

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY BENEFITS UP-RATING REGULATIONS 2015

2015 No. 496

- 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 Benefits Up-rating Regulations 2015 make provision in consequence of the Social Security Benefits Up-rating Order 2015 (S.I. 2015/457) and the Welfare Benefits Up-rating Order 2015 (S.I. 2015/30) which provide for the annual up-rating of social security benefits.

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

None

4. Legislative Background

4.1 The Social Security Benefits Up-rating Regulations 2015 are consequential on the Social Security Benefits Up-rating Order which is made under sections 150 and 150A of the Social Security Administration Act 1992 (c.5). Under those sections the Secretary of State must review the rates of certain social security benefits. The Social Security Benefits Up-rating Order provides for the annual up-rating of those benefits. The Regulations are also consequential on the Welfare Benefits Up-rating Order which is made under section 1 of the Welfare Benefits Up-rating Act 2013 (c.16). That Act provides for the up-rating of certain other social security benefits and payments by 1 per cent in various tax years.

4.2 The provisions in these Regulations cannot be included in the Social Security Benefits Up-rating Order or the Welfare Benefits Up-rating Order because there is no power in section 150 or 150A of the Social Security Administration Act or in section 1 of the Welfare Benefits Up-rating Act to make such provisions.

5. Territorial Extent and Application

These Regulations apply to Great Britain. A separate but corresponding provision will be made for Northern Ireland.

6. European Convention on Human Rights

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

7. Policy Background

What is being done and why?

- 7.1 Regulation 2 prevents any altered rate from applying until a question, which has arisen about the effect of the Social Security Benefits Up-rating Order, or of the Welfare Benefits Up-rating Order in so far as that Order affects the weekly rate of maternity allowance, on a benefit already in payment, is determined. This provision is intended to avoid incorrect payments of benefit where the increase is not payable, either in part or full. For example: where adjustment of a benefit is required because another benefit is also in payment (under the overlapping benefit provisions). Section 155 of the Social Security Administration Act applies to section 35A of the Social Security Contributions and Benefits Act 1992 (c.4), which refers to the weekly rate of maternity allowance. That weekly rate is determined by reference to the rate of statutory maternity pay (see section 166(1)(b) of that Act), which is itself increased in 2015 by means of the Welfare Benefits Up-rating Order (see article 4).
- 7.2 Regulation 3 restricts the application of increases specified in the Social Security Benefits Up-rating Order, or in the Welfare Benefits Up-rating Order in so far as that Order affects the weekly rate of maternity allowance, where the beneficiary is not ordinarily resident in Great Britain. This provision follows the long-standing policy that benefits payable to people not ordinarily resident in Great Britain are not up-rated unless there is a legal obligation or reciprocal agreement to do so. Regulation 3 relates to section 113 of the Social Security Contributions and Benefits Act, which applies to section 35A of that Act. This means that, as with regulation 2, it applies to maternity allowance.
- 7.3 Regulation 4 increases the earnings limits for child dependency increases payable with a Carer's Allowance by 1.2 per cent (prices as measured by the Consumer Prices Index) in line with the increase for other benefits in article 7 of the Social Security Benefits Up-rating Order. This ensures that those receiving child dependency increases with Carer's Allowance are treated in the same way as those receiving child dependency increases with other benefits.
- 7.4 Regulation 5 increases by 1 per cent the amount of benefit that a person must be left with if they live in a care home and, because they find it difficult to budget for their care fees, the care home costs are paid direct

from their benefit to the person or body charging for care. The 1 per cent mirrors the increases in the main working age benefit rates.

Consolidation

7.5 Informal consolidated text of instruments is available to the public free of charge via ‘The Law Relating to Social Security’ (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> or the National Archive website legislation.gov.uk. An explanation as to which instruments are maintained on each site is available [here](#).

8. Consultation outcome

These Regulations form part of the regular annual up-rating requirements, and consultation is therefore not necessary.

9. Guidance

Leaflets will be up-dated to reflect the new rates in due course and guidance bulletins have been issued to operational staff to advise them of the new rates.

10. Impact

10.1 This instrument has a negligible impact on business and civil society organisations.

10.2 This instrument has a negligible impact on the public sector.

10.3 A full impact assessment has not been published for this instrument.

11. Regulating small business

This instrument does not apply to small business.

12. Monitoring and review.

The position is subject to review each tax year (please see paragraph 4.1 above).

13. Contact

Libby Cooklin at the Department for Work and Pensions; Tel- 020 7449 5604 or Email: STATE.PENSIONS@DWP.GSI.GOV.UK can answer any queries regarding this instrument.