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## **Social Justice and Social Security Committee**

# **Subordinate legislation considered on 22 February 2024**



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# Social Justice and Social Security Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice excluding matters relating to housing and tenants' rights.

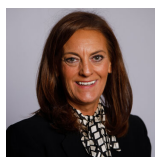


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**Marie McNair**  
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**Paul O'Kane**  
Scottish Labour

# Introduction

1. This report sets out the Social Justice and Social Security Committee's consideration of [the Social Security \(Up-rating\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2024](#) and the [Social Security Up-rating \(Scotland\) Order 2024](#) at its meeting on 22 February 2024. The [minutes](#) of the meeting have been published on the Committee's webpage. The [Official Report](#) of the meeting is available on the Scottish Parliament's website.

# The Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2024

2. The Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2024 were laid on 26 January 2024. This instrument is subject to the affirmative procedure, which means it is for the Committee to recommend to the Parliament whether the draft regulations should be approved.
3. The [Policy Note](#) and [Explanatory Note](#) detail the purpose of the instrument. According to the Policy Note, its purpose is to fulfil the duty on the Scottish Ministers under section 86B of the Social Security (Scotland) Act 2018 to—
  - ” ...bring forward legislation to increase the amount of Scottish Child Payment, Child Disability Payment, Adult Disability Payment, Funeral Support Payment, Carer Support Payment and Young Carer Grant to an amount which is at least as high as if the existing amount was adjusted in line with price inflation.
4. The Policy Note states that a 6.7% increase is also applied to other benefits not subject to the mandatory uprating requirements in section 86B— Best Start Grants, Best Start Foods, Child Winter Heating Payment and Winter Heating Payment. It additionally notes the Regulations increase earnings limits for Carer’s Allowance and Carer Support Payment, which it says are "not subject to the reporting or up-rating duties in sections 86A and 86B of the 2018 Act." <sup>1</sup>
5. The increases are intended to match or exceed the adjustment for price inflation and are based on the annual rate of Consumer Prices Index for September 2023.
6. The Policy Note also details when the increases will take place—
  - ” The increases to Young Carers Grant, Funeral Support Payment, Best Start Grants, Best Start Foods, Child Winter Heating Payment and Winter Heating Payment come into force on 1 April 2024. The increases to Child Disability Payment and Adult Disability Payment (including the Adult Disability Payment transitional rate) come into force on 8 April 2024. The increases to Carer Support Payment come into force on 7 April 2024. <sup>2</sup>
7. The Regulations further state the increase to Scottish Child Payment comes into force on 1 April 2024.

# The Social Security Up-rating (Scotland) Order 2024

8. The Social Security Up-rating (Scotland) Order 2024 was laid on 26 January 2024. This instrument is also subject to the affirmative procedure.
9. According to the [Policy Note](#) and [Explanatory Note](#), the purpose of the instrument is to fulfil the duty on Scottish Ministers under sections 150 and 150A of the Social Security Administration Act 1992 to review the rates of social security benefits they are responsible for. The Policy Note also says the regulations provide for the up-rating of certain benefits.
10. The functions of the Secretary of State for Work and Pensions related to Carer's Allowance in Scotland were transferred to the Scottish Ministers on 3 September 2018, and for all other devolved benefits from 1 April 2020. The Scottish Ministers are now responsible for providing these benefits to residents of Scotland.
11. Agency agreements with the Secretary of State for Work and Pensions allow the delivery of these benefits on behalf of the Scottish Ministers, and the Scottish Ministers are committed to up-rating these benefits at the same rate as the Department for Work and Pensions. However, Scottish Ministers must make the 2024 Order as this falls within their devolved competence.
12. As such, various weekly rates for Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Industrial Death Benefit, Personal Independence Payment and Severe Disablement Allowance will all increase according to the September 2023 Consumer Price Index (CPI) of 6.7%.
13. The Order also provides for an increase to the Adult Dependency Increase as an additional weekly payment for some of those who receive the Severe Disablement Allowance.
14. There will also be an increase to other benefits associated with the Severe Disablement Allowance and Industrial Injuries Scheme benefits. The Industrial Death Benefit (IDB) is usually up-rated by the triple lock guarantee by CPI or 2.5%. The UK Government has said IDB will increase by 8.5%, which aligns with growth in Average Weekly Earnings, May to July 2023.



# Consideration by Delegated Powers and Law Reform Committee

15. The Delegated Powers and Law Reform Committee considered the instruments at its meeting on [6 February 2024](#) and agreed that no points arose in relation to them.

