EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY BENEFITS UP-RATING REGULATIONS 2010

2010 No. 826

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. Description

The Social Security Benefits Up-rating Regulations 2010 make provision in consequence of the Social Security Benefits Up-rating Order 2010 ('the Up-rating Order'), which provides for the annual up-rating of Social Security benefits.

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

None

4. Legislative Background

4.1 The Social Security Benefits Up-rating Regulations 2010 are consequential on the Up-rating Order which is made under sections 150 and 150A of the Social Security Administration Act 1992 (c.5). Under those sections the Secretary of State must review the rates of social security benefits. The Up-rating Order provides for the annual up-rating of those benefits.

4.2 The provisions in these Regulations cannot be included in the Up-rating Order because it is made under sections 150 and 150A of the Social Security Administration Act 1992 and there is no power to make such provisions in those sections.

5. Territorial Extent and Application

This instrument applies to Great Britain. A separate but corresponding provision will be made for Northern Ireland.

6. European Convention on Human Rights

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

7. Policy Background

- *What is being done and why?*

7.1 Regulation 2 prevents any altered rate from applying until a question, which has arisen about the effect of the Up-rating Order on a benefit already in payment, is determined. This provision is intended to avoid overpayment of benefit where the increase is not payable, either in part or full. For example: where adjustment of a benefit is required because another benefit is also in payment (under the overlapping benefit provisions).

7.2 Regulation 3 restricts the application of increases specified in the Uprating Order where the beneficiary lives abroad. This provision follows the long-standing policy that benefits payable to people living abroad are not up-rated unless there is a legal obligation or reciprocal agreement to do so.

7.3 Regulation 4 increases one of the earnings limits for child dependency increases payable with a Carer's Allowance in line with the increase for other benefits in Article 8 of the Up-rating Order. This ensures that those receiving child dependency increases with Carer's Allowance are treated in the same way as those receiving child dependency increases with other benefits.

7.4 Regulation 5 increases the amount of benefit that a person must be left with if they live in a care home and, because they find it difficult to budget for their care fees, the care home costs are paid direct from their benefit to the person or body charging for care.

- *Consolidation*

7.5 Informal consolidation of this instrument will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at: http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/

8. Consultation outcome

Consultation is not necessary because these Regulations are consequential on the Up-rating Order, which forms part of the arrangements for the annual up-rating requirements.

9. Guidance

Information products for operational staff and general public have been up-dated to reflect the new rates.

10. Impact

10.1 This instrument imposes no costs on business, charities or voluntary bodies.

10.2 This instrument has only a negligible effect on the public sector.

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

11. Regulating small business

This instrument does not apply to small business.

12. Monitoring and review.

The position is subject to review each tax year (please see paragraph 4.1 above).

13. Contact

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