EXPLANATORY MEMORANDUM TO THE
SOCIAL SECURITY PENSIONS (LOW EARNINGS THRESHOLD) ORDER 2011

2011 No. 477

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

The Social Security Pensions (Low Earnings Threshold) Order is made each year to set the low earnings threshold for additional pension for the following year.

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

None.

4. Legislative Context

4.1 The low earnings threshold was first used when State Second Pension was introduced in 2002.

4.2 Section 148A of the Social Security Administration Act 1992 requires the Secretary of State to review each year the low earnings threshold in line with any changes in the general level of earnings and make the Low Earnings Threshold Order.

4.3 This yearly Order is being made to affect the annual up-rating of the low earnings threshold for 2011/12. As is normal practice, this Order is laid at the same time as the Social Security Revaluation of Earnings Factors Order 2011 for which a separate explanatory memorandum has been produced.

5. Territorial Extent and Application

This instrument applies to Great Britain. Equivalent provision will be made by statutory rule in relation to 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 State Earnings-Related Pension Scheme (SERPS) was reformed with the introduction of the State Second Pension from 6 April 2002. An important aim of the reform was that additional resources should be targeted on low earners. Additionally, carers and some long-

term disabled people unable to maintain a full work record due to their caring responsibilities and disabilities could build additional pension entitlement for the first time.

7.2 Employees with earnings between annual National Insurance lower earnings limit and the low earnings threshold are treated for additional pension purposes as having earned at this higher level.

7.3 The lower earnings limit (LEL) is the level at which a person's earnings become relevant for National Insurance purposes.

7.4 Also, the following groups are treated as if they had earnings at the low earnings threshold (LET) for State Second Pension purposes:

- Qualifying carers.
- Qualifying disabled people.

7.5 The LET is £14,100 for the 2010/11 tax year. Each year the Secretary of State is obliged to review the level of average earnings and, where he sees fit, set the LET for the following year accordingly by Order.

7.6 The Office for National Statistics' Average Weekly Earnings statistic September year-on-year change (non-seasonally adjusted, including bonuses)[1] showed that average earnings over the period 1 October 2009 to 30 September 2010 is 2.3%. This means that, with rounding, the threshold is increased to £14,400 for 2011/12. The level of this threshold is set by the Order.

7.7 The LEL is £5,044 for 2010/11 and is proposed to be £5,304 for 2011/12[2].

- Consolidation

7.8 As the instrument does not amend another instrument, the question of consolidation does not arise.

8. Consultation Outcome

Consultation on this order is not appropriate.

9. Guidance

9.1 Leaflets and guidance will be up-dated to reflect the new figures as part of the yearly leaflet review covering the annual uprating in April.

9.2 An information notice will be issued to the financial press. The figures will also be published on the Department for Work and Pensions website.

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[1] The Office for National Statistics has replaced National Average Earnings Index (AEI) with the Average Weekly Earnings statistic (AWE). See Table 6 NSAsect monthly growth ibia http://www.statistics.gov.uk/downloads/theme_labour/AWE_Supplementary_tables.xls

[2] The LEL for 2011/12 will specified by Regulations and is no longer linked to rate of basic State Pension.

10. **Impact**

10.1 This instrument has no new impact on the costs of business and civil society organisations.

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

This instrument has no new impact on the costs of small business.

12. Monitoring and review

The position is subject to review each tax year.

13. Contact

Dave Annison (at the Department for Work and Pensions Tel: 020 7449 7145 or e-mail: dave.annison@dwp.gsi.gov.uk) can answer any queries regarding the instrument.