EXPLANATORY MEMORANDUM TO

THE GUARANTEED MINIMUM PENSIONS INCREASE ORDER 2017

2017 No. [XXXX]

1. Introduction

1.1 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 element of an individual's occupational pension entitlement (a guaranteed minimum pension accrued in a formerly contracted-out occupational pension scheme between 1978 and 1997) must be increased, with effect from 6 April 2017.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland.

4. Legislative Context

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

5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain.

5.2 The territorial application of this instrument is Great Britain.

5.3 The Department for Communities in Northern Ireland will be producing its own legislation replicating this Order for Northern Ireland.

6. European Convention on Human Rights

6.1 The Minister for Welfare Delivery (Parliamentary Under Secretary of State) Caroline Nokes MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Guaranteed Minimum Pensions Increase Order 2017 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 From 1978 salary related or defined benefit occupational pension schemes were able to remove their members from the State Earnings Related Pension Scheme (SERPS), also known as additional State Pension or State Second Pension and provide a "guaranteed minimum pension" ("GMP") in return. The system was widely used. The GMP was intended to provide a minimum amount of weekly pension, broadly equivalent to the amount of additional State Pension that would have built up had the member not been contracted-out. The GMP is payable for life at age 60 for a woman or 65 for a man, and a survivor benefit is payable to a widow, widower or surviving civil partner. This system was in operation until 5 April 1997; although rights no longer accrue, those rights are, and will continue to be protected.

7.2 Under section 109(1) of the Pension Schemes Act 1993 ("the 1993 Act") the Secretary of State for Work and Pensions is required to annually review the general level of prices in Great Britain.

7.3 Where there has been an increase in the general level of prices since the last review, section 109(2) of the 1993 Act requires the Secretary of State to specify the percentage by which there is to be an increase in the rate of that part of GMP which is attributable to earnings factors for the tax years in the relevant period. The relevant period is the period beginning with the tax year 1988-89 and ending with the tax year 1996-97: section 109(3A) of the 1993 Act. There is no statutory requirement for pension schemes to increase GMPs accrued between 1978 and 1988.

7.4 In accordance with section 109(3) of the 1993 Act, the level of inflation proofing is limited to the increase in the general level of prices or 3 per cent, whichever is less.

7.5 The Secretary of State measures the increase in the general level of prices in the appropriate period using the Consumer Prices Index.

7.6 The Consumer Prices Index for the appropriate review period (i.e. the 12 months commencing on 1 October 2015 and ending 30 September 2016) is 1.0 per cent. The increase in the GMP is, therefore, 1.0 per cent.

7.7 This instrument achieves this statutory requirement.

Consolidation

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

8. Consultation outcome

8.1 As there is no scope for consultation to affect the outcome of the annual Order, no consultation was undertaken.

9. Guidance

9.1 Trustees and scheme administrators of formerly contracted-out schemes holding guaranteed minimum pensions (which ceased to accrued from 1997) will be aware of the requirement to increase them in accordance with this Order, no guidance is therefore necessary.

10. Impact

10.1 There is no new impact on business, charities or voluntary bodies. Businesses are already required by law to provide for increases in the guaranteed minimum pension to protect against increases in the general level of prices.

10.2 There is no new impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise regulatory burdens on small businesses from the original requirement to uprate guaranteed minimum pensions in line with general prices.

11.3 Removing small businesses (i.e. small schemes) from this requirement would adversely affect scheme members because their pensions would not be protected from the effects of inflation.

12. Monitoring & review

12.1 There are no plans to monitor the effect of this Order. There is a statutory requirement to annually review how the guaranteed minimum pension is uprated, in line with general level of prices.

13. Contact

13.1 Lillian Coulson at the Department for Work and Pensions Telephone: 0207 449 7232 or email: lillian.coulson@dwp.gsi.gov.uk can answer any queries regarding the instrument.