

**EXPLANATORY MEMORANDUM TO THE
SOCIAL SECURITY BENEFITS UP-RATING ORDER 2005**

2005 No. 522

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 The Social Security Benefits Up-rating Order fulfils the statutory duty of the Secretary of State to review the rates of social security benefits and provides for the uprating of those benefits.

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

- 3.1 An annex setting out the technical detail of the Order is attached which may be useful to the Joint Committee on Statutory Instruments.

4. **Legislative background**

- 4.1 This Order provides for the annual uprating of social security benefits. A draft of this Order is laid before Parliament in accordance with the provisions of sections 150(2) and 190(1)(a) of the Social Security Administration Act 1992 for approval by resolution of each House of Parliament.

- 4.2 The Secretary of State is required to review the levels of benefits annually with a further requirement to increase contributory and non-contributory benefits at least in line with prices. These benefits are increased in line with the Retail Prices Index.

- 4.3 The Secretary of State may, if he considers it appropriate and having regard to the economic situation, increase other benefits by a percentage he thinks fit. Income-related benefits are, generally, increased in line with an index based on the Retail Prices Index less housing costs known as the "Rossi" index.

5. **Extent**

- 5.1 The Order applies to Great Britain.

6. European Convention on Human Rights

The Minister of State for Pensions, Malcolm Wicks, has made the following statement regarding Human Rights:

In my view the provisions of the Social Security Benefits Up-rating Order 2005 are compatible with the convention rights.

7. Policy background

7.1 The Order fulfils the statutory duty of the Secretary of State to review the rates of benefits under section 150 of the Social Security Administration Act and provides for the uprating of social security benefits in accordance with section 150(2) of that Act.

7.2 The non income-related benefits are generally increased by 3.1%, in line with the increase in the Retail Price Index from September 2003 (the end of the last review of benefit levels) to September 2004.

7.3 For income-related benefits the increase is generally based on 1%, the increase in the Rossi index (Retail Price Index less the element representing housing costs). Pensioner Premiums are increased by 6.9% for a single person and 7.1% for a couple so that the overall amount is increased in line with increases in the standard minimum guarantee in State Pension Credit which is increased by earnings, 3.8%. Additional amounts in Pension Credit for severely disabled people and carers are increased in line with similar additions in other benefits. Applicable amounts and premiums in housing benefit and council tax benefit for those who are over the qualifying age for State Pension Credit are increased in line with equivalent sums in State Pension Credit.

7.4 The Order provides for the increases to take effect, in most cases, in the week commencing 11 April 2005. For statutory sick pay, statutory maternity pay, statutory paternity pay, statutory adoption pay, housing benefit, council tax benefit and earnings limits in respect of child dependency increases, the Order specifies that the rates take effect at an earlier date in April.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared because this Order imposes no new costs on business, charities or voluntary bodies.

8.2 The impact on the public sector of the provisions in this Order is an estimated cost of £2.92 billion due to additional benefit expenditure.

9. Contact

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THE SOCIAL SECURITY BENEFITS UP-RATING ORDER 2005

Purpose of the Order

1. The Order provides for the uprating of social security benefits in accordance with section 150(2) of the Social Security Administration Act 1992. The non income-related benefits are generally increased by 3.1%, in line with the increase in the Retail Price Index from September 2003 (the end of the last review of benefit levels under S.150(1)) to September 2004. Retirement Pension, Widows Benefits and Bereavement Benefits are also increased by 3.1%. For income-related benefits the increase is generally based on 1%, the increase in the Rossi index (Retail Price Index less the element representing housing costs). The Order provides for the increases to take effect in most cases in the week commencing 11 April 2005 (S.150(10)(a)(i)). In respect of statutory sick pay, statutory maternity pay, statutory paternity pay, statutory adoption pay, housing benefit, council tax benefit and earnings limits in respect of child dependency increases, the Order specifies the rates take effect at an earlier date in April (S.150(10)(a)(ii)).

