STATUTORY INSTRUMENTS

2009 No. 692

PENSIONS

The Pensions Increase (Review) Order 2009

Made - - - -	*16th March 2009*
Laid before Parliament	*16th March 2009*
Coming into force - -	*6th April 2009*

In accordance with section 151(1) of the Social Security Administration Act 1992(**a**) the Secretary of State for Work and Pensions has given a direction(**b**) under section 150(2) and section 190(1)(a) of that Act that the sums mentioned in section 150(1)(c) of that Act are to be increased.

The Treasury now make the following Order in exercise of the powers conferred by section 59(1), (2), (5) and (5ZA) of the Social Security Pensions Act 1975(**c**) and now vested in them(**d**):

Citation and Commencement

1. This Order may be cited as the Pensions Increase (Review) Order 2009 and comes into force on 6th April 2009.

Interpretation

2.—(1) In this Order—

"the 1971 Act" means the Pensions (Increase) Act 1971(**e**);

"the 1975 Act" means the Social Security Pensions Act 1975;

"basic rate" and "derivative pension" have the meanings given by section 17(1) of the 1971 Act(**f**);

(**a**) 1992 c.5.
(**b**) The direction is contained in S.I. 2009/497.
(**c**) 1975 c.60; section 59(1) was amended by section 1(7) of the Pensions (Miscellaneous Provisions) Act 1990 (c.7) and by the Social Security (Consequential Provisions) Act 1992 (c.6) Schedule 2, paragraph 34. Section 59(5) was amended by section 11 of the Social Security Act 1979 (c.18) and the Social Security Act 1985 (c.53), Schedule 5, paragraph 33. Section 59 was also amended by the Social Security Act 1979, sections 11 and 21(4) and Schedule 3, paragraph 20, section 9(8) of the Social Security Act 1986 (c.50), section 5 of the Pensions (Miscellaneous Provisions) Act 1990, which inserted sub-section (5ZA) and section 190 and Schedule 8, paragraph 9(1) of the Pension Schemes Act 1993 (c.48). Section 59 is modified by section 59A, which was inserted by section 11(4) of the Social Security Act 1979 and amended by section 9(9) of the Social Security Act 1986, and further amended by section 190, Schedule 8, paragraph 9(2) of the Pension Schemes Act 1993. Section 59(5ZA) is amended by the Pensions Act 2008 (c.30), sections 137 and 149; at the time this Order was made the amendments were not in force.
(**d**) S.I. 1981/1670.
(**e**) 1971 c.56.
(**f**) Relevant amendments were made to section 17(1) by section 1(3) of the Pensions (Increase) Act 1974 (c.9) and by the Welfare Reform and Pensions Act 1999 (c.30), section 39(1) and (5).

"the existing Orders" means the Pensions Increase (Annual Review) Order 1972, the Pensions Increase (Annual Review) Order 1973, the Pensions Increase (Annual Review) Order 1974, the Pensions Increase (Annual Review) Order 1975, the Pensions Increase (Annual Review) Order 1976, the Pensions Increase (Annual Review) Order 1977, the Pensions Increase (Annual Review) Order 1978, the Pensions Increase (Review) Order 1979, the Pensions Increase (Review) Order 1980, the Pensions Increase (Review) Order 1981, the Pensions Increase (Review) Order 1982, the Pensions Increase (Review) Order 1983, the Pensions Increase (Review) Order 1984, the Pensions Increase (Review) Order 1985, the Pensions Increase (Review) Order 1986, the Pensions Increase (Review) Order 1987, the Pensions Increase (Review) Order 1988, the Pensions Increase (Review) Order 1989, the Pensions Increase (Review) Order 1990, the Pensions Increase (Review) Order 1991, the Pensions Increase (Review) Order 1992, the Pensions Increase (Review) Order 1993, the Pensions Increase (Review) Order 1994, the Pensions Increase (Review) Order 1995, the Pensions Increase (Review) Order 1996, the Pensions Increase (Review) Order 1997, the Pensions Increase (Review) Order 1998, the Pensions Increase (Review) Order 1999, the Pensions Increase (Review) Order 2000, the Pensions Increase (Review) Order 2001, the Pensions Increase (Review) Order 2002, the Pensions Increase (Review) Order 2003, the Pensions Increase (Review) Order 2004, the Pensions Increase (Review) Order 2005, the Pensions Increase (Review) Order 2006, the Pensions Increase (Review) Order 2007 and the Pensions Increase (Review) Order 2008(**a**);

