EXPLANATORY MEMORANDUM TO

THE GUARDIAN'S ALLOWANCE UP-RATING ORDER 2011 No. [XXXX]

AND

THE GUARDIAN'S ALLOWANCE UP-RATING (NORTHERN IRELAND) ORDER 2011 No. [XXXX]

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These two Orders increase, from 11 April 2011, the amounts of guardian's allowance, as announced in 22 June Budget 2010 and subsequently published by HM Treasury on 2 December 2010.

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

3.1 None

4. Legislative Context

4.1 These orders provide for the annual up-rating of the weekly rate of Guardian's Allowance specified in Schedules 4, Part 3, of the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

4.2 Section 63 of the Social Security Contributions and Benefits Act 1992 and section 63 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 list guardian's allowance as a non-contributory benefit under Part III of each Act.

4.3 Section 77 of the Social Security Contributions and Benefits Act 1992 and section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 provide for guardian's allowance to be payable for a child or a qualifying person where the child's parents are dead, or one parent is dead and the other parent is missing, or detained in prison, or hospital in specified circumstances.

4.4 Section 150 of the Social Security Administration Act 1992 requires the Treasury, in each tax year, to review in line with prices the amounts of all benefits as detailed in Schedule 4 to the Social Security Contributions and Benefits Act 1992, which includes guardian's allowance. Section 132 of the Social Security Administration (Northern Ireland) Act 1992 provides for the equivalent change to be made in Northern Ireland.

4.5 By virtue of section 190 of the Social Security Administration Act 1992 and section 165 of the Social Security Administration (Northern Ireland) Act 1992, these two orders require a resolution by both Houses of Parliament.

5. Territorial Extent and Application

5.1 The Guardian's Allowance Up-rating Order 2011 applies to Great Britain.

5.2 The Guardian's Allowance Up-rating (Northern Ireland) Order 2011 replicates the provisions of the Guardian's Allowance Up-rating Order 2011 in respect of Northern Ireland.

6. European Convention on Human Rights

The Economic Secretary to the Treasury, Justine Greening, has made the following statement regarding Human Rights:

In my view the provisions of the Guardian's Allowance Up-rating Order 2011 and the Guardian's Allowance Up-rating (Northern Ireland) Order 2011 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 In consequence of section 150 of the Social Security Administration Act 1992 and section132 of the Social Security Administration (Northern Ireland) Act 1992, HM Treasury has made these Orders amending the rate of guardian's allowance specified in Part III of Schedule 4 to the Social Security Contributions and Benefits Act 1992. The equivalent change is also made in respect of the rate payable in Northern Ireland.

7.2 The changes being introduced from 6 April 2011 increase the rate of guardian's allowance from £14.30 to £14.75 a week.

- **Consolidation**

7.3 None

8. Consultation outcome

8.1 No formal consultation has taken place

9. Guidance

9.1 HM Treasury has issued a Press release setting out the rates of Guardian's Allowance from 2011-12. Leaflets will be updated to reflect the new rates in due course.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The position is subject to review each tax year.

13. Contact

Rachel Varndell at HM Revenue and Customs Tel: 0207 147 3617 or email: rachel.varndell@hmrc.gsi.gov.uk can answer any queries regarding the instrument.