EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY BENEFITS UP-RATING ORDER 2013

2013 No.

1. This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty[1].

2. Purpose of the instrument

The Social Security Benefits Up-rating Order 2013 ("the Order") fulfils the statutory duty on the Secretary of State to review the rates of social security benefits and provides for the up-rating of certain benefits.

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

3.1 Article 5(2) of the Order specifies one percentage increase for sums payable by virtue of section 15(1) of the Pension Schemes Act 1993 ('PSA 1993') (increments due where payment of a Guaranteed Minimum Pension (GMP) is deferred), where that increase is attributable to earnings factors for the tax year 1987-1988 and earlier tax years.

3.2 This is in contrast to the 2012 Uprating Order, where two different percentages were specified for increases attributable to earnings factors for 1987-1988 and earlier tax years, and the tax year 1988-1989 and following years. The difference is due to the fact that for 2013, the Guaranteed Minimum Pension Increase Order specifies a percentage which is below the level of the cap specified in section 109 PSA1993 (which is 3 per cent). The percentage specified in article 5(2) is the difference between the uprating provided by pension schemes under the GMP Order, and the rate of uprating of additions to pensions (by the Consumer Prices Index (CPI) which is 2.2 per cent). As the two percentages are the same for 2013 for increases attributable for earnings factors for tax years 1988-89 and following years, no percentage is specified in article 5(2) for that period. The percentage specified for tax years 1987-1988 and earlier is 2.2 per cent because there is no requirement on pension schemes to uprate GMPs accrued over that period.

4. Legislative Context

4.1 The Order provides for the annual up-rating of social security benefits under sections 150 and 150A of the Social Security Administration Act 1992 ("the Act").

4.2 The Secretary of State is required to review the levels of benefits annually with a further requirement to up-rate certain contributory[2], non-contributory[3] and extra-costs

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[1] This Order is laid and will be debated alongside the draft "Guaranteed Minimum Pensions Increase Order 2013".

[2] Contributory benefits = additional elements of the State Pension, Bereavement Benefits and main rate Incapacity Benefit.

[3] Non-contributory benefits = Carer's Allowance, Industrial Injuries Benefits and Severe Disability Allowance.

benefits[4] at least in line with prices. The Secretary of State has discretion over how to measure changes in the general level of prices. The Secretary of State has measured the increase in the general level of prices in the appropriate period using the CPI.

4.3 The Secretary of State has determined that those benefits have not maintained their value in relation to prices as measured by the CPI over the period October 2011 to September 2012[5].

4.4 Section 150A(1) and (2) of the Act requires the Secretary of State to review and up-rate the standard minimum guarantee element of Pension Credit, the basic State Pension[6] and widow's (apart from the initial rate) and widower's pension in Industrial Death Benefit at least in line with earnings.

4.5 The Secretary of State has determined that those benefits have not maintained their value in relation to earnings as measured by annual growth in the Average Weekly Earnings statistic for the quarter ending July 2012[7]. The Secretary of State has further decided that the basic State Pension will be up-rated by 2.5 per cent under the 'triple lock' commitment. The standard minimum guarantee in Pension Credit is being increased beyond the statutory minimum of earnings to give an equivalent to the cash increase in the basic State Pension, with the cost off-set by an increase in the Savings Credit threshold.

4.6 The Secretary of State may also, if he considers it appropriate, having regard to the economic situation and any other matters which he considers relevant, increase other benefits by a percentage as he thinks fit. These other benefits include the income-related benefits[8] and contribution-based Jobseeker's Allowance and contribution-based Employment and Support Allowance.

4.7 In light of the national economic situation, the Secretary of State has determined that the working-age personal allowances of the above benefits, and the Work-Related Activity Group component of Employment and Support Allowance, should be increased by 1 per cent for 2013-14. The standard rate of Maternity Allowance and of Statutory Adoption, Maternity, Ordinary and Additional Paternity, and Sick Pay will also be increased by 1 per cent.

4.8 To protect the most vulnerable groups, the premiums payable to pensioners with the above working-age benefits will be up-rated in line with Pension Credit rates. Premiums paid to disabled people receiving the above working-age benefits, and the Support Group component of Employment and Support Allowance, will be up-rated by the CPI at 2.2 per cent. Personal allowances and premiums specified for children or young persons in the working-age benefits as listed above will be up-rated in line with Child Tax Credit and Child Benefit elements.

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[4] Extra-costs benefits = Attendance Allowance and Disability Living Allowance.
[5] The Consumer Prices Index (all items) for the 12 month period to end September 2012 showed growth of 2.2 per cent
[6] Category A, B, C and D Retirement Pension.
[7] The Average Weekly Earnings revised statistic, whole economy, including bonuses, seasonally adjusted showed annual growth of 1.6 per cent for the quarter ending July 2012.
[8] Income related benefits = Income Support, income based Jobseeker's Allowance, income-related Employment and Support Allowance and Housing Benefit.

