EXPLANATORY MEMORANDUM TO

THE GUARANTEED MINIMUM PENSIONS INCREASE ORDER 2012

2012 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

The Order specifies the amount by which the guaranteed minimum pension element of an individual's occupational pension entitlement (a guaranteed minimum pension accrued in a contracted out occupational pension scheme between1978 and1997) must be increased, with effect from 6 April 2012.

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

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. Under section 109(3A) of the Act, the relevant period is the period beginning with the tax year 1988-89 and ending with the tax year 1996-97. There is no statutory requirement for pension schemes to increase guaranteed minimum pensions accrued between 1978 and 1988.

4.2 In accordance with section 109(3) of the Act, the level of inflation proofing is limited to the increase in the general level of prices or 3 per cent, whichever is less. The Consumer Prices Index for the appropriate review period (i.e. the 12 months commencing on 1 October 2010 and ending on 30 September 2011) was 5.2 per cent. The increase in the guaranteed minimum pension is, therefore, 3 per cent.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister of State for Pensions, Steve Webb, has made the following statement regarding Human Rights:

In my view the provisions of the Guaranteed Minimum Pensions Increase Order 2012 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. The Secretary of State has measured the increase in the general level of prices in the appropriate period using the Consumer Prices Index.

- ***Consolidation***

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

8. Consultation outcome

As explained in paragraph 4, primary legislation requires the Secretary of State to make an Order each year, coming into force on 6 April, based on his judgment of the increase in the general level of prices up to the immediately preceding 30 September. As there is no scope for consultation to affect the outcome of this annual Order, no consultation is undertaken. The Order does not amend other legislation.

9. Guidance

Trustees and scheme administrators of contracted out pension schemes holding guaranteed minimum pensions (which ceased to accrue from 1997) will be aware of the requirement to increase them in accordance with this Order, so no guidance is provided.

10. Impact

10.1 This instrument imposes no new costs on the private sector or civil society organisations.

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

10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

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

12. Monitoring & review

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

13. Contact

Uzair Farooq at the Department for Work and Pensions Tel: 020 7449 7374 or email: uzair.farooq@dwp.gsi.gov.uk can answer any queries regarding the instrument.