GROUP EXPLANATORY MEMORANDUM TO

THE GUARDIAN'S ALLOWANCE UP-RATING ORDER 2011

2011 No. [XXXX]

AND

THE GUARDIAN'S ALLOWANCE UP-RATING (NORTHERN IRELAND) ORDER 2011

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

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 HMT on 2nd December 2010.

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

The JCSI will note that the Guardian's Allowance Up-rating Order includes article 3, which states that the amounts of child benefit remain the same as last year. This statement is in accordance with the obligation under the s. 150 (2) (c) of the Social Security Act 1998.

4. Legislative Context

4.1 These orders provide for the annual uprating 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.

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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

No formal consultation has taken place.

9. Guidance

HM Treasury has issued a press release setting out the rate of guardian's allowance for 2011-12. Guidance will be up-dated to reflect the new rates in due course.

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

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

11. Regulating small business

The instrument does not apply to small business.

12. Monitoring & review

The rate of Guardian's Allowance is reviewed annually. This is in accordance with section 150(1) of the Social Security Administration Act 1992, which requires that in each tax year the Secretary of State ("Treasury") shall review the sums specified in Schedule 4 to the Social Security Contributions and Benefits Act 1992 in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Treasury think fit. Section 132(1) of the Social Security Administration (Northern Ireland) Act 1992 provides the equivalent power for Northern Ireland.

13. Contact

Rachel Varndell at HM Revenue and Customs Tel: 020 7147 3617 or e-mail:rachel.varndell@hmrc.gsi.gov.uk. can answer any queries regarding the instrument.