

# **WELFARE BENEFITS UP-RATING ACT 2013**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Welfare Benefits Up-rating Act 2013 which received Royal Assent on 26 March 2013. They have been prepared by the Department for Work and Pensions in conjunction with HM Treasury in order to assist the reader of the Act and to help inform debate on it. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### **BACKGROUND**

3. The measures contained within this Act implement decisions made as part of the Autumn Statement 2012.
4. Welfare expenditure is a significant driver of public spending, and the Government has made a commitment to deliver a more sustainable welfare system. In the Autumn Statement, it was announced that in light of the national economic situation, certain working-age social security benefits and payments, and certain elements of tax credits, would be up-rated by 1 per cent, rather than prices (as measured by the Consumer Prices Index ('CPI'), 2.2 per cent), for the tax year 2013-14.
5. The working-age social security benefits and payments in question are:
  - The main rates of Income Support, Jobseeker's Allowance, Employment and Support Allowance and Housing Benefit; and the work-related activity group component of Employment and Support Allowance;
  - Maternity Allowance; and Statutory Adoption, Maternity, Paternity and Sick Pay.
6. Also for 2013-14, the Government has decided that the basic State Pension should be up-rated by 2.5 per cent as under the 'triple lock' commitment. The Standard Minimum Guarantee in Pension Credit will be increased beyond the statutory minimum of earnings to give an equivalent to the cash increase in basic State Pension, with the cost off-set by an increase in the Savings Credit threshold. Premia paid to pensioner recipients of working-age benefits as listed above will continue to be up-rated to match Pension Credit rates. Premia paid to disabled people receiving working-age benefits as listed above, and the Support Group component of Employment and Support Allowance, will be up-rated by CPI at 2.2 per cent. Applicable amounts specified for children or young persons in the working-age benefits as listed above will continue to be up-rated with reference to Tax Credit and Child Benefit rates.
7. The above up-rating decisions for 2013-14 will take effect through the [Social Security Benefits Up-rating Order 2013 \(S.I. 2013/574\)](#) provided for by sections 150 and 150A of the Social Security Administration Act 1992. The new rates will take effect in April 2013.

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8. The Government also decided that certain tax credits – the couple element and lone parent element of Working Tax Credit, and the child element of Child Tax Credit – would be up-rated by 1 per cent in 2013-14. These decisions will come into force in April 2013.
9. Also at the Autumn Statement it was announced that the 1 per cent decision would apply in 2014-15 and 2015-16 to the working-age benefits and payments as listed above (and therefore the corresponding Universal Credit rates; Child Benefit; and certain elements of tax credits). It is these decisions in respect of 2014-15 and 2015-16 which are the subject of this Act.
10. For ease of reference when reading these explanatory notes, please note the following abbreviations for existing pieces of legislation affected by the Act:
  - SSAA 1992 – Social Security Administration Act 1992;
  - SSAA (NI)1992 – Social Security Administration (Northern Ireland) Act 1992;
  - TCA – Tax Credits Act 2002.

## **SUMMARY**

11. Under the SSAA 1992, the Secretary of State for Work and Pensions is required to review the value of benefits and pensions in light of changes in prices, and where it appears to him that prices have increased relative to the value of those benefits he must make an up-rating Order, subject to Parliamentary approval, in each tax year. The Act provides that for the tax years 2014-15 and 2015-16, the relevant sums listed in paragraph 1 of the Schedule will be up-rated by 1 per cent, and obliges the Secretary of State to make an order for each of those tax years to bring those increases into effect.
12. Under section 41 of the TCA 2002, the Treasury is required to review the amounts of certain elements of tax credits each year to determine whether the elements have retained their value in relation to the general level of prices. Therefore, as for DWP benefits and pensions, the Act provides that for the tax years 2014-15 and 2015-16 the relevant monetary amounts listed in paragraph 2 of the Schedule will be up-rated by 1 per cent, and obliges the Treasury to make an order for each of those tax years to bring those increases into effect.

