EXPLANATORY MEMORANDUM TO
THE GUARDIAN'S ALLOWANCE UP-RATING ORDER 2014

2014 No. [XXXX]

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

2. Purpose of the instrument

2.1 This Order increases, from the 7th April 2014, the amounts of Guardian's Allowance as announced in the autumn statement on the 5th December 2012 and subsequently published by HM Treasury.

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

3.1 None.

4. Legislative Context

4.1 This Order provides for the annual up-rating of the weekly rate of Guardian's Allowance specified in Part III of Schedule 4 to the Social Security Contributions and Benefits Act 1992.

4.2 Section 63 of the Social Security Contributions and Benefits Act 1992 lists Guardian's Allowance as a non-contributory benefit.

4.3 Section 77 of the Social Security Contributions and Benefits Act 1992 provides 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 amount of this benefit as detailed in Schedule 4 to the Social Security Contributions and Benefits Act 1992. Section 150(2)(a) states that those sums listed in section 150(3), which includes Guardian's Allowance (para. 5 of Part III of Schedule 4) shall be up-rated in line with prices. Section 132 of the Social Security Administration (Northern Ireland) Act 1992 provides for the equivalent change to be made in Northern Ireland.

4.5 Section 150(2)(c) of the Social Security Administration Act 1992 provides that any up-rating order must also state those amounts mentioned in section 150(1) that are not being increased. This obligation includes the rate of child benefit (set by S.I. 2006/965) prescribed under section 145 of the Social Security Contributions and Benefits Act 1992 (see section 150(1)(i) of

the Social Security Administration Act 1992). The rate of child benefit is to be increased by 1 percent by means of a separate "no-procedure" instrument pursuant to section 1 of, and paragraph 1(c) to, the Welfare Benefits Up-rating Act 2013 (c. 16).

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

The Economic Secretary to the Treasury, Nicky Morgan MP, has made the following statement regarding Human Rights:

In my view the provisions of the Guardian's Allowance Up-rating Order 2014 are compatible with 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 HM Treasury has made this Order amending the rate of Guardian's Allowance specified in Part 3 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 by means of a separate Order.

7.2 The changes being introduced from 7th April 2014 increase the rate of the Guardian's Allowance from £15.90 to £16.35.

- Consolidation

7.3 None.

8. Consultation outcome

8.1 No formal consultation has taken place.

9. Guidance

9.1 Following the Chancellor of the Exchequer's announcement in the Autumn Statement 2012, HM Treasury have published the following, which sets out the rates of Guardian's Allowance from 7th April 2014, https://www.gov.uk/government/publications/tax-and-tax-credit-rates-and-thresholds-for-2014-15/tax-and-tax-credit-rates-and-thresholds-for-2014-15 Leaflets 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

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 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 Treasury shall review the sum for Guardian's Allowance specified in Schedule 4 to the Social Security Contributions and Benefits Act 1992 in order to determine whether it has retained its value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Treasury thinks fit. Section 150(2) states that those sums listed in section 150(3), which includes Guardian's Allowance (para. 5 of Part III of Schedule 4), shall be up-rated by an amount not less than the percentage increase in the general level of prices. Section 132(1) of the Social Security Administration (Northern Ireland) Act 1992 provides that whenever the Treasury makes an order under section 150 of the Social Security Administration Act 1992, a corresponding order may be made for Northern Ireland.

13. Contact

Trevor Sanders at HM Revenue and Customs Tel: 0207 147 2272 or email trevor.sanders@hmrc.gsi.gov.uk can answer any queries regarding the instrument on behalf of the Treasury.