**EXPLANATORY MEMORANDUM TO**

**THE SOCIAL SECURITY (GRADUATED RETIREMENT BENEFIT) (CONSEQUENTIAL PROVISIONS) ORDER 2006**

**2006 No. 2839**

**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

2.1 The Social Security (Graduated Retirement Benefit) (Consequential Provisions) Order 2006 amends section 150 of the Social Security Administration Act 1992 (c.5).

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

3.1 None.

## 4. Legislative Background

4.1 This Order amends the Social Security Administration Act 1992 ("the Administration Act") to allow the lump sum payable to a surviving spouse or civil partner whose spouse or civil partner died while they were deferring entitlement to graduated retirement benefit, to be up-rated in line with the annual Up-rating Orders for the years that the surviving spouse or civil partner was below pensionable age.

4.2 Due to an oversight, the Pensions Act 2004 did not make a necessary amendment to the Administration Act to allow for the uprating of these lump sums.

## 5. Extent

5.1 This instrument applies to Great Britain.

5.2 Equivalent provision in relation to Northern Ireland will be made by statutory rules.

## 6. European Convention on Human Rights

James Purnell, the Minister of State for Pensions Reform, has made the following statement regarding Human Rights:

"In my view the provisions of the Social Security (Graduated Retirement Benefit)(Consequential Provisions) Order 2006 are compatible with the Convention rights."

## 7. Policy background

7.1 Graduated retirement benefit (GRB) is an increase in the weekly rate of a retirement pension based on the amount of graduated contributions paid by an employee between 1961 and 1975 when the GRB scheme was wound up. Owing to its "preserved nature" GRB continues to be paid.

7.2 Since 1979, the arrangements under which entitlement to GRB can be deferred (where a person puts off claiming) have mirrored those which apply to retirement pensions generally. The Social Security Contributions and Benefits Act 1992 now allows for specific aspects of the GRB provisions to be amended by regulations. Of particular relevance is the power to make regulations which relate to deferral of entitlement to retirement pension.

7.3 Legislation allows for a choice between an increase in retirement pension or lump sums to be paid where entitlement is deferred for at least 12 months from 6 April 2005. The Pensions Act 2004 allows equivalent provision to be made where entitlement to GRB is deferred.

7.4 The Administration Act provides for the annual up-rating of benefits. There are two stages to the annual uprating process; firstly, the Secretary of State is required to review benefit levels each year to see if they have retained their value in relation to the general level of prices. If they have not, the Secretary of State is required to increase some of them (including retirement pension and GRB). It is convention to uprate using the Retail Prices Index. The Administration Act makes specific provision for uprating of GRB.

7.5 The Pensions Act 2004 amended the Administration Act to allow for the uprating of lump sums to which a surviving spouse becomes entitled on attaining pensionable age (currently 65 for men and 60 for women born on or before 5 April 1950) where the deceased spouse had deferred entitlement to a retirement pension. Due to an oversight however, the Pensions Act did not make the necessary equivalent amendment to the Administration Act where a deceased spouse had deferred entitlement to GRB from 6 April 2005.

Consultation

7.6 No consultation was necessary because this measure is directly consequential on the measures contained in the Pensions Act 2004 which reformed the arrangements for those who deferred taking their retirement pension and in particular introduced the option of a lump-sum payment as an alternative to increased weekly retirement pension. The original proposals for the introduction of the lump-sum payment option were contained in the Government's green paper "Simplicity, security and choice: Working and saving for retirement" and were widely consulted upon.

Consolidation

7.7 This amending legislation will be consolidated into existing legislation through the Law Relating to Social Security ("The Blue Books") which are regularly updated and are available to the public at no cost via the internet.

## 8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no new impact on the costs of business, charities and voluntary bodies.

8.2 There is no impact on the public sector of the provisions in this Order as the effect is on expenditure for 2007/08 onwards.

## 9. Contact

**HARRY CUNNIFFE** at the Department for Work and Pensions Tel: 020 7712 2491 or e-mail: harry.cunniffe@dwp.gsi.gov.uk can answer any queries regarding the instrument.