EXPLANATORY MEMORANDUM TO

THE STATE PENSION REVALUATION FOR TRANSITIONAL PENSIONS ORDER 2024

2024 No. 1209

AND

THE STATE PENSION DEBITS AND CREDITS (REVALUATION) ORDER 2024

2024 No. 1208

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Emma Reynolds, Minister for Pensions at the Department for Work and Pensions, HM Treasury, confirms that this Explanatory Memorandum meets the required standard.

2.2 Cathy Payne, Deputy Director for State Pensions Policy, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Angela Langley at the Department for Work and Pensions, email: angela.langley@dwp.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These instruments revalue certain components of an individual's award of the new State Pension, which was introduced on 6 April 2016, and apply to people reaching State Pension age in the tax year 25/26.

4.2 The State Pension Revaluation for Transitional Pensions Order 2024 re-values "Protected Payments" to reflect increases in the general level of prices since 6 April 2016.

4.3 An individual's Protected Payment may be shared in a divorce settlement, creating a debit and credit to share the Protected Payment between the two parties. The State Pension Debits and Credits (Revaluation) Order 2024 re-values new State Pension debits and credits to reflect price increases since the debit or credit was created.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

5.1 The new State Pension was introduced for people who reached State Pension age on or after 6th April 2016. Under transitional rules, people get a Starting Amount for the new State Pension based on their National Insurance record at 6 April 2016. If their Starting Amount is higher than the full rate of the new State Pension (£155.65.per week as at April 2016) then the amount over the full rate is their Protected Payment. An individual may have a Protected Payment if they had built up enough additional State Pension under the previous system.

5.2 Once an individual's new State Pension is in payment, it will normally be increased each April as part of the annual review of social security benefits.[1] Protected Payments are reviewed and up-rated at least in line with increases in the general level of prices.[2]

5.3 Where an individual reaches State Pension age in the subsequent years following the introduction of the new State Pension, the Protected Payment amount is revalued. This is to ensure they are not disadvantaged relative to an individual who became entitled to their State Pension in 2016/17 and whose State Pension will have been up-rated over the same period.

5.4 Both the State Pension Revaluation for Transitional Pensions Order and the State Pension Debits and Credits Revaluation of Protected Payments Order are mandatory annual orders required under the founding legislation, like the annual uprating orders. Without these orders it would not be possible to process claims for the new State Pension for groups of people affected.

5.5 These Orders will allow the Department for Work and Pensions to ensure the component elements of an individual's State Pension entitlement are increased correctly before their claim begins, and to process claims to the new State Pension.

Revaluation of Protected Payments

5.6 Paragraph 6(5) of Schedule 1 to the 2014 Act provides for Protected Payments to be revalued in line with increases in the general level of prices that have taken place in the review period.[3] Section 148AC(2) of the Social Security Administration Act 1992 defines the review period for these purposes as the period beginning on 6 April 2016.

5.7 The Secretary of State has discretion as to when the review period ends, and as to how to measure the general level of prices for the purpose of determining the revaluing percentage. She has chosen to measure the increase in the general level of prices by

[1] Increases in the rates of State Pension take effect from the first Monday in the new tax year.
[2] See section 151A of the Social Security Act 1992 https://www.legislation.gov.uk/ukpga/1992/5/section/151A. The full rate of State Pension is up-rated by at least the growth in earnings, under section 150A.
[3] Amounts equal to or less than the 2016 full rate are revalued in line with increases in the full rate under paragraph 6(4) of Schedule 1 to the Pensions Act 2014 https://www.legislation.gov.uk/ukpga/2014/19/schedule/1

reference to the Consumer Prices Index (CPI), taking September 2024 as the end date of the review period. She has estimated the increase in the period April 2016 to September 2024 to be 33.9%.[4]

Revaluation of new State Pension Debits and Credits

5.8 Under the new State Pension, an individual's Protected Payment may be shareable where divorce proceedings started on or after 6 April 2016.[5]

5.9 Where a pension sharing order is made, it will provide for a percentage split of the Protected Payment that is to be shared between the two parties. The National Insurance record of the individual whose Protected Payment is to be shared ("the transferor") will be noted with a debit and the record of the individual who will benefit from the share ("the transferee") will be noted with a corresponding credit.

5.10 Where the pension sharing order takes effect before either or both parties have reached their respective State Pension ages, the debit and/or credit is revalued according to the percentage increase in the general level of prices. At State Pension age, the transferor's Protected Payment will be reduced by the debit and the transferee's new State Pension will be increased by a credit of the same amount as the debit.