Requirements of section 150 of the Social Security Administration Act

2. Section 150 provides broadly as follows:-
- under S.150(1) for a review in each tax year of the levels of specified benefits and of other sums such as earnings limits for the receipt of benefits, to determine whether they have held their value in relation to the general level of prices. The Secretary of State is given discretion on the calculation of the measurement of the movement in prices. For the purposes of this Order it is measured by the change in the Retail Price Index over the 12 month period from September 2003 to September 2004, which was 3.1% and by the change in the Rossi index which, for the same period, was 1%.
 - under S.150(2) for the laying before Parliament of a draft Order increasing certain sums, identified in S.150(3), by not less than the relevant percentage increase in prices over the review period. The Secretary of State is given discretion over whether to increase certain other sums. Sums mentioned in S.150(1) and which are not increased are required under S.150(2)(c) to be stated in the Order.
 - S.150(3) identifies the benefits or sums which must be increased by an amount not less than the equivalent percentage increase in prices.

- S.150(4) relieves the Secretary of State of the obligation to provide for an increase in benefit where the amount would be inconsiderable.
- S.150(5) enables sums increased under section 150(2) to be rounded up or down. Normally benefits are rounded to the nearest 5p, but certain small sums are rounded to 1p as are some sums where rates are linked to rates for Tax Credits. Higher rates of benefit may be subject to higher roundings.
- S.150(6) enables an increase under S.150(2) to be altered to reflect the combined effects of the increase and of any reduction that could be made under S.154(1) of the Social Security Administration Act 1992. This year the benefits affected are the following allowances in respect of children provided for in Schedule 4 to the Social Security Contributions and Benefits Act 1992: child's special allowance paid under paragraph 6 of Part I of that Schedule (child's special allowance was abolished by S.40 of the Social Security Act 1986 from April 1987, except for existing beneficiaries); increase for child dependants paid under column (2) of Part IV (column (2) was repealed by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 but article 3(2) of S.I. 2003/938 saves the repealed provision in certain circumstances and article 5 of that S.I. provides for the transitional application of section 154(2)(c) of the Social Security Administration Act in cases to which article 3(2) applies); increase of weekly disablement pension in respect of child dependants paid under paragraph 7 of Part V, and allowance in respect of the deceased's children, paid under paragraph 12 of Part V.
- S.150(7) permits, in addition to any other provisions, uprating of any of the sums for the time being specified in regulations under Part VII of the Social Security Contributions and Benefits Act 1992 (income related benefits) or the Jobseekers Act 1995, or the State Pension Credit Act 2002, or which are additions to income support under regulations made under section 89 of the Social Security Act 1986 (transitional provisions).
- S.150(8) requires the inclusion, with the draft Up-rating Order, of a copy of a report by the Government Actuary or the Deputy Government Actuary advising on the likely effect on the National Insurance Fund of such parts of the Order as relate to sums payable out of that Fund.
- S.150(9) requires the Up-rating Order to be made in the form of the draft approved by Parliament.
- S.150(10) provides for the date when the alterations made by an Order under the section are to come into force and enables transitional

provisions to be made in relation to statutory sick pay.

- S.150(11) provides for the uprating of graduated retirement benefit, for as long as sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975 or under Schedule 3 to the Social Security (Consequential Provisions) Act 1992.

The Social Security Benefits Up-rating Order 2005

3. The provisions of the Order are as follows:-

Articles 1 and 2 provide for citation, commencement and effect and interpretation.

Article 3 and Schedule 1 alter Parts I, III, IV and V of Schedule 4 to the Social Security Contributions and Benefits Act 1992 to increase the sums mentioned therein. S.150(2)(a) and S.150(3)(a) refer. The Schedule also states the amounts of child's special allowance, bereavement payment, over 80 age addition, the increases for qualifying children, the increase in disablement pension for dependant children, widow's pension (initial rate) and death benefit allowance in respect of children which are not increased by this Order but which are required to be stated in it by virtue of S.150(2)(c).

Article 4 increases the sums mentioned in S.150(1)(a)(ii) and S.150(1)(c), (ca), (d), (da), (g) and (e)(ii) of the Social Security Administration Act 1992, and which are required to be increased under S.150(3)(b).

Article 5 increases the payable sums mentioned in S.150(1)(e)(i). The increase is 3.1% where those sums are attributable to earnings factors before 6 April 1988, and 0.1% where those sums are attributable to earnings factors from 6 April 1988 to 5 April 1997. Earnings factors from 6 April 1988 to 5 April 1997 will also be subject to an increase of 3% from 6 April 2005, and are subject to a separate order under S.109(2) of the Pension Schemes Act 1993. See S.151(4).

