EXPLANATORY MEMORANDUM TO

THE PENSIONS ACT 2014 (CONSEQUENTIAL AMENDMENTS) (UNITS OF ADDITIONAL PENSION) ORDER 2014

2014 No. 3213

1. This explanatory memorandum has been prepared by the Department for Work and Pensions 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

2.1 The Pensions Act 2014 introduced a new class of voluntary National Insurance contributions called Class 3A contributions. People who reach State Pension age before 6 April 2016 will be eligible to pay Class 3A contributions in return for units of additional pension which will result in a boost to their weekly State Pension.

2.2 This Order makes consequential changes to existing legislation to prevent a person experiencing any reduction in their State Pension or disablement pension as a result of having obtained units of additional pension. In the case of State Pension the Order maintains the amounts paid to those incapacitated before age 45 who received an increase to their long-term incapacity benefit and subsequently an equivalent increase to their State Pension as a result. In the case of disablement pension, the Order maintains the amount of the person's unemployability supplement. Additionally, the Order applies existing rules on the gradual reduction in the amount of additional State Pension that can be inherited to units of additional pension obtained by the deceased.

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

3.1 The instrument is subject to the affirmative resolution procedure as it amends primary legislation.

4. Legislative Context

4.1 This Order makes consequential amendments to ensure that a person's State Pension or disablement pension entitlement is not adversely affected by obtaining or inheriting units of additional pension. The consequential order making power in section 53 of the Pensions Act 2014 under which this instrument is made is being exercised for the first time.

4.2 The Order works in tandem with two other statutory instruments, the first is the Social Security Class 3A Contributions (Units of Additional Pension) Regulations 2014, which is an affirmative instrument that sets out the detailed rules relating to Class 3A contributions such as the amount of a contribution and the maximum number of units of additional pension that a person may obtain.

These regulations are likely to be published on 13 October and will be available to view at: www.legislation.uk

4.3 The second statutory instrument linked to this Order is the Social Security Class 3A Contributions Amendment Regulations 2014. This is a negative instrument that provides a cut-off date for the scheme, after which a person will no longer be able to pay a Class 3A contribution and details of the circumstances in which a Class 3A contribution will be refunded. These regulations are also likely to be published on 13 October and will be available to view at: www.legislation.uk

4.4 Paragraphs 3 and 7 of Schedule 15 to the Pensions Act 2014 (which inserts the new sections 14A, 14B and 14C into the Social Security Contributions and Benefits Act 1992 and which creates the power in new section 45(2A) to set out the extra amount of additional pension payable) have been commenced for regulation making purposes. These paragraphs will be commenced for all other purposes on 12 October 2015.

4.5 Paragraph 17 of Schedule 15 which inserts the new section 14A, 14B and 14C into the Social Security Contributions and Benefits (Northern Ireland) Act 1992 has also been commenced for regulation making purposes and will be commenced for all other purposes on the same day as any provision made in Northern Ireland comes into force which corresponds to regulations made under the inserted section 45(2A) of the Social Security Contributions and Benefits Act. In addition secondary legislation corresponding to this Order will be introduced in Northern Ireland.

5. Territorial Extent and Application

5.1 This Order applies to Great Britain. Equivalent provision in relation to Northern Ireland will be made by statutory rule.

6. European Convention on Human Rights

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

In my view the provisions of the Pensions Act 2014 (Consequential Amendments) (Units of Additional Pension) Order 2014 are compatible with the Convention rights.

7. Policy background

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

7.1 In the Budget on 19 March 2014 the Chancellor announced that Class 3A voluntary contributions will be available for 18 months from October 2015. Eligibility to pay Class 3A contributions will be restricted to existing pensioners and people due to reach State Pension age before 6 April 2016 with entitlement or prospective entitlement to the current State Pension. Payment of Class 3A contributions would allow a person to gain units of additional State Pension.

7.2 The measure is aimed at groups such as women and the self-employed, who may have poor State Pension outcomes due to low levels of additional State Pension entitlement. Such a person will be able to boost their State Pension entitlement by paying Class 3A contributions, if they choose to do so, as the scheme is entirely voluntary.

