EXPLANATORY MEMORANDUM TO

THE GUARANTEED MINIMUM PENSIONS INCREASE ORDER 2009

2009 No.

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Order specifies the amount by which the guaranteed minimum pension (a guaranteed minimum pension accrued in a contracted out occupational pension scheme between 1978-1997) element of an individual's occupational pension entitlement must be increased, with effect from 6 April 2009.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Under section 109(1) of the Pension Schemes Act 1993 ("the Act"), the Secretary of State is required to review the general level of prices in Great Britain for the period of 12 months commencing at the end of the period last reviewed. Where that level has increased at the end of the period under review, the Secretary of State is required, under section 109(2) of the Act, to lay a draft Order before Parliament specifying a percentage by which there is to be an increase of the rate of that part of the guaranteed minimum pension which is attributable to earnings factors for the tax years in the relevant period (i.e. the tax years 1988-89 to 1996-97).

4.2 In accordance with section 109(3) of the Act, the level of inflation proofing is limited to the increase in the Retail Prices Index (RPI) or 3 per cent, whichever is less. The RPI for the appropriate review period (i.e. the 12 months commencing on 1 October 2007 and ending on 30 September 2008) was 5 per cent. The increase in the guaranteed minimum pension is, therefore, 3 per cent.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister of State for Pensions and the Ageing Society, Rosie Winterton, has made the following statement regarding Human Rights:

In my view the provisions of the Guaranteed Minimum Pensions Increase Order 2009 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 The Order fulfils the Secretary of State's statutory duty (as set out in 4.1 above) to provide for annual increases in the guaranteed minimum pension where there has been an increase in the general level of prices in the period under review.

- ***Consolidation***

7.2 As this increase Order does not amend another statutory instrument, consolidation is not necessary.

8. Consultation outcome

8.1 Consultation is not necessary because the Order forms part of the regular annual up-rating requirements.

9. Guidance

9.1 The guaranteed minimum pensions held in contracted out occupational pension schemes are required to be uprated annually in accordance with The Guaranteed Minimum Pensions Increase Order. Trustees and scheme administrators will be aware of the requirement, hence no guidance is provided with this Order.

10. Impact

10.1 This instrument imposes no new costs on business, charities or voluntary bodies.

10.2 This instrument imposes no new costs on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as it imposes no new costs.

11. Regulating small business

11.1 The legislation applies to small businesses if they were in operation from 1988-1997 and had a salary related pension scheme which contracted members out of the State system. It imposes no new costs on such small businesses.

12. Monitoring & review

12.1 The position is subject to review each tax year (please see paragraph 4.1 above).

13. Contact

Maureen Rafferty at the Department for Work and Pensions Tel: 020 7962 8742 or email: Maureen.rafferty@dwp.gsi.gov.uk can answer any queries regarding the instrument.