

**EXPLANATORY MEMORANDUM TO**  
**THE MINISTERIAL AND OTHER SALARIES ACT 1975 (AMENDMENT) ORDER**  
**2011**

**2011 No. 1689**

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument makes changes to salaries paid under the Ministerial and other Salaries Act 1975 (“the 1975 Act”). The purpose and effect of the changes are set out in paragraphs 7.1 and 7.3 below.

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

3.1 This instrument makes substantial changes to the 1975 Act.

**4. Legislative Context**

4.1 The 1975 Act consolidated the enactments relating to the salaries of Ministers and Opposition Leaders and Chief Whips. The 1975 Act specifies the Ministerial offices in respect of which a salary can be paid and provides for the amount of any salary payable in respect of those offices and Leaders and Whips of the Opposition, Lord Chancellor and Speakers of the House of Commons and House of Lords. The effect of the 1975 Act (see, in particular, paragraph 2 of Part V of Schedule 1 to the 1975 Act) is to limit the number of ministerial salaries that can be paid at any one time to 109 (including the Lord Chancellor). This instrument is made under section 1B of the 1975 Act, which provides a power to alter the annual amount of any salary payable under the 1975 Act.

4.2 This is the thirteenth use of this order-making power.

**5. Territorial Extent and Application**

5.1 This instrument applies to the United Kingdom.

**6. European Convention on Human Rights**

6.1 The Minister for the Cabinet Office has made the following statement regarding human rights:

“In my view the provisions of the Ministerial and other Salaries Act 1975 (Amendment) Order 2011 are compatible with the Convention rights.”

6.2 The Government does not consider that the instrument engages any Convention rights. In particular, it is not considered that Article 1 of Protocol 1 of the Convention is engaged as there will be no deprivation of possessions under the

provisions of the instrument. Whilst the 1975 Act provides the amount of annual salary, or how the annual amount of salary is to be determined, section 1B of the 1975 Act provides that salaries may be amended. The 1975 Act contains no “salary protection” (e.g. provision that salaries may be increased but not decreased) nor does the instrument have retrospective effect. In addition, Ministers have for some time not claimed the amount of salary to which they are entitled under the 1975 Act.

6.3 Ministerial pensions reflect salary entitlement over the period of Ministerial service, so the instrument will have some effect on future pension accrual. Pension entitlements for the Prime Minister, Speaker in the House of Commons and Lord Chancellor are determined by reference to their salary at the time of leaving office and are directly affected by this instrument. However, in all cases, the Government considers that there is no entitlement to be paid a pension at a particular rate for those still in service as salary levels may be altered prior to retirement. (under section 1 of the 1975 Act)

6.4 Even if it were to be considered that Article 1 of Protocol 1 is engaged on the basis that there is a deprivation of possessions, this is permissible where measures are in the public interest and proportionate. In the context of a public sector pay freeze and a limit of a 5% reduction to overall remuneration it is considered that the measures are in the public interest and proportionate. Also of relevance to the assessment of measures being in the public interest is that all those who currently hold the Ministerial and other offices covered by the 1975 Act agree to the changes to salary entitlements payable in relation to those offices under the 1975 Act.

## **7. Policy background**

7.1 On entering Office, and in-line with the Coalition Government’s policy, Ministers and the six Opposition Office Holders waived part of the amount of the Ministerial salary to which they were entitled under the 1975 Act and instead agreed to accept a total remuneration (Ministerial Salary and MP salary taken together) that was five percent less than the total remuneration received by equivalent Ministers and Opposition Office Holders in the previous Government. This reduction was then taken from the Ministerial salary element leaving the MP salary at its full rate.

7.2 However, Ministerial pension entitlements continued to accrue on the basis of the level of Ministerial salary applicable under the 1975 Act.

7.3 Therefore, the Prime Minister asked for an Order under the Ministerial and other Salaries Act 1975 (MOSA 75) to set the reduced level of Ministerial Salaries in legislation. This would ensure that pension accruals on Ministerial salaries reflect the actual amount of Ministerial salary received.. The 1975 Act sets the salaries not only for Government Ministers and the six Opposition Office Holders but also for the Speaker in each House. Therefore it was subsequently agreed that the Speaker in each House should be invited to consider whether or not their salaries should be dealt with in the same way. Accordingly, the draft order substitutes figures that reflect the reduced salary that each now claims.

