GROUP EXPLANATORY MEMORANDUM TO

THE GUARDIAN'S ALLOWANCE UP-RATING ORDER 2009
2009 No. 797

THE GUARDIAN'S ALLOWANCE UP-RATING (NORTHERN IRELAND) ORDER 2009
2009 No. 798

1. This explanatory memorandum has been prepared by 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

The two Orders increase, from 6 April 2009, the amounts of guardian's allowance, as set out in the Pre-Budget Report on 24 November 2008.

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

None.

4. Legislative Context

4.1 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.

4.2 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.

4.3 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.

4.4 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 2009 applies to Great Britain.

5.2 The Guardian's Allowance Up-rating (Northern Ireland) Order 2009 replicates the provisions of the Guardian's Allowance Up-rating Order 2008 in respect of Northern Ireland.

6. European Convention on Human Rights

The Financial Secretary to the Treasury, Stephen Timms, has made the following statement regarding Human Rights:

In my view the provisions of the Guardian's Allowance Up-rating Order 2009 and the Guardian's Allowance Up-rating (Northern Ireland) Order 2009 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 section 132 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 2009 increase the rate of guardian's allowance from £13.45 to £14.10 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 rates of Guardian's Allowance from 2009-10 and Guardian's Allowance beneficiaries are advised individually of the new weekly amount that they will receive.

10. Impact

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

10.2 The estimated cost of the increases to guardian's allowance, which was included in the PBR 2008 forecast, is negligible.

10.3 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 will be reviewed in 2009. 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

Jenny Fox at HM Revenue and Customs Tel: 020 7147 2503 or e-mail: jenny.fox@hmrc.gsi.gov.uk.