funeral Expense Assistance Regulations” means the Funeral Expense Assistance (Scotland) Regulations 2019(j), and

“the Young Carer Grants Regulations” means the Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019(k).

Amendment of the Adult Disability Payment Regulations

2.—(1) The Adult Disability Payment Regulations are amended as follows.

(a) Functions conferred or imposed on the National Assembly for Wales immediately before the first appointment of a First Minister under section 46 of the Government of Wales Act 2006 (c. 32) by an enactment contained in an Act were transferred to the Welsh Ministers by paragraph 30(2)(c) of Schedule 11 to that Act.

(b) S.S.I. 2022/54.

(c) S.S.I. 2019/193.

(d) S.S.I. 2018/370.

(e) S.I. 1976/409.

(f) S.S.I. 2021/174.

(g) S.S.I. 2020/352.

(h) S.I. 1977/343.

(i) S.S.I. 2023/XXX.

(j) S.S.I. 2019/292.

(k) S.S.I. 2019/324.

- (2) In regulation 34 (amount and form of Adult Disability Payment)—
- (a) in paragraph (1)(a), for “£61.85” substitute “£68.10”,
 - (b) in paragraph (1)(b), for “£92.40” substitute “£101.75”,
 - (c) in paragraph (2)(a), for “£24.45” substitute “£26.90”,
 - (d) in paragraph (2)(b), for “£64.50” substitute “£71.00”.

Amendment of the Best Start Foods Regulations

3.—(1) The Best Start Foods Regulations are amended as follows.

- (2) In regulation 10(1)(a) (kinds of assistance)—
- (a) in sub-paragraph (a), for “£17,005” substitute “£18,725”,
 - (b) in sub-paragraph (b)(i), for “£7,920” substitute “£8,717”,
 - (c) in sub-paragraph (c), for “£328” substitute “£358”,
 - (d) in sub-paragraph (h), in each place where it occurs for “£660” substitute “£726”.
- (3) In regulation 13(b) (value of benefit)—
- (a) in paragraph (1), for “£4.50” substitute “£4.95”,
 - (b) in paragraph (2)(a), for “£9.00” substitute “£9.90”,
 - (c) in paragraph (2)(b), for “£4.50” substitute “£4.95”,
 - (d) in paragraph (3), for “£9.00” substitute “£9.90”.

Amendment of the Best Start Grants Regulations

4.—(1) The Best Start Grants Regulations are amended as follows.

- (2) In schedule 2—
- (a) in paragraph 6(1)(c) (value of pregnancy and baby payment grant)—
 - (i) in head (a), for “£642.35” substitute “£707.25”,
 - (ii) in head (b), for “£321.20” substitute “£353.65”,
 - (b) in paragraph 7(1)(d) (value of multiple pregnancy supplement), for “£321.20” substitute “£353.65”
- (3) In paragraph 4 of schedule 3(e) (value of early learning grant), for “£267.65” substitute “£294.70”.
- (4) In paragraph 5 of schedule 4(f) (value of school-age grant), for “£267.65” substitute “£294.70”.

Amendment to the Carer’s Allowance Regulations

5.—(1) The Carer’s Allowance Regulations are amended as follows.

- (2) In regulation 8(1)(g) (circumstances in which a person is or is not to be treated as gainfully employed) for “£132”, in both places where it occurs, substitute “£139”.

Amendment of the Child Disability Payment Regulations

6.—(1) The Child Disability Payment Regulations are amended as follows.

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- (a) As relevantly amended by S.S.I. 2022/129 and 2022/336.
 - (b) As relevantly amended by S.S.I. 2021/221 and S.S.I. 2022/167
 - (c) As relevantly amended by S.S.I. 2022/129.
 - (d) As relevantly amended by S.S.I. 2022/129.
 - (e) Paragraph 4 was inserted by S.S.I. 2019/157 and relevantly amended by S.S.I. 2022/129.
 - (f) Paragraph 5 was inserted by S.S.I. 2019/157 and relevantly amended by S.S.I. 2022/129.
 - (g) As relevantly amended by S.I. 1996/2744, S.I. 2002/2497 and S.S.I. 2022/28.