## **ACT OVERVIEW**

13. The Act has three sections and one schedule:
  - Section 1 provides for the up-rating of certain social security benefits and payments by 1 per cent in the tax years 2014-15 and 2015-16;
  - Section 2 provides for the up-rating of certain elements of tax credits by 1 per cent in the tax years 2014-15 and 2015-16;
  - Section 3 contains the miscellaneous measures and technical provisions in the Act;
  - The Schedule sets out the “relevant sums” for the purposes of section 1 and the “relevant amounts” for the purposes of section 2.

## **TERRITORIAL EXTENT**

14. *Section 1(1) to (7)* and paragraph 1 of the Schedule extend to England and Wales and Scotland only; *subsection (9)* of that section extends to Northern Ireland; the other provisions of the Act extend to England and Wales, Scotland and Northern Ireland.

***Territorial application: Wales***

15. The Act's effect in Wales is the same as in England. The Act contains no provisions that relate exclusively to Wales, or affect the National Assembly for Wales.

***Territorial application: Scotland***

16. The Act's effect in Scotland is the same as in England.
17. The Act does not contain any provisions falling within the terms of the Sewel Convention.

***Territorial application: Northern Ireland***

18. Social security in Northern Ireland is a devolved matter.
19. Child benefit and tax credits are excepted matters.

**COMMENTARY ON SECTIONS**

***Section 1: Up-rating of certain social security benefits for tax years 2014-15 and 2015-16***

20. *Section 1* introduces a duty on the Secretary of State for Work and Pensions to up-rate relevant sums by 1 per cent, to take effect in the tax years 2014-15 and 2015-16; and introduces the Schedule, paragraph 1 of which defines the relevant sums. It also makes provision for the event that the increase in prices is less than 1 per cent.
21. *Subsection (1)* sets out the new duty on the Secretary of State for Work and Pensions to make an order by statutory instrument, in each of the tax years ending with 5 April 2014 and 5 April 2015, increasing each of the relevant sums by 1 per cent.
22. *Subsection (2)* specifies that the order under subsection (1) must bring the increases into force in the week beginning with the first Monday of the new tax year, or, on an earlier date in April. Increases take effect on various dates because of differences in the prescribed payday of the benefit or payment and depending on whether the benefit or payment is a weekly or daily benefit.
23. *Subsection (3)* allows for the rounding of sums after the 1 per cent increase has been applied. This follows the existing provision set out in section 150(5) of the SSAA 1992. Generally, rounding is to the nearest 5 pence (up or down).
24. *Subsection (4)* requires the Secretary of State to lay before Parliament a copy of a report by the Government Actuary on the likely effects of the order on the National Insurance Fund. This follows the existing provision set out in section 150(8) of the SSAA 1992.
25. Under section 150 of the SSAA 1992, the Secretary of State for Work and Pensions must in each tax year review the sums of benefits and certain pensions in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Secretary of State thinks fit. *Subsection (5)* sets out that if, when conducting that review, the Secretary of State finds that prices have not increased, or have increased by less than 1 per cent, for the period under review, new *subsection (1)* does not apply. In this circumstance, the Secretary of State must revert to exercising his discretion in the up-rating of the relevant sums for the tax year in question (as he must continue to do for certain other benefits and payments not covered by this Act).
26. *Subsection (6)* requires that where *subsection (1)* applies in relation to a tax year, the draft of any up-rating order made under the existing provisions of section 150 of the SSAA 1992 must not include any of the relevant sums as defined in paragraph 1 of the new Schedule.