4.9 The Order reduces certain rates of invalidity allowance, age addition and age related addition payable with incapacity benefits (Incapacity Benefit and Severe Disablement Allowance)[9]. The reduction in these allowances and additions is designed to provide further alignment between the rates of incapacity benefits and those of Employment and Support Allowance, prior to completion of the incapacity benefit reassessment process[10]. This does not apply to customers over State Pension age, for whom the rate of these allowances and additions is provided separately and increased in line with the growth in prices.

4.10 In accordance with the Act a draft of this Order is laid before Parliament for approval by resolution of each House together with a copy of the report of the Government Actuary giving his opinion on the likely effect on the National Insurance Fund of the making of this Order.

5. Territorial Extent and Application

The Order applies to Great Britain. Separate but corresponding provision will be made for Northern Ireland.

6. European Convention on Human Rights

Steve Webb MP, Minister for Pensions, has made the following statement regarding Human Rights:

"In my view the provisions of The Social Security Benefits Up-rating Order 2013 are compatible with the Convention Rights".

7. Policy background

What is being done and why

7.1 The annual review has been performed on the social security benefit rates. The Up-rating Order provides for certain benefits to be increased by the amounts set out in the following paragraphs. A full list of the proposed social security benefit rates for 2013-14 can be found on the Parliament website at: http://data.parliament.uk/DepositedPapers/Files/DEP2012-1940/ScheduleofproposedbenefitratesfromApril2013.pdf

Basic State Pension and Industrial Death Benefit

7.2 The statutory minimum increase to the basic State Pension is based on average earnings (see 4.5). However, the Government has given a commitment, known as the 'triple lock', to increase the basic State Pension by the highest in growth in average earnings, the growth in prices, or 2.5 per cent. As the relevant increase in average earnings (1.6 per cent) is lower than both the CPI (2.2 per cent) and 2.5 per cent, the basic State Pension will increase by 2.5 per cent in 2013, increasing the rate of Category A Retirement Pension from £107.45 to £110.15 a week.

[9] The Employment and Support Allowance (Up-rating Modification) (Transitional) Regulations 2008.
[10] The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010

7.3 Certain elements of Industrial Death Benefit are increased by 2.5 per cent to maintain parity with the rate of basic State Pension.

Pension Credit standard minimum guarantee and Savings Credit

7.4 The standard minimum guarantee element of Pension Credit is increased by 1.9 per cent, which is more than the statutory minimum based on growth in average earnings, to ensure that the poorest pensioners obtain the full value of the increase in their basic State Pension. The rate for single people is increased from £142.70 a week to £145.40 a week, and for couples from £217.90 to £222.05 a week.

7.5 The Savings Credit thresholds are increased by 3.1 per cent in order to fund the additional increase in the standard minimum guarantee. The threshold for a single person will increase from £111.80 to £115.30, and the couple's threshold will increase from £178.35 to £183.90. This concentrates spending on pensioners at the lower end of the income scale.

Additional Pension, Graduated Retirement Benefit, Increments to State Pension, Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Benefit, Bereavement Benefits, Support Group component of Employment and Support Allowance, Disability premiums, Carer premiums

7.6 These benefits are all increased by 2.2 per cent in line with the growth in the CPI for the 12 months to September 2012.

7.7 Pensioner premiums may be paid with Income Support, Jobseeker's Allowance and Employment and Support Allowance when a claimant or their partner has reached State Pension age for women[11]. These premiums will be increased so that overall the rate of benefit for a claimant over that age, or for a couple with a member over that age, will reflect the new standard minimum guarantee in Pension Credit.

7.8 In Housing Benefit the personal allowance when a claimant or their partner has reached State Pension age for women will be increased so that overall the personal allowance will equal the new standard minimum guarantee in Pension Credit. Where a claimant or their partner is aged over 65 the personal allowance will reflect the new standard minimum guarantee plus the new savings credit maximum.

Income-related benefits (and contribution-based Employment and Support Allowance and Jobseeker's Allowance), the Work-Related Activity Group component of Employment and Support Allowance, Maternity Allowance and Statutory Maternity, Ordinary and Additional Paternity, Adoption and Sick Pay

7.9 In light of the national economic situation, it has been necessary to find savings from the welfare bill. The working-age personal allowances of these benefits, the Work-Related Activity group component of Employment and Support Allowance, and the statutory payments, are all given a below-inflation increase of 1 per cent.

[11] On 6 April 2010, the state pension age for women started to increase gradually from 60 to 65, to match men's. For further information on State Pension age changes, please see https://www.gov.uk/changes-state-pension

Non-dependent deductions from income-related benefits

7.10 Deductions may be made from Housing Benefit, as well as from the housing support provided within the income-related benefits such as mortgage interest costs, to reflect the presence of non-dependants (such as adult relatives) living in the household of people claiming those benefits. There is an expectation that these non-dependants should contribute to the household expenses of the accommodation in which they live. Non-dependants who are in employment have a deduction applied which reflects their gross weekly income.