(2) In regulation 23(a) (amount and form of Child Disability Payment)—

- (a) in paragraph (1)(a), for “£92.40” substitute “£101.75”,
- (b) in paragraph (1)(b), for “£61.85” substitute “£68.10”,
- (c) in paragraph (1)(c), for “£24.45” substitute “£26.90”,
- (d) in paragraph (2)(a), for “£64.50” substitute “£71.00”,
- (e) in paragraph (2)(b), for “£24.45” substitute “£26.90”.

Amendment of the Child Winter Heating Assistance Regulations

7.—(1) The Child Winter Heating Assistance Regulations are amended as follows.

(2) In regulation 10(1)(b) (value of child winter heating assistance), for “£214.10” substitute “£235.70”.

Amendment of the Dependency Regulations

8.—(1) The Dependency Regulations are amended as follows.

(2) In paragraph 2B of schedule 2(c) (increase of carer's allowance for child dependants – earnings limits)—

- (a) for “£255”, in both places where it occurs, substitute “£280”, and
- (b) for “£34” substitute “£37”.

Amendment of the Funeral Expense Assistance Regulations

9.—(1) The Funeral Expense Assistance Regulations are amended as follows.

(2) In regulation 13(d) (amount of funeral expense assistance)—

- (a) in paragraph (1)(b), for “£1,070.60” substitute “£1,178.75”,
- (b) in paragraph (4)(b), for “£21.55” substitute “£23.75”,
- (c) in paragraph (6), for “£130.65” substitute “£143.85”.

Amendment of the Low Income Winter Heating Assistance Regulations

10.—(1) The Low Income Winter Heating Assistance Regulations are amended as follows.

(2) In regulation 9(1) (value and form of winter heating payment), for “£50” substitute “£55.05”.

Amendment of the Young Carer Grants Regulations

11.—(1) The Young Carer Grants Regulations are amended as follows.

(2) In regulation 12(1)(e) (amount and form of young carer grants), for “£326.65” substitute “£359.65”.

Saving Provisions

12. The schedule has effect.

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- (a) As relevantly amended by S.S.I. 2022/129.
 - (b) As relevantly amended by S.S.I. 2021/415 and S.S.I. 2022/129.
 - (c) Paragraph 2B was inserted by S.I. 1984/1699 and relevantly amended by S.S.I. 2022/28.
 - (d) As relevantly amended by S.S.I. 2020/99 and S.S.I. 2022/129.
 - (e) As relevantly amended by S.S.I. 2020/475 and S.S.I. 2022/129.

St Andrew's House,
Edinburgh
Date

Authorised to sign by the Scottish Ministers

SCHEDULE
Saving Provisions

Regulation 12

Adult Disability Payment Regulations

1.—(1) Where sub-paragraph (2) applies to an individual, regulation 34(1)(a), (1)(b), (2)(a) and (2)(b)(a) of the Adult Disability Payment Regulations continue to have effect on and after 10 April 2023 in relation to the amount of assistance to be given to that individual described in sub-paragraph (2) as it did immediately before that date.

(2) This sub-paragraph applies where part of an individual's determination of entitlement includes an award for the period before the 10 April 2023.

Best Start Foods Regulations

2.—(1) Where sub-paragraph (2) applies to an individual—

- (a) regulation 10(1)(a), (b)(i), (c) and (h)(b), and
- (b) regulation 13(1), (2)(a), (2)(b) and (3)(c),

of the Best Start Foods Regulations continue to have effect on and after 1 April 2023 in relation to the amount of assistance to be given to that individual as they did immediately before that date.

(2) This sub-paragraph applies where the individual's application for assistance under the Best Start Grants Regulations was made before 1 April 2023.

Best Start Grants Regulations

3.—(1) Where sub-paragraph (2) applies to an individual—

- (a) paragraph 6(1)(a) and (b) of schedule 2(d),
- (b) paragraph 7(1) of schedule 2(e),
- (c) paragraph 4 of schedule 3(f), and
- (d) paragraph 5 of schedule 4(g),

of the Best Start Grants Regulations continue to have effect on and after 1 April 2023 in relation to the amount of assistance to be given to that individual as they did immediately before that date.