5.11 Section 148AD(6) of the Social Security Administration Act 1992 gives the Secretary of State discretion to estimate the general level of prices in such manner as she thinks fit. The review period is not defined in this legislation. She has chosen to increase new state scheme debits and credits by reference to the increase in the CPI for the 12 months ending September 2024. This Order accordingly increases debits and credits created in 2024-25 by 1.7%.[6] Her estimate of the cumulative percentage required to make up the fall in value of new state scheme debits and credits created in the last seven years is also set out in the Schedule to the Order.

What was the previous policy, how is this different?

5.12 The policy has not changed, both the State Pension Revaluation for Transitional Pensions Order and the State Pension Debits and Credits Revaluation Order are mandatory annual orders that are required under the founding legislation. Without these orders it would not be possible to process claims for the new State Pension for groups of people affected. They are needed to increase the component parts of their State Pension entitlement before their claim begins.

5.13 These Orders will allow the Department for Work and Pensions to ensure the component elements of an individual's State Pension entitlement are increased correctly before their claim begins, and to process claims to the new State Pension.

[4] https://www.ons.gov.uk/economy/inflationandpriceindices/datasets/consumerpriceinflation Estimate based on the increase in the CPI all items' indices for April 2016 and September 2024.

[5] Where proceedings began before 6 April 2016 and the transferor reached or is due to reach State Pension age under the new State Pension scheme, the shareable state scheme rights are the additional State Pension accrued prior to 6 April 2016. See The Pensions Act 2014 (Pension Sharing on Divorce etc.) (Transitional Provision) Order 2016 (S.I. 2016/39) https://www.legislation.gov.uk/uksi/2016/39/contents/made

[6] https://www.ons.gov.uk/economy/inflationandpriceindices/datasets/consumerpriceinflation Estimate based on the increase in the CPI all items' indices from September 2023 to September 2024.

6. Legislative and Legal Context

How has the law changed?

Revaluation of Protected Payments

6.1 Section 148AC of the 1992 Act requires the Secretary of State to review the general level of prices in Great Britain in each tax year, and, if the general level has increased in the review period, to make an order specifying the percentage of the increase.

6.2 The Secretary of State has carried out her review and has determined that the general level of prices has increased. Accordingly, she makes the State Pension Revaluation for Transitional Pensions Order 2024.

Revaluation of new State Scheme Debits and Credits

6.3 Section 148AD of the 1992 Act requires the Secretary of State to review the general level of prices in Great Britain in each tax year. If it appears to her that relevant debits or credits have not maintained their value relative to the general level of prices during the review period, she is required to make an order specifying the percentage of their amount by which they are to be increased in order to make up the relative fall in their value.

6.4 The Secretary of State has carried out her review and has determined that there has been an increase in the general level of prices. Accordingly, she makes the State Pension Debits and Credits (Revaluation) Order 2024.

Why was this approach taken to change the law?

6.5 This is required to maintain the levels of State Pension entitlement.

7. Consultation

Summary of consultation outcome and methodology

7.1 There is no statutory duty on the Secretary of State to consult on these instruments, and the Department does not consider informal consultation is appropriate in this case, as they are technical orders which give effect to statutory requirements, the terms of which are defined in primary legislation.

8. Applicable Guidance

8.1 Guidance on the measures implemented by these orders will be issued to operational staff internally in December, before these orders take effect.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared because these are routine instruments which maintain the value of new State Pension Protected Payments and relevant debits and credits against price inflation. New State Pension was introduced on 6 April 2016 by the 2014 Act. An Impact Assessment was prepared for that Act.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on small or micro businesses, charities or voluntary bodies because the regulations are relevant to State Pension only.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the benefit expenditure associated with revaluation has not been separately identified but is included within the Government's expenditure plans along with the costs of up-rating new State Pension.[7].

9.5 The Department estimates that around 127,100 people who will be reaching State Pension age in 2025-26 will be entitled to a Protected Payment.[8] The number of individuals subject to a new State Pension debit or entitled to a credit is expected to be very low.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to give effect to a statutory duty to undertake a review in each tax year (see paragraphs 6.1 and 6.3).

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

7 https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F664b4ec8993111924d9d3823%2Foutturn-and-forecast-tables-spring-budget-2024.xlsx&wdOrigin=BROWSELINK

8 https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F6582afcc23b70a000d234c91%2Fprotected-payments-inflows-2016-17-to-2028-29.ods&wdOrigin=BROWSELINK