

Social Justice and Social Security Committee
Thursday, 19 February 2026
7th Meeting, 2026 (Session 6)

Note by the Clerk on the Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2026 [draft]

Overview

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Social Justice, on the Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2026.
2. Following this, a motion will be debated in the name of the Cabinet Secretary inviting the Committee to recommend approval of the affirmative instrument.
3. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

Title of instrument: [The Social Security \(Up-rating\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2026](#)

Laid under: The Social Security Act 1988, the Social Security Contributions and Benefits Act 1992 and the Social Security (Scotland) Act 2018.

Laid on: 28 January 2026

Procedure: Affirmative

Lead committee to report by: 8 March 2026

Commencement: 1 April 2026

Procedure

4. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
5. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
6. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.

7. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
 - an evidence session with the Minister and officials, followed by
 - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
8. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only Committee Members may vote. If the motion is agreed to, it is for the Chamber to decide at a later date whether to approve the instrument

Delegated Powers and Law Reform Committee consideration

9. The DPLR Committee considered the instrument on [10 February 2026](#) and reported on it in its [17th Report, 2026](#). The Committee made no recommendations in relation to the instrument.

Purpose of the instrument

10. The Regulations deliver the Scottish Ministers' statutory duty to review and uprate devolved social security assistance in line with inflation. The Regulations increase a wide range of Scottish benefits by 3.8%, reflecting the September 2025 CPI, including Scottish Child Payment, disability benefits, carers' benefits, Best Start payments, funeral support payments, and winter heating assistance. Although not required by the uprating duty, the earnings limits for Carer's Allowance and Carer Support Payment are also increased from £196 to £204.
11. The Regulations additionally make minor technical, saving and transitional amendments to correct errors, clarify operational provisions, and ensure correct payment of the transitional rate of Adult Disability Payment for 2025–26. The instrument is compatible with the UNCRC, not relevant to EU alignment, and is expected to have no financial impact beyond planned inflationary increases. The Scottish Commission on Social Security scrutinised the draft Regulations and made no recommendations for change, with Ministers confirming continued engagement on future uprating methodology.
12. The [Policy Note](#) accompanying the instrument is included in the annex. It includes a summary of the Scottish Government's consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

Report

13. Following today's proceedings, a draft report will be prepared by the Clerks. The Committee is invited to decide whether to consider that draft report in private at a future meeting or to defer responsibility to the Convener to publish a report of the Committee's views.

Clerks to the Committee
February 2026

Annexe

POLICY NOTE

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

SSI 2026/XXX

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 statement on 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 Assistance¹; Young Carer Grant²; Child Disability Payment³; Adult Disability Payment⁴; Pension Age Disability Payment⁵; Scottish Adult Disability Living Allowance⁶; Scottish Child Payment⁷; Best Start Grant⁸; Best Start Foods⁹; Child Winter Heating Payment¹⁰; Winter Heating Payment¹¹; Pension Age Winter Heating Payment¹²; Carer Support¹³ comprising of Carer Support Payment¹⁴; Carer Additional Person Payment and Scottish Carer Supplement¹⁵.

Financial Effects

A Financial Memorandum¹⁶ 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.

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>

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>

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