Article 6 specifies the dates on which increases specified in Articles 3, 4, 5, 12 and Schedule 1 shall come into effect for different categories of case. All the dates apart from that specified in Article 6(11)(b) are in the week commencing 11 April 2005, which is the week beginning with the first Monday in the tax year (S.150(10)(a)(i) refers). The differences in dates arise from differences in the prescribed payday of the benefit and on whether the benefit is a weekly or daily benefit. Article 6(11) makes special provision for the increase in rates of certain benefits in cases where the rate provides an earnings limit in respect of adult dependency increases.

Article 7 increases the rates of certain workmen's compensation and industrial diseases benefits in respect of employment before 5 July 1948.

Article 8 increases the earnings limits in respect of child dependency increases. (S.80(4) of the Social Security Contributions and Benefits Act was repealed by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 but article 3 of S.I. 2003/938 saves the repealed provision in certain circumstances.)

Article 9 increases the rate of statutory sick pay. (S.157(1) of the Social Security Contributions and Benefits Act refers.)

Article 10 increases the rate of statutory maternity pay. (Regulation 6 of the Statutory Maternity Pay (General) Regulations 1986 refers.)

Article 11 increases the rate of statutory paternity pay and the rate of statutory adoption pay in regulations 2(a) and 3(a) of the Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations 2002.

Article 12 increases the value of a unit of graduated retirement benefit by 3.1%, and makes similar increases to the value of increments of that benefit and to the amounts of the benefit inherited by surviving spouses.

Article 13 sets out the increases in rates of disability living allowance. (Regulation 4 of the Social Security (Disability Living Allowance) Regulations 1991 refers.)

Article 14 sets out the increases in the rates of age addition to long term incapacity benefit. (Regulation 10 of the Social Security (Incapacity Benefit) Regulations 1994 refers.)

Article 15 sets out the increased rates of transitional increases in long term incapacity benefit (previously invalidity allowances). (Regulation 18 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 refers.)

Article 16 and Schedules 2 to 5 specify the amount of the sums relevant to the applicable amount of income support and other sums for income support amended by this Order. Article 16(2) specifies the level of capital above which no amount of income support is payable in respect of a child or young person; Article 16(3) and Schedule 2 set out the increased personal allowances; Article 16(4) specifies the family premium; Article 16(5) and Schedule 3 set out other increased premiums; Article 16(6) sets out the rates of non-dependant deductions (housing costs); Article 16(7) and Schedule 4 set out the amounts relevant to special cases; Article 16(8) and Schedule 5 set out other applicable amounts which are not changed by the Order and are in force at 1 February 2005; and Article 16(9) specifies the sum to be disregarded as income for heating expenses of sub tenants.

Article 17 provides for a 1% increase in sums payable by way of special transitional additions to income support.

Article 18 increases the sum by which any income support of a person involved in a trade dispute is reduced.

Article 19 and Schedules 6 and 7 specify the amount of the sums relevant to the applicable amount of housing benefit and other sums for housing benefit amended by this Order. Article 19(2) specifies the amount of capital in excess of which there is no applicable amount for a child or young person; Article 19(3) sets out the amounts to which benefit entitlement is reduced after a period in hospital; Article 19(4) sets out the amounts which are disregarded as income for childcare charges; Article 19(5) sets out amounts for non-dependant deductions; Article 19(6) sets out the increased amounts for meals under ineligible service charges; Article 19(7) sets out the increased amount in respect of ineligible fuel charges; Article 19(8) and Schedule 6 set out the increased personal allowances; Article 19(9) specifies amounts of the family premium; Article 19(10) and Schedule 7 set out other increased premiums; Article 19(11) sets out the amount of the additional earnings disregard where a person is entitled to working tax credit; Article 19(12)(a) specifies the sum to be disregarded as income for heating expenses of sub tenants; and Article 19(12)(b) specifies the sum to be disregarded as income where a person is entitled to working tax credit but their earnings are insufficient for the additional earnings disregard to be applied.

