EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL PENSIONS (REVALUATION) ORDER 2019

2019 No. 1433

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument sets out the minimum required level of revaluation for pension rights (excluding Guaranteed Minimum Pensions) of people who were early leavers from final salary occupational pension schemes, on or after 1 January 1986, where the accrued rights have been left in the scheme. This is referred to as an individual's preserved pension.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

4.3 The Department for Communities in Northern Ireland will be producing its own legislation replicating this Order for Northern Ireland.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The Secretary of State is required by law to lay[1] an Order each year which sets out the minimum required level of revaluation for preserved pensions in final salary occupational pension schemes, for members who reach their scheme's normal pension age between 1 January and 31 December 2020.

[1] Sections 83 and 84 of, and paragraph 2 of Schedule 3 to, the Pension Schemes Act 1993

7. Policy background

What is being done and why?

7.1 Where a person leaves a final salary occupational pension scheme before normal pension age, they may leave with a preserved pension. Due to inflation, that pension is likely to have lost value by the time that it is put into payment. Revaluation provisions which were introduced for those who left schemes after 1 January 1986 are designed to provide a measure of protection against inflation where there is at least one full year between the member leaving the scheme, and the member reaching the normal pension age.

7.2 This Order sets out the revaluation required (for that part of a pension in excess of the Guaranteed Minimum Pension rights) for people who will reach their scheme's normal pension age in 2020.

7.3 Pensions based on pensionable service before 6 April 2009 must be increased at least in line with the increase in the general level of prices over the whole period of deferment or 5 per cent compound per annum, whichever is lower. The Pensions Act 2008[2] reduced the 5 per cent compound per annum for pensions based on service from 6 April 2009, though schemes may continue to use the higher cap under scheme rules.

7.4 The primary legislation[3] requires the Secretary of State to form a judgement of the general increase in prices over the relevant inflation reference periods (ending on the 30 September) in making the Order. Since 2010, the Secretary of State has considered the Consumer Price Index (CPI) to be the most appropriate measure of inflation and CPI has again been used for the last 12 months' inflation reference period. The judgement of inflation already made for the purposes of annual Orders up to and including the 2009 Order, which were based on the Retail Prices Index (RPI) measure of inflation will not change. This means that the revaluation percentages for periods in the last ten years are based exclusively on CPI whereas the percentages for longer periods are based on RPI for all but the last ten years of the relevant period.

7.5 People who left pensionable employment on or after 1 January 1991 have all preserved rights revalued, including pre-1986 service. Similarly, those people with all their pensionable service falling on, or after, 1 January 1985 will have all of their preserved rights revalued. People who left between 1 January 1986 and 31 December 1990 have a right to a revaluation only of the right accrued from pensionable service on or after 1 January 1985.

7.6 The following example shows how revaluation works: A person leaves an employment in April 1997. When they leave, the pension rights they have accrued in their occupational pension scheme are preserved within the scheme. At the time they leave in 1997 the value of their pension is £30 per week. In May 2020, the person reaches the normal pension age of their former scheme and is therefore entitled to a pension. Before the pension is put into payment, the scheme will revalue it using the appropriate percentage from the Order. For a person whose pension is subject to revaluation at 5 per cent and has been deferred for 23 years, the appropriate percentage is 74.7 per cent. (No revaluation applies for part years.) The original

[2] Pensions Act 2008

[3] Sections 83 and 84 of, and paragraph 2 of Schedule 3 to, the Pension Schemes Act 1993

amount of the pension, £30, will therefore be uplifted by this percentage to give a new pension entitlement of £52.41 per week.

7.7 Legislation also sets out the minimum amount by which defined benefit occupational pensions in payment have to be increased each year. Pensions accrued between 6 April 1997 and 5 April 2005 must be increased by the increase in the general level of prices capped at 5 per cent, and pensions accrued after 6 April 2005 must be increased by the increase in the general level of prices capped at 2.5 per cent. The figures to be used are those given for the one-year revaluation period in the annual Revaluation Order.

7.8 The CPI figure for the year to 30 September 2019 was 1.7 per cent.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The Order applies to the 12 months commencing 1 January 2020. It will be followed by a new Order which will apply to the next calendar year. There is therefore no need for consolidation.

10. Consultation outcome

10.1 The primary legislation requires the Secretary of State to make an Order each year, coming into force on 1 January, based on their judgement of the increase in the general level of prices up to the immediately preceding 30 September. As there is no scope for consultation to affect the outcome of this annual Order, no consultation is undertaken. The Order does not amend other legislation.

11. Guidance

11.1 If applicable, occupational pension schemes have procedures in place to implement the revaluation increases. The latest revaluation Order, coming into effect from 1 January each year, indicated which figures should be used for the calculations. Therefore, guidance is not necessary.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because there is no new impact on pension schemes in the private sector, as they are already required by law to provide protection against inflation.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses, as the Order applies to all final salary occupational pension schemes.

13.2 The Order has a negligible administrative impact on business. It is not possible to mitigate the impact of the requirements on small business without an adverse effect on scheme members.

14. Monitoring & review

14.1 This Order will be replaced in 12 months' time, as the primary legislation requires, by a new Order reflecting updated inflation figures.

15. Contact

15.1 Emma Phillips at the Department for Work and Pensions Telephone: 0208 622 5836 or email: emma.phillips1@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Joanne Gibson, Deputy Director for Defined Benefit Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Guy Opperman at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.