(2) This sub-paragraph applies where the individual's application for assistance under the Best Start Grants Regulations was made before 1 April 2023.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 4 (when an application is treated as made) of the Best Start Grants Regulations.

Child Disability Payment Regulations

4.—(1) Where sub-paragraph (2) applies to an individual, regulation 23(1)(a), (1)(b), (1)(c), (2)(a) and (2)(b)(h) of the Child Disability Payment Regulations continue to have effect on and

(a) As relevantly amended by S.S.I. 2022/129.
(b) As relevantly amended by S.S.I. 2022/129.
(c) As relevantly amended by S.S.I. 2021/221 and 2022/167.
(d) As relevantly amended by S.S.I. 2022/129.
(e) As relevantly amended by S.S.I. 2022/129.
(f) As relevantly amended by S.S.I. 2022/129.
(g) As relevantly amended by S.S.I. 2022/129.
(h) As relevantly amended by S.S.I. 2022/129.

after 10 April 2023 in relation to the amount of assistance to be given to that individual described in sub-paragraph (2) as it did immediately before that date.

(2) This sub-paragraph applies where part of an individual's determination of entitlement includes an award for the period before the 10 April 2023.

Child Winter Heating Assistance Regulations

5.—(1) Where sub-paragraph (2) applies to an individual, regulation 10(1) of the Child Winter Heating Regulations^(a) has effect on and after 1 April 2023 in relation to the amount of assistance to be given to that individual as it did during the qualifying week in respect of which the individual is entitled to be paid child winter heating assistance.

(2) This sub-paragraph applies where the individual is entitled to be paid child winter heating assistance in respect of a qualifying week occurring before these Regulations first came into force.

(3) In this paragraph, “child winter heating assistance” and “qualifying week” have the meanings given in regulation 2 of the Child Winter Heating Regulations.

Funeral Expense Assistance Regulations

6.—(1) Where sub-paragraph (2) applies to an individual, regulation 13(1)(b), (4)(b) and (6) of the Funeral Expense Assistance Regulations^(b) continue to have effect on and after 1 April 2023 in relation to the amount of assistance to be given to that individual as they did immediately before that date.

(2) This sub-paragraph applies where the individual's application for assistance under the Funeral Expense Assistance Regulations was made before 1 April 2023.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 3 (applications) of the Funeral Expense Assistance Regulations.

Low Income Winter Heating Assistance Regulations

7.—(1) Where sub-paragraph (2) applies to an individual, regulation 9(1) of the Low Income Winter Heating Regulations has effect on and after 1 April 2023 in relation to the amount of assistance to be given to that individual as it did during the qualifying week in respect of which the individual is entitled to be paid winter heating payment.

(2) This sub-paragraph applies where the individual is entitled to be paid winter heating payment in respect of a qualifying week occurring before these Regulations first came into force.

(3) In this paragraph, “winter heating payment” and “qualifying week” have the meanings given in regulation 2 of the Low Income Winter Heating Regulations.

Young Carer Grants Regulations

8.—(1) Where sub-paragraph (2) applies to an individual, regulation 12(1) of the Young Carer Grants Regulations^(c) continues to have effect on and after 1 April 2023 in relation to the amount of assistance to be given to that individual as it did immediately before that date.

(2) This sub-paragraph applies where the individual's application for assistance under the Young Carer Grants Regulations was made before 1 April 2023.

(3) In this paragraph, reference to the individual's application being made is to be construed in accordance with regulation 4 (making of applications) of the Young Carer Grants Regulations.

(a) As relevantly amended by S.S.I. 2021/415 and S.S.I. 2022/129.

(b) As relevantly amended by S.S.I. 2022/129.

(c) S.S.I. 2019/324, as relevantly amended by S.S.I. 2020/475 and S.S.I. 2022/129.

EXPLANATORY NOTE

(This note is not part of the Regulations)