7.11 This year will be the third and final of a series of staged increases in the rates of non-dependent deductions, which are intended, by April 2014, to bring those rates up to the level they would have been had they been up-rated since 2001. From April 2014, the rates will be increased annually broadly in line with yearly growth in rents and council tax. The income bands used to determine which rate of non-dependant deduction applies will be up-rated in 2013 by increases in average earnings.

Deductions for service charges

7.12 Where a service charge is included in a rental agreement a deduction is made to reflect the fact that this is a living expense that Housing Benefit is not intended to cover. Deductions for service charges will be uprated by the CPI rate for fuel, which was 0.4 per cent in September[12]. Last year the deduction rates were frozen as the price of fuel fell.

Non income-related incapacity benefits

7.13 Recipients of Incapacity Benefit without an age addition or invalidity allowance will have their benefit increased by 2.2 per cent in line with the growth in the CPI.

7.14 Those Incapacity Benefit or Severe Disablement Allowance recipients who receive an age addition or invalidity allowance will receive a cash increase in their overall benefit amounting to at least half the growth in the CPI, i.e. 1.1 per cent. This up-rating policy is a measure designed to bring the rates of Incapacity Benefit more closely into line with Employment and Support Allowance pending conversion to the latter. It means that the higher age addition and the higher invalidity allowance rate paid with Incapacity Benefit and the higher age related addition paid with Severe Disablement Allowance are reduced. The middle and lower rates of the invalidity allowance, the age addition and the age related addition will see a small increase in order to maintain parity with rates of Employment and Support Allowance paid to people in the Support Group for that benefit.

Commencement

7.15 The Order provides for the increases to take effect, in most cases, in the week commencing 8 April 2013. However for Statutory Sick Pay, Statutory Maternity Pay, Ordinary and Additional Statutory Paternity Pay, Statutory Adoption Pay and Housing Benefit, and earnings limits in respect of child dependency increases, the Order specifies

[12] The CPI rate for electricity, gas and other fuels showed growth of 0.4 per cent between September 2011 and September 2012.

that the rates can take effect from an earlier date in April. Increases take effect on various dates because of differences in the prescribed payday of the benefit or payment and depending on whether the benefit or payment is a weekly or daily benefit.

Consolidation

7.16 Informal consolidation of the instrument will be addressed by up-dating the relevant values in the appropriate statutory instruments in due course in the Department's "the law relating to Social Security" (the Blue Volumes). This publication is available at no cost to the public on the internet at: http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/

8. Consultation outcome

The Order forms part of the regular annual up-rating requirements, and is therefore not subject to consultation requirements.

9. Guidance

Leaflets will be up-dated to reflect the new rates in due course and guidance bulletins have been issued to operational staff to advise them of the new rates.

10. Impact

10.1 The Order is expected to create savings to Government of £0.2 billion in 2013-14, due to the spending decision to up-rate certain working-age benefits and payments by 1 per cent.

10.2 For those households receiving Statutory Maternity, Paternity, Adoption or Sick pay their employer may cover some or all of the change in income: in this instance the cost would fall on business rather than the household (the total savings to Government remaining unaltered).

10.3 The Order imposes no new costs on the public sector: the annually recurring costs are already provided for in the Government's expenditure plans.

10.4 An impact assessment has been prepared for this instrument. Copies may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London, SW1H 9NA.

11. Regulating small business

11.1 Small businesses, in the same way as all other employers, must pay Statutory Adoption Pay, Ordinary and Additional Statutory Paternity Pay, Statutory Maternity Pay and Statutory Sick Pay to qualifying employees who take time off work.

11.2 The approach taken continues to be that small businesses whose annual gross National Insurance payments are £45,000 or less are reimbursed 100 per cent of the Statutory Adoption Pay, Ordinary and Additional Statutory Paternity Pay and Statutory Maternity Pay paid out plus an additional amount (3 per cent) in compensation for

employers' National Insurance costs on these payments. Larger employers are reimbursed 92 per cent. All employers, including small businesses, meet the costs of Statutory Sick Pay. However those with unusually high levels of sickness can recover some or all of the Statutory Sick Pay paid in a tax month under The Percentage Threshold Scheme. This reduces the impact of increased numbers of payments of Statutory Sick Pay in such circumstances.

12. Monitoring & review

The position is subject to review each tax year (please see paragraphs 4.2 and 4.4).

13. Contact

For any queries regarding this instrument, please contact Lucy Dugmore on telephone number: 020 7449 7209 or e-mail: STATE.PENSIONS@DWP.GSI.GOV.UK