EXPLANATORY MEMORANDUM TO

THE GUARANTEED MINIMUM PENSIONS INCREASE ORDER 2019

2019 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 This instrument specifies the amount by which the guaranteed minimum pension (GMP) element of an individual's occupational pension entitlement (a GMP accrued in a formerly contracted-out occupational pension scheme between 1978 and 1997) must be increased, with effect from 6 April 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England, Wales and Scotland.

4.2 The territorial application of this instrument is England, Wales and Scotland.

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

5. European Convention on Human Rights

5.1 The Minister for Family Support, Housing and Child Maintenance (Parliamentary Under-Secretary of State), Justin Tomlinson MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Guaranteed Minimum Pensions Increase Order 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 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.

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

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 additional State Pension (also known as State Earnings Related Pension Scheme (SERPS) or State Second Pension) and provide a 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 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: 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 2017 and ending with 30 September 2018) is 2.4 per cent. This instrument therefore specifies that the GMP is to be increased by 2.4 per cent.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

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

10. Consultation outcome

10.1 There is no statutory duty on the Secretary of State to consult on this Order. 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.

11. Guidance

11.1 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 instrument; no guidance is therefore necessary.

12. Impact

12.1 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.

12.2 There is no new impact on the public sector.

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

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses (employing up to 50 people) from the original requirement to uprate GMPs in line with general prices.

13.3 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.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 the Minister for Family Support, Housing and Child Maintenance (Parliamentary Under-Secretary of State), Justin Tomlinson MP, has made the following statement:

"There are no plans to monitor the effect of this Order. There is a statutory requirement to annually review the general level of prices in Great Britain and where prices have increased to lay a draft Order before Parliament."

15. Contact

15.1 Lillian Coulson at the Department for Work and Pensions Telephone number: 0207 449 7232 or email: Lillian.Coulson@dwp.gsi.gov.uk can be contacted with any queries regarding the instrument.

15.2 Joanne Gibson, Deputy Director for Defined Benefits Pension Policy at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister for Family Support, Housing and Child Maintenance (Parliamentary Under-Secretary of State) Justin Tomlinson MP at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.