**EXPLANATORY MEMORANDUM TO**

**THE GUARANTEED MINIMUM PENSIONS INCREASE ORDER 2018**

**2018 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 Order

2.1 This Order specifies the amount by which the guaranteed minimum pension (GMP) element of an individual's salary-related (or defined benefit) contracted-out, occupational pension scheme entitlement, accrued between 1978 and 1997, must be increased, with effect from 6 April 2018.

## 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 Order includes Scotland.

## 4. Legislative Context

4.1 This Order fulfils the Secretary of State's statutory duty under section 109 of the Pension Schemes Act 1993[1] ("the 1993 Act") to provide for an annual increase in the GMP 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 Order is Great Britain.

5.2 The territorial application of this Order 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 Family Support, Housing and Child Maintenance (Parliamentary Under-Secretary of State) Kit Malthouse MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Guaranteed Minimum Pensions Increase Order 2018 are compatible with the Convention rights."

[1] http://www.legislation.gov.uk/ukpga/1993/48

## 7. Policy background

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

7.1 From 1978 salary-related occupational pension schemes were able to remove their members from additional State Pension (also known as State Earnings Related Pension Scheme (SERPS)) and provide a GMP instead. In return both the employer and employee paid reduced National Insurance contributions. The system, known as "contracting-out", 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 the person would have been entitled to had they not been contracted out. The GMP is payable for life from age 60 for a woman or 65 for a man, and a survivor benefit may be payable for the scheme member's 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 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 the 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 (see 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 specified percentage is to be the percentage 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 2016 and ending with 30 September 2017) is 3.0 per cent. This Order therefore specifies that the GMP is to be increased by 3.0 per cent.

***Consolidation***

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

## 8. Consultation outcome

8.1 There is no statutory duty on the Secretary of State to consult on this instrument. The Department does not consider informal consultation is appropriate in this case, as this is a technical order which gives effect to a statutory requirement, the terms of which are specified in primary legislation.

## 9. Guidance

9.1 Trustees and scheme administrators of formerly contracted-out schemes holding GMPs (which ceased to accrue from 1997) will be aware of the requirement to increase the GMPs 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 GMP 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 Order.

## 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 GMPs 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 GMP is uprated, in line with the general level of prices.

## 13. Contact

13.1 Suma Chacko and Lillian Coulson at the Department for Work and Pensions Telephone numbers: 0207 449 5234 / 0207 449 7232 email: Suma.Chacko@dwp.gsi.gov.uk / Lillian.Coulson@dwp.gsi.gov.uk can answer any queries regarding the Order.