Article 20 and Schedules 8 and 9 specify the amount of sums relevant to the applicable amount of housing benefit and other sums for housing benefit for certain persons over the qualifying age for state pension credit amended by this Order. The Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 amended the Housing Benefit (General) Regulations 1987 and the Council Tax Benefit (General) Regulations 1992 (both referred to as “the General Regulations”) to substitute “parallel” provisions into those Regulations for persons who have obtained the qualifying age for state pension credit. The amendments made by this Order are to the General Regulations in respect of each benefit, as they apply to those persons. This explanation also applies to Article 22. Article 20(3) sets the percentage by which benefit is reduced after a period in hospital; Article 20(4) sets out the amounts which are disregarded as income for childcare charges; Article 20(5) and Schedule 8 set out the increased personal allowances; Article 20(6) specifies amounts of the family premium; Article 20(7) and Schedule 9 set out other increased premiums; Article 20(8) sets out the amount of the additional earnings disregard where a person is entitled to working tax credit; Article 20(9) specifies the sum to be disregarded as income where a person is entitled to working tax credit but their earnings are insufficient for the additional earnings disregard to be applied.

Article 21 and Schedules 10 and 11 specify the amount of the sums relevant to the applicable amount of council tax benefit and other sums for council tax benefit

amended by this Order. Article 21(2) specifies the amount of capital in excess of which affects the sum of the applicable amount for a child or young person; Article 21(3) sets out the amount to which benefit entitlement is reduced after a period in hospital; Article 21(4) sets out the amounts which are disregarded as income for childcare charges; Article 21(5) specifies the sums for non-dependant deductions; Article 21(6) and Schedule 10 set out the increased personal allowances; Article 21(7) specifies the amounts of family premium; Article 21(8) and Schedule 11 set out the other increased premiums; Article 21(9) sets out the amount of alternative maximum council tax benefit; Article 21(10) sets out the amount of the additional earnings disregard where a person is entitled to working tax credit; Article 21(11)(a) specifies the sum to be disregarded as income for heating expenses of sub tenants; and Article 21(11)(b) specifies the sum to be disregarded as income where a person is entitled to working tax credit but their earnings are insufficient for the additional earnings disregard to be applied.

Article 22 and Schedules 12 and 13 specify the amount of sums relevant to the applicable amount of council tax benefit and other sums for council tax benefit for certain persons over the qualifying age for state pension credit amended by this Order. Article 22(3) sets the percentage by which benefit is reduced after a period in hospital; Article 22(4) sets out the amounts which are disregarded as income for childcare charges; Article 22(5) and Schedule 12 set out the increased personal allowances; Article 22(6) specifies amounts of the family premium; Article 22(7) and Schedule 13 set out other increased premiums; Article 22(8) sets out the amount of the additional earnings disregard where a person is entitled to working tax credit; Article 22(9) specifies the sum to be disregarded as income where a person is entitled to working tax credit but their earnings are insufficient for the additional earnings disregard to be applied.

Article 23 sets out the increases in age related amounts of contribution-based jobseeker's allowance.

Article 24 and Schedules 14 to 19 specify the amount of the sums relevant to the applicable amount of jobseeker's allowance and other sums of jobseeker's allowance amended by this Order. Article 24(2) specifies the level of capital above which no amount of jobseeker's allowance is payable in respect of a child or young person; Article 24(3) and Schedule 14 set out the increased personal allowances; Article 24(4) specifies the amounts of family premium; Article 24(5) and Schedule 15 set out the increased premiums; Article 24(6) and Schedule 16 specify premiums for joint-claim couples; Article 24(7) sets out the rates of non-dependant deductions (housing costs); Article 24(8) and Schedule 17 set out the amounts relevant to special cases; Article 24(9) and Schedule 18 specify the amounts relevant to joint claim couples in special cases; Article 24(10) specifies the sum to be disregarded as income for heating expenses of sub tenants; and Article 24(11) and Schedule 19 set out other applicable amounts.

Article 25 increases the sum by which any jobseeker's allowance of a person

involved in a trade dispute is reduced.

Article 26 and Schedule 20 cover state pension credit. Article 26(2) increases the amounts of guarantee credit; Article 26(3) specifies the savings credit thresholds; Article 26(4) sets out the rates of non-dependant deductions (housing costs); Article 26(5) increases the amounts of guarantee credit relevant to claimants in polygamous marriages and specifies that an amount which is relevant to the calculation of guarantee credit for patients remains unchanged; Article 26(6) and Schedule 20 cover other amounts specified in the State Pension Credit Regulations relating to guarantee credit, savings credit and housing costs.

Article 27 revokes the Up-rating Order 2004.