7.3 Measures in Schedule 15 to the Pensions Act 2014 provide that a person is entitled to have the weekly amount of pension, due to units of additional pension obtained by them or their late spouse or civil partner, paid on top of any State Pension they receive, or are eligible for, and exclude it from the cap that applies to the amount of additional State Pension that can be inherited on the death of a spouse or civil partner. As part of that, this provision will ensure that increases paid with a person's State Pension or disablement pension, due to invalidity or unemployability, will not be reduced or offset against units of additional pension.

7.4 The increase in State Pension due to invalidity is paid where a person became chronically sick before age 45 and received an age addition with long-term incapacity benefit[1]. Age additions to long-term incapacity benefit were paid in recognition of the fact that people who have longstanding ill-health early in their working life are unlikely to build up personal savings or pension entitlement above the basic State Pension. They are not paid with Employment and Support Allowance which replaced Incapacity Benefit for new awards from October 2008. To avoid a reduction in income on retirement a person's State Pension is increased by the amount of the age addition to long-term incapacity benefit if this was being received within 8 weeks of the person reaching State Pension age. The increase in state pension due to age addition to long-term incapacity benefit has been reduced by any additional State Pension. In a similar way any increase to unemployability supplement paid with disablement pension (which is one of the industrial injuries benefits) has been reduced by any additional State Pension.

7.5 Article 2 exempts additional pension due to units of additional pension from being offset against increases in State Pension due to age addition to long-term incapacity benefit. Articles 3 makes equivalent provision for increases to the unemployability supplement paid with disablement pension. Article 4 makes equivalent provision in respect of section 46 of the Pension Schemes Act 1993 (c.48) which applies to people entitled to State Pension or disablement pension who are also entitled to a guaranteed minimum pension.

7.6 Article 5 amends the Social Security (Inherited SERPS) Regulations 2001 to allow a surviving spouse or civil partner to inherit the full amount of pension due from units of additional pension if the deceased spouse or civil partner reached State Pension age before 6 October 2002; or a lesser amount of pension in line with the arrangements for a gradual reduction in inheritance to fifty per cent where the spouse or civil partner who died reached State Pension age between 6 October 2002 and 5 October 2010.

7.7 There are around 156,000 pensioners receiving an invalidity increase that could potentially benefit from the changes in this Order (March 2013). Additionally, around 2 million people have inherited some additional State Pension (SERPS

[1] Before April 1995 people received a similar increase as an amount of invalidity allowance paid on top of their invalidity benefit

and/or State Second Pension) following the death of their spouse or civil partner (November 2013).

- ***Consolidation***

7.8 Informal consolidated text of instruments is available to the public free of charge via 'The Law Relating to Social Security' (Blue Volumes) on the Department for Work and Pensions website at http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/ or the National Archive website legislation.gov.uk An explanation as to which instruments are maintained on each site is available here.

8. Consultation outcome

8.1 The Department for Work & Pensions carried out research to gauge levels of interest from those eligible to pay Class 3A contributions. The research updated an earlier survey conducted in summer 2013 before the policy was announced. This second survey provided respondents with more information about the policy and amounts of contributions. The research was published in March 2014 and results indicated a demand for such a scheme. Details of the research can be found on the GOV.UK website at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/294036/research-report-class-3a-vnics.pdf.
There was a brief debate on the measure during passage of the Pensions Act 2014 see: http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/140113-gc0001.htm#1401139000121

9. Guidance

9.1 Further information on Class 3A is available on the GOV.UK website. The Department will update existing guidance and literature to reflect the changes made by this Order.

10. Impact

10.1 There is no impact on business or civil society organisations.

10.2 The impact on the public sector is described in the Tax Information and Impact Note prepared for the Social Security Class 3A Contributions (Units of Additional Pension) Regulations 2014.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 No review is felt to be necessary as the Order only makes consequential changes to the Social Security Contributions and Benefits Act 1992 (c.4), the Pension

Schemes Act 1993 (c.48) and the Social Security (Inherited SERPS) Regulations 2001 (SI 2001/1085). The operation of the Order will be assessed and monitored through the collection of management information and analysis to evaluate both the delivery of Class 3A and the effectiveness of the policy. This will allow the Department for Work Pensions to identify the number of people taking-up Class 3A and gauge the performance of the operational procedures supporting it – for example, the time taken to complete the application process.

13. Contact

Kenneth Luther at the Department for Work & Pensions Tel: 020 7449 5498 or email: kenneth.luther@dwp.gsi.gov.uk can answer any queries regarding the instrument.