"official pension" has the meaning given by section 5(1) of the 1971 Act(**b**);

"pension authority" has the meaning given by section 7(1) of the 1971 Act;

"qualifying condition" means one of the conditions laid down in section 3 of the 1971 Act(**c**);

"relevant injury pension", "substituted pension" and "widow's pension" have the meanings given by section 17(1) of the 1971 Act(**d**).

(2) For the purposes of this Order the time when a pension "begins" is that stated in section 8(2) of the 1971 Act(**e**), and the "beginning date" shall be construed accordingly.

(3) Where, for the purposes of this Order, it is necessary to calculate the number of complete months in any period an incomplete month shall be treated as a complete month if it consists of at least 16 days.

Pension increases

3.—(1) The pension authority may, if any of the conditions in paragraph (2) are fulfilled, increase the annual rate of an official pension in respect of any period on or after 6th April 2009 as follows—

(a) a pension beginning before 7th April 2008 may be increased by 5.0 per cent of the basic rate (as increased by the amount of any increase under section 1 of the 1971 Act or the existing Orders);

(**a**) S.I. 1972/1298, S.I. 1973/1370, S.I. 1974/1373, S.I. 1975/1384, S.I. 1976/1356, S.I. 1977/1387, S.I. 1978/1211, S.I. 1979/1047, S.I. 1980/1302, S.I. 1981/1217, S.I. 1982/1178, S.I. 1983/1264, S.I. 1984/1307, S.I. 1985/1575, S.I. 1986/1116, S.I. 1987/130, S.I. 1988/217, S.I. 1989/477, S.I. 1990/483, S.I. 1991/684, S.I. 1992/198, S.I. 1993/779, S.I. 1994/776, S.I. 1995/708, S.I. 1996/800, S.I. 1997/634, S.I. 1998/503, S.I. 1999/522, S.I. 2000/672, S.I. 2001/664, S.I. 2002/699, S.I. 2003/681, S.I. 2004/758, S.I. 2005/858, S.I. 2006/741, S.I. 2007/801, S.I. 2008/711.

(**b**) Section 5(1) was amended by the Superannuation Act 1972 (c.11), section 29(1), Schedule 6, paragraph 85.

(**c**) Section 3 was amended by section 3 of the Pensions (Increase) Act 1974 (c.9), by section 108, Schedule 4, Part I of the Children Act 1975 (c.72), by section 1 of the Pensions (Miscellaneous Provisions) Act 1990, by section 171 of the Pensions Act 1995 (c.26), by section 39(1) and (2) of the Welfare Reform and Pensions Act 1999 (c.30) and by the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.I. 1972/1299).

(**d**) Relevant amendments were made to section 17(1) by section 1(3) of the Pensions (Increase) Act 1974 (c.9), by section 1(6) of the Pensions (Miscellaneous Provisions) Act 1990 (c.7) and by section 39(1) and (5) of the Welfare Reform and Pensions Act 1999 (c.30).

(**e**) Section 8(2) was amended by section 1(5) of the Pensions (Miscellaneous Provisions) Act 1990 (c.7) and by the Welfare Reform and Pensions Act 1999 (c.30), section 39(1) and (4).

(b) a pension beginning on or after 7th April 2008 and before 6th April 2009 may be increased by 5.0 per cent multiplied by

$$\frac{A}{B}$$

where

(i) A is the number of complete months in the period between the beginning date of the pension and 6th April 2009; and

(ii) B is 12.

(2) Those conditions are—

(a) a qualifying condition is satisfied;

(b) the official pension is—

(i) a derivative pension;

(ii) a substituted pension; or

(iii) a relevant injury pension.

