EXPLANATORY MEMORANDUM TO

THE MINISTERIAL AND OTHER SALARIES ORDER 2008
2008 No. Draft

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order makes provision for additional salary increases for the financial year 2007-8, for Ministers, Opposition Leaders, Whips, the Commons and Lords Speakers, and other office-holders who receive a salary under sections 1(1), (3) and (3A) of the Ministerial and other Salaries Act 1975 ("the 1975 Act").

2.2 The Order provides in particular, that over and above the increases payable under the annual uprating mechanism in section 1A of the 1975 Act, the annual amount, or maximum or minimum amount of the salaries of these Ministers and other office-holders shall increase, with effect from 1st April 2007 by 0.84% of the amount on 31st March 2007 and from 1st November 2007 by a further 1.06% of the amount on 31st March 2007.

2.3 The Order applies only to those Ministers or office-holders who held a paid office during the period 1st April 2007 to the coming into force of the Order and who still hold that paid office or another paid office at the date of the coming into force of the Order.

2.4 This Order makes provision for backdated salary increases for the financial year 2007-8, so as to give effect to increases which were announced in the Written Ministerial Statement following the publication on 16th January 2008 of the Report of the Senior Salaries Review Body (SSRB) on Parliamentary pay, pensions and allowances.

2.5 This is in line with the practice in relation to the backdating of salaries generally, which is reflected in previous Orders made under the 1975 Act (for example, the Ministerial and other Salaries Order 2001[1] and the Attorney General's Salary Order 2000[2]).

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

3.1 Article 2 (1) of the Order increases the annual amount, or if applicable, the maximum and minimum annual amount of salaries payable under sections

[1] S.I. No. 3502.
[2] S.I. No. 1827.

1(1), (3) and (3A) of the 1975 Act in past periods (0.84% on salaries payable on 1st April 2007 and 1.06% on salaries payable on 1st November). So to that extent the Order could, arguably, be viewed as retrospective.

3.2 However, Article 2(3) expressly limits the effect of the Order to Ministers and other office-holders who hold a paid office at the time when the Order comes into force. Any increases payable by virtue of Article 2(1) will be paid prospectively (once the Order has been made) and will not apply to former Ministers who held office during the period 1st April 2007 to the coming into force of the Order. So we do not consider that the Order is truly retrospective. It simply adjusts the salary limits in respect of those existing Ministers and other office-holders who in any event have an entitlement to a salary by virtue of the provisions of the 1975 Act.

4. Legislative Background

4.1 The salaries of Ministerial and other office holders are governed by the 1975 Act. Section 1B of the 1975 Act allows for increases in the annual amount or maximum or minimum amounts of the salaries covered by the Act to be effected by Order in Council.

4.2 Section 1A of the 1975 Act contains an annual uprating mechanism for the salaries of Ministerial and other office-holders under the Act. It provides that the annual amount, or maximum or minimum annual amounts of salary are to be increased by the "relevant percentage". The relevant percentage is defined in subsection (2) as the average percentage by which the mid-points of the Senior Civil Service pay bands having effect from 1st April of the year concerned have increased compared with the previous 1st April. In practice this delivered, for the financial year 2007-8, a 0.66% increase in salaries.

4.3 As set out above, this Order, (made under section 1B of the Act), makes provision for additional increases totalling 1.9% over the course of the financial year: 0.84% with effect from 1st April 2007 and 1.06% with effect from 1st November 2007.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Harriet Harman, Leader of the House of Commons, has made the following statement regarding Human Rights:

In my view the provisions of the Ministerial and other Salaries Order 2008 are compatible with the Convention rights.

7. Policy background

7.1 The SSRB's 64th Report on Parliamentary pay, pensions and allowances was published on 16th January 2008 and made recommendations regarding MPs' and Ministers' pay. As set out above, the 1975 Act governs Ministerial salaries. MPs' salaries are currently set by resolution of the House of Commons.

7.2 The SSRB recommended that MPs' pay should be increased by an additional 1.9% from 1 April 2007. This was given effect to on 24th January 2008 by way of resolution of the House of Commons. In the Written Ministerial Statement following the publication of the SSRB's Report, the Government undertook to give to Ministers equivalent increases for the financial year 2007-8. This Order gives effect to those increases.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is to slightly increase the salary costs of Ministers and other office holders. There will therefore be a small net increase in the financial costs of the public sector.

9. Contact

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