EXPLANATORY MEMORANDUM TO

THE RATE OF BEREAVEMENT BENEFITS REGULATIONS 2010

2010 No. 2818

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

This Instrument prescribes the rates of bereavement benefits (Widowed Mother's Allowance, Widows' Pension, Widowed Parent's Allowance and Bereavement Allowance) for the year 2010/11 so that these amounts may be uprated independently of the up-rating of the basic State Retirement Pension. These regulations will allow bereavement benefits to continue to be uprated in line with the growth in prices, following the change to increasing basic State Retirement Pension by the level of earnings. There is no policy change to bereavement benefits associated with the regulations.

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

None.

4. Legislative Context

4.1. Bereavement benefits rates are linked to the rate of basic State Retirement Pension, and both have been uprated annually by the growth in prices. The coalition programme for government expressed its commitment to "restoring the earnings link" for increases of basic State Retirement Pension from the tax year commencing April 2011.

4.2. The Pensions Act 2007 provides for pensions to be uprated by earnings, and for bereavement benefits to be determined separately from the rate of basic State Retirement Pension and continue to be uprated by the growth in prices. These provisions came into force in the tax year 2010/11 as provided for by the Uprating of Basic Pensions etc (Designated Tax Year) Order 2010), SI 2010/2650.

4.3. For bereavement benefits, the Pensions Act 2007 requires regulations to be made in the designated tax year prescribing the rates of bereavement benefits to be uprated. This instrument is therefore required to insert the 2010/11 rates used for bereavement benefits into the Social Security Contributions and Benefits Act 1992. The amounts in these regulations will then be uprated by the main Social Security Benefits Uprating Order for 2011.

5. Territorial Extent and Application

5.1. This instrument applies to Great Britain.

5.2. As regards Northern Ireland, social security is a transferred matter and the responsibility of the Department for Social Development. Officials have indicated that corresponding provision will be made for Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1. The Pensions Act 2007 removed the link between the rate, and annual up-rating, of category A Retirement Pension and bereavement benefits. From April 2011, basic State Retirement Pension will be increased in line with the growth in earnings, while bereavement benefits will remain committed in legislation to be increased in line with prices.

7.2. This instrument is needed to prescribe the bereavement benefits rates for 2010/11. The rates are specified in legislation, and there is no discretion to prescribe any other amount. The rates in these regulations will then be uprated in April 2011 by reference to prices in the main Social Security Benefits Up-rating Order for 2011.

7.3. There are no policy or procedural changes to bereavement benefits as a result of these regulations. This instrument is required to ensure that the increase in payments by the growth in prices from April 2011 is provided for in legislation.

Consolidation

7.4. Informal consolidation of this instrument will be provided in due course by way of "The Law Relating to Social Security" (Blue Volumes) which is available online on the DWP website free of charge to the public at http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/

8. Consultation outcome

Consultation was not carried out because there is no policy change. The Order simply allows bereavement benefits to be uprated, and implements provisions that have already been debated and passed by Parliament. There is no scope for further influence.

9. Guidance

There is no guidance requirement as there is no change to bereavement benefits policy or procedures.

10. Impact

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

10.2. The impact on the public sector is negligible.

10.3. A full impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The amounts of benefits are reviewed each year under the Social Security Administration Act S150 and S150A, and revised by the Social Security Benefits Up-rating Order (e.g. SI 2010/793).

13. Contact

For any queries regarding this instrument, please contact the Department for Work and Pensions on telephone number: 0113 23 27456 or e-mail: Malcolm.connell@jobcentreplus.gsi.gov.uk.