# Cabinet Secretary for Social Justice at Committee, 22 February 2024

16. At its meeting on 22 February 2024, the Social Justice and Social Security Committee heard from Shirley-Anne Somerville, Cabinet Secretary for Social Justice and supporting officials.
17. During discussion, Members were interested in why there is a statutory obligation to uprate some benefits but not others. In response, the Cabinet Secretary said the Scottish Government prefers to act on a discretionary basis so Ministers have flexibility when deciding how best to support people, and that social security is just one lever of support.
18. Members mentioned the £1.1 billion spend on social security that is over and above the block grant adjustment. She outlined relevant figures—
  - ” Of that £1.1 billion, £614 million is for new benefits that are unique to Scotland, including the Scottish child payment, which will cost £457 million in 2024-25. We also have £110 million for other social security benefits, such as the welfare fund and discretionary housing payments. The spend above the BGA for social security is around £368 million, of which £300 million is for the adult disability payment.<sup>3</sup>
19. The Cabinet Secretary was also asked why there is not a statutory obligation to uprate benefits such as the Best Start Grant and Best Start Foods, when the Scottish Government has previously told the Scottish Commission on Social Security that these measures are to reduce child poverty.
20. Addressing this, the Cabinet Secretary reiterated that the Scottish Government must make judgments about the best ways to support people, and that this is not always through uprating. She highlighted the increased eligibility to the Best Start Foods payment as an example, noting the decision meant the benefit would reach an additional 20,000 people.
21. The Social Security (Amendment) (Scotland) Bill was brought up in discussion, and the Cabinet Secretary was asked whether Childhood Assistance and Care Experience Assistance, which the Bill will introduce, will be subject to statutory uprating. The Cabinet Secretary said that as the detail of these two new forms of assistance is still being established, a decision has not yet been made, but that the Scottish Government will keep this under review. She added that there is the potential for further changes to be made via secondary legislation. The Cabinet Secretary also reassured Members that those with relevant lived experience will continue to be consulted as appropriate.
22. Members questioned whether the Scottish Government had done any work on the cost of increasing the Winter Heating Payment in line with energy prices, as opposed to the Consumer Prices Index. The Cabinet Secretary replied that inflation caused by the price of energy and food can be unpredictable and that applying a more consistent calculation of inflation is “more manageable”. She also highlighted the UK Government’s role in the management of energy bills.

23. The Cabinet Secretary was asked about whether the introduction of the Social Security (Amendment) (Scotland) Bill presented a good opportunity for a statutory duty to uprate the Carer Support Payment earnings threshold to be introduced, given case transfer is expected to be completed in 2025.
24. In response, the Cabinet Secretary explained that, while there is currently no legal requirement for the Scottish Government to increase earnings thresholds for benefits under the Social Security (Scotland) Act 2018 or UK legislation, she is aware carers have asked for it to be considered, and this is best done following case transfer. However, the Cabinet Secretary emphasised that the Scottish Government's priority is safe and secure transfer and to maintain equality in delivery of the benefit—
- ” As we move through case transfer for carers, we are keen to prevent a two-tier system, whereby some people are on one earnings threshold due to some regulations, while others who have not had their case transferred yet would be on a different system. That is not a place where we want to be. <sup>4</sup>
25. Members also asked about whether the Scottish Government had considered requests for increases to the Scottish Child Payment that go beyond the 6.7% inflationary uplift Ministers have committed to.
26. The Cabinet Secretary said the Scottish Government have had to make hard choices when determining the budget and that some requests are not affordable. She provided an example—
- ” I will add that going beyond the uprating of the Scottish child payment for inflation to increase the payment to £30 per week, for example, would cost an additional £57 million, which would have to be found in the budget and taken from elsewhere. Increasing the Scottish child payment to £40, which some campaigners have asked for, would require an additional £228 million to be found in the budget. As members are aware, there simply is not that spare budget sitting unallocated in the budgetary process. <sup>5</sup>
27. The Cabinet Secretary also reiterated that there are other ways to support people beyond social security, and cited the Best Start, Bright Futures: Tackling Child Poverty Delivery Plan 2022-2026 as an example of work the Scottish Government is doing to examine what drives poverty.
28. Further to this exchange, Members were interested in whether the Scottish Government would look to increase the Scottish Child Payment in future years. The Cabinet Secretary said the First Minister is interested in this, but that there are budgetary challenges—
- ” The real challenge that limits our ability to do that will be that we continue to have to mitigate some of the worst excesses of Westminster policies. For example, there is already £127 million in the 2023-24 budget to mitigate some of the UK Government's welfare reform. <sup>6</sup>
29. Following the evidence session, the Cabinet Secretary for Social Justice moved motions [S6M-12001](#) and [S6M-12002](#). Each motion was agreed to without division.

# Recommendation

30. The Social Justice and Social Security Committee recommends that The Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2024 [draft] and The Social Security Up-rating (Scotland) Order 2024 [draft] be approved.

1 [Policy Note](#)

2 [Policy Note](#)

3 Social Justice and Social Security Committee. Official Report, 22 February 2024, Col 3.

4 Social Justice and Social Security Committee. Official Report, 22 February 2024, Col 6.

5 Social Justice and Social Security Committee. Official Report, 22 February 2024, Col 7.

6 Social Justice and Social Security Committee. Official Report, 22 February 2024, Col 8.

