# EXPLANATORY MEMORANDUM TO

# THE GUARDIAN'S ALLOWANCE UP-RATING ORDER 2015

## 2015 No. 439

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 this instrument

This Order increases, from 6 April 2015, the amounts of Guardian's Allowance as announced in the Autumn Statement 2012.

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

None.

## 4. Legislative content

**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 the general level of prices, the amount of this benefit as detailed in Schedule 4 to the Social Security Contributions and Benefits Act 1992. Sub-section (2)(a) of section 150 of the Social Security Administration Act 1992 provides for those sums listed in sub-section (3), which includes Guardian's Allowance (paragraph 5 of Part III of Schedule 4) shall be up-rated in line with the increase in the general level of 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). With effect from 6 April, the rate of child benefit is to be increased by 1 per

cent by means of a separate "no-procedure" instrument pursuant to section 1 of, and paragraph 1(c) of Schedule 1 to, the Welfare Benefits Up-rating Act 2013 (c.16).

## 5. Territorial Extent and Application

This instrument applies to Great Britain.

## 6. European Convention on Human Rights

The Financial Secretary to the Treasury, David Gauke, has made the following statement regarding Human Rights:

> In my view the provisions of the Guardian's Allowance Up-rating Order 2015 are compatible with the Convention Rights.

## 7. Policy background

- ***What is being done and why***

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 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 by means of a separate Order. The changes being introduced from 6 April 2015 increase the rate of the Guardian's Allowance from £16.35 to £16.55.

- ***Consolidation***

None.

## 8. Consultation outcome

No formal consultation has taken place.

## 9. Guidance

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 6 April 2015, http://cdn.hm-treasury.gov.uk/as2012_tax_and_tax_credit_rates_and_thresholds_051212.pdf. 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.** There is no impact on the public sector.

**10.3.** An impact Assessment has not been prepared for this instrument.

## 11. Regulating and business

The legislation does not apply to small business.

## 12. Monitoring and 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 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 (paragraph 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

Jacqueline Latter at HM Revenue and Customs: Tel 03000 586748 or email: jacqueline.latter@hmrc.gsi.gov.uk can answer any queries regarding the instrument on behalf of the Treasury.