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27. *Subsection (7)* secures that for the purposes of the sums set out in section 150(1)(i) of the SSAA 1992, namely Child Benefit, it is the Treasury on which the obligations of section 1 fall.
28. *Subsection (8)* provides that where there is a reference in any other enactment to an order made under section 150 of the SSAA 1992, that reference includes a reference to an order made under section 1 (with the exception of sections 189 and 190 of the SSAA 1992, which concern general points with respect to orders). In particular, this includes section 132 of the SSAA (NI) 1992, which includes a reference to an order under section 150 of the SSAA 1992, and therefore will also include a reference to an order under section 1.
29. *Subsection (9)* provides that nothing in section 166 of the SSAA (NI) 1992, which concerns the control of orders and regulations, should apply in relation to an order made by the Treasury (under section 132 of the Act) with respect to the up-rating of Child Benefit in Northern Ireland, corresponding to an Order under section 1.
30. The Schedule, paragraph 1, sets out the relevant sums for the purposes of section 1. These are:
  - The personal allowances for a person or couple used in the calculation of Income Support;
  - The personal allowances for a person or couple used in the calculation of Housing Benefit;
  - Rates of Child Benefit; and of Statutory Sick Pay, Statutory Maternity Pay, Ordinary Statutory Paternity Pay, Additional Statutory Paternity Pay, and Statutory Adoption Pay;
  - The age-related amount for contribution-based Jobseeker's Allowance which is relevant for calculating the claimant's personal rate;
  - The personal allowances for a person or couple used in the calculation of income-related Jobseeker's Allowance;
  - The contributory allowance of Employment and Support Allowance;
  - The work-related activity component of contributory Employment and Support Allowance;
  - The prescribed amounts for income-related Employment and Support Allowance;
  - The work-related activity component of income-related Employment and Support Allowance;
  - The standard allowance for a single or a joint claimant of Universal Credit;
  - The additional amount of Universal Credit for a disabled child or qualifying young person (but only the smaller or smallest of sums specified);
  - The limited capability for work element of Universal Credit.

***Section 2: Up-rating of tax credits for tax years 2014-15 and 2015-16***

31. *Section 2* introduces a duty on the Treasury to up-rate relevant amounts by 1 per cent, to take effect in the tax years 2014-15 and 2015-16; and introduces the Schedule, paragraph 2 of which defines the relevant amounts. It also makes provision for the event that the increase in prices is less than 1 per cent.
32. *Subsection (1)* sets out the new duty on the Treasury to make an order by statutory instrument increasing the relevant amounts by 1 per cent in each of the tax years ending with 5 April 2014 and 5 April 2015.

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33. *Subsection (2)* specifies that the order made under subsection (1) must come into force for the tax year following that in which the order is made.
34. *Subsection (3)* allows for the rounding of sums after the 1 per cent has been applied. Generally, rounding is to the nearest £5 a year (up or down).
35. Under section 41 of the Tax Credits Act 2002, the Treasury is required to review the amounts of certain elements of tax credits each year to determine whether the elements have retained their value in relation to the general level of prices. *Subsection (4)* sets out that if, when conducting the review, the Treasury finds that prices have not increased, or have increased by less than 1%, for the period under review, new *subsection (1)* does not apply. In this circumstance, the Treasury will revert to exercising discretion in the up-rating of the relevant amounts for the tax year in question.
36. *Subsection (5)* requires that the Treasury does not exercise discretion to up-rate by any other amount the relevant amounts to be up-rated by 1 per cent under *subsection (1)*.
37. The Schedule, paragraph 2 defines the relevant amounts for the purposes of section 2. These are:
- The basic element, the 30 hour element, the second adult element and the lone parent element of Working Tax Credit;
  - The child element of Child Tax Credit (including qualifying young people).

#### **TRANSPOSITION NOTES**

38. None of the measures in this Act has any effect on or is affected by any European Directive.

#### **COMMENCEMENT**

39. *Section 3* provides for sections 1 and 2 and the Schedule to come into force by commencement order. Section 3 came into force at Royal Assent.

#### **HANSARD REFERENCES**

40. The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard Reference</i>
<b>House of Commons</b>		
Introduction	20 December 2012	Vol. 555 Col. 1014
Second Reading	8 January 2013	Vol. 556 Col. 188
Committee, Report and Third Reading	21 January 2013	Vol. 557 Col. 50
<b>House of Lords</b>		
Introduction	22 January 2013	Vol. 742 Col. 1003
Second Reading	11 February 2013	Vol. 743 Col. 457
Committee	25 February 2013	Vol. 743 Col. 852
Committee	5 March 2013	Vol. 743 Col. 1397
Report	19 March 2013	Vol. 744 Col. 494
Third Reading	25 March 2013	Vol. 744 Col. 798

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<i>Stage</i>	<i>Date</i>	<i>Hansard Reference</i>
Royal Assent	26 March 2013	Lords: Vol. 744 Col. 955
		Commons: Vol. 560 Col. 1470