Increases in certain lump sums

4.—(1) This article applies to any lump sum or instalment of a lump sum which became payable on or after 7th April 2008 but before 6th April 2009.

(2) The pension authority may increase a lump sum or instalment of a lump sum to which this article applies by 5.0 per cent of the amount of the lump sum or instalment (as increased by the amount of any increase under section 1 of the 1971 Act or the existing Orders) multiplied by

$$\frac{A}{B}$$

where

(a) A is the number of complete months in the period between the beginning date for the lump sum or, if later, 7th April 2008 and the date on which it became payable; and

(b) B is 12.

Reductions in respect of guaranteed minimum pensions

5. The amount by reference to which any increase in the rate of an official pension provided for by this Order is to be calculated shall, in the case of a person—

(a) who is entitled to a guaranteed minimum pension on 6th April 2009; and

(b) whose entitlement to that guaranteed minimum pension arises from an employment from which (either directly or by virtue of the payment of a transfer credit) entitlement to the official pension also arises,

be reduced by an amount equal to the rate of the guaranteed minimum pension unless the Treasury(**a**) otherwise direct, in accordance with the provisions of section 59A of the 1975 Act.

(**a**) See S.I. 1981/1670, articles 2(1)(c) and 3(5).

6. The amount by reference to which any increase in the rate of a widow's or widower's pension provided for by this Order is to be calculated shall, where the pensioner becomes entitled on the death of the deceased spouse to a guaranteed minimum pension, be reduced in accordance with section 59(5ZA) of the 1975 Act.

Dave Watts
Tony Cunningham
16th March 2009 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 59 of the Social Security Pensions Act 1975 as amended, and as modified by section 59A of that Act, the Treasury (in whom the functions conferred by those provisions are now vested) are required to provide by order for the increase in the rates of public service pensions. Under section 59(7) of the 1975 Act, section 59 of that Act has effect as if it were contained in the Pensions (Increase) Act 1971. Section 9(2)(c) of the 1971 Act provides that references to the "rate" of pension shall have effect as references also to the amount of a lump sum benefit. The increase is the percentage (or in some circumstances a fraction of the percentage) by which the Secretary of State for Work and Pensions has, by direction given under the provisions of section 151(1) of the Social Security Administration Act 1992, increased the sums referred to in section 150(1)(c) of that Act. These are the sums which are the additional pensions in long term benefits, namely the additional pension entitlements accruing to employees in respect of earnings after 5th April 1978.

For pensions which began before 7th April 2008 the increase is 5.0 per cent. For pensions which began on or after 7th April 2008 the increases are as follows—

Pensions Beginning	*Pensions Increase*
7th April 2008 to 21st April 2008	5.00%
22nd April 2008 to 21st May 2008	4.58%
22nd May 2008 to 21st June 2008	4.17%
22nd June 2008 to 21st July 2008	3.75%
22nd July 2008 to 21st August 2008	3.33%
22nd August 2008 to 21st September 2008	2.92%
22nd September 2008 to 21st October 2008	2.50%
22nd October 2008 to 21st November 2008	2.08%
22nd November 2008 to 21st December 2008	1.67%
22nd December 2008 to 21st January 2009	1.25%
22nd January 2009 to 21st February 2009	0.83%
22nd February 2009 to 21st March 2009	0.42%

Article 4 of the Order provides for increases on certain deferred lump sums which became payable on or after 7th April 2008 and before 6th April 2009.

The Order also makes provision for the amount by reference to which any increase in the rate of an official pension is to be calculated to be reduced by the amount equal to the rate of the guaranteed minimum pension entitlement deriving from the employment which gives rise to the official pension. This is required by section 59(5) of the Social Security Pensions Act 1975. However by virtue of section 59A of that Act and the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670) the Treasury are empowered to direct that in respect of specified cases or classes of case either no such reduction be made or the reduction shall be less than the rate of the guaranteed minimum pension. Section 59(5ZA) was inserted into section 59 by section 5 of the Pensions (Miscellaneous Provisions) Act 1990 (c.7). This applies section 59(5) to a widow's or widower's pension.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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