7.4 This instrument will reduce the amount of salary to which Ministers and Office Holders are entitled to under the 1975 Act to the amount which they currently claim – please see table below listing the claimed and currently entitled salaries for

the Offices under the Act. This instrument will also have the effect of reducing the amount of salary which is taken into account when calculating the amount of pension accrual built up by members of the Parliamentary pension scheme.

<b>Ministerial Salaries affected by amendment Order to MOSA75</b>		
<b>House of Commons Posts</b>	<b>Claimed Salary (£)</b>	<b>Entitled Salary under MOSA 75 at present</b>
Prime Minister and First Lord of the Treasury (Minister for the Civil Service)	76,762	132,923
Chancellor of the Exchequer	68,827	79,754
Secretary of State  Includes: Lord President of the Council (Deputy Prime Minister); Chief Secretary to the Treasury.	68,827	79,754
Minister of State  Includes: the Paymaster General and Minister for the Cabinet Office; Leader of the House of Commons; Parliamentary Secretary to the Treasury and Chief Whip in the Commons; Treasurer of HM Household and Deputy Chief Whip; Financial Secretary to the Treasury.	33,002	41,370
Parliamentary Under-Secretary of State	23,697	31,401
Attorney General	95,772	108,624
Solicitor General	59,248	69,491
Advocate General for Scotland (Currently based in the Lords)	59,248	69,491
Government Whip (Junior Lord of the Treasury)  Includes:	19,239	26,624

Comptroller of HM Household; Vice Chamberlain of HM Household; Assistant Whip.		
Leader of the Opposition	63,098	73,617
Opposition Chief Whip	33,002	41,370
Deputy Opposition Chief Whip	19,239	26,624
Commons Speaker	75,766	79,754
<b>House of Lords Posts</b>	<b>Claimed Salary (£)</b>	<b>Entitled Salary under MOSA75 At present</b>
Secretary of State (Includes Chancellor of the Duchy of Lancaster and Leader of the House of Lords)	101,038	108,253
Lords Speaker	101,038	108,253
Minister of State	78,891	84,524
Parliamentary Under-Secretary of State	68,710	73,617
Attorney General (currently in the Commons)	105,699	113,248
Solicitor General (currently in the Commons)	91,755	98,307
Advocate General for Scotland	91,755	98,307
Captain of the Honourable Corps of Gentlemen-at-Arms and Chief Whip	78,891	84,524
Captain of the Queen's Bodyguard of the Yeoman of the Guard and Deputy Chief Whip	68,710	73,617
Lord / Baroness in Waiting and Government Whip	63,537	68,074

Leader of the Opposition	68,710	73,617
Opposition Chief Whip	63,537	68,074

7.5 Ministers and Office Holders have been advised of the effect of the Order..

7.6 The salary and pension of the office of the Lord Chancellor are being dealt with separately.

## **8. Consultation outcome**

8.1 MOSA 75 sets the salaries not only for Government Ministers and the six Opposition Office Holders but also for the Speaker in each House. Ministers were invited to consider a reduction in their Ministerial salaries on entering Office and they agreed to a waiving of their entitled salary for a reduced one to which they are now claiming. It was subsequently agreed that the Speaker in each House should be invited to consider the same treatment in their Ministerial salary and they agreed also to a waiving of their entitled salary for a reduced one to which they are now claiming.

## **9. Guidance**

9.1 A letter is being sent from the Prime Minister's Office reminding those affected by the Order that their current claimed salaries will be set in legislation and that this will ensure their pension contributions are brought into line with these salaries.

## **10. Impact**

10.1 A regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. The impact on the public sector will be to reduce the cost to Departments of making up the shortfall in Ministerial pension contributions by approximately £100,000 per year in total.

## **11. Regulating small business**

11.1 The instrument does not apply to small business.

## **12. Monitoring & review**

12.1 There are no plans to review the instrument during this current Parliament.

## **13. Contact**

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**21 March 2011**