

## EXPLANATORY MEMORANDUM TO

### THE SOCIAL SECURITY BENEFITS UP-RATING ORDER 2018

2018 No. 281

#### 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 Her Majesty.

#### 2. Purpose of the instrument

- 2.1 The Social Security Benefits Up-rating Order 2018 (“the Order”) fulfils the statutory duty on the Secretary of State to review the rates of social security benefits and provides for the up-rating of certain benefits.

#### 3. Matters of special interest to Parliament

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

- 3.1 None.

##### *Other matters of interest to the House of Commons*

- 3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland.

#### 4. Legislative Context

- 4.1 The Order provides for the annual up-rating of social security benefits specified in sections 150, 150A and 151A of the Social Security Administration Act 1992 (“the 1992 Act”).<sup>1</sup>
- 4.2 Section 150 of the 1992 Act requires the Secretary of State to review certain contributory, non-contributory and extra-costs disability benefits, and up-rate them at least in line with the general level of prices. The main benefits affected are Attendance Allowance, Carer’s Allowance, Disability Living Allowance and Personal Independence Payment.
- 4.3 The Secretary of State has discretion over how to measure changes in the general level of prices. The Secretary of State has measured the increase in the general level of prices in the appropriate period using the Consumer Price Index (CPI).
- 4.4 The Secretary of State has determined that benefits linked to the general level of prices have not maintained their value in relation to prices as measured by the CPI over the period October 2016 to September 2017<sup>2</sup> and decided to up-rate them in line with CPI (3%).
- 4.5 Most of the main rates of benefits for those below women’s State Pension age are subject to the Welfare Reform and Work Act 2016<sup>3</sup> and remain at their 2015-16 rates.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1992/5>

<sup>2</sup> The Consumer Price Index (CPI) (all items) for the 12-month period to end September 2017 showed growth of 3.0%.

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2016/7/contents>

This includes the personal allowance elements of Income Support and Jobseeker's Allowance; the personal allowances and work-related activity components of Employment and Support Allowance and Housing Benefit; and the standard allowance, limited capacity for work element and the lower disabled child addition under Universal Credit (UC). These rates were not part of the Secretary of State's review under section 150 of the 1992 Act, and are not included in the Order.

- 4.6 The Secretary of State may also, if he considers it appropriate, having regard to the economic situation and any other matters which he considers relevant, increase other benefits by such a percentage as he thinks fit. The Secretary of State decided to up-rate premiums paid to disabled people receiving working-age benefits, the Support Group component of Employment and Support Allowance, and the Limited Capability for Work and Work-Related Activity element of UC in line with CPI (3.0%).
- 4.7 Section 150A(1) and (2) of the 1992 Act requires the Secretary of State to review and up-rate the standard minimum guarantee (SMG) element of Pension Credit and widow's<sup>4</sup> and widower's pension in Industrial Death Benefit at least in line with earnings.
- 4.8 The Secretary of State has determined that these benefits have not maintained their value in relation to earnings as measured by annual growth in the Average Weekly Earnings (AWE) statistic for the quarter ending July 2017.<sup>5</sup> The Secretary of State has decided to up-rate the standard minimum guarantee (SMG) element of Pension Credit by 2.29%, beyond the statutory minimum of growth in earnings (2.2%) and in line with the cash increase in the full rate of the basic State Pension (£3.65 a week for single people), with the cost offset by an increase in the Pension Credit savings credit threshold. The Secretary of State has decided to up-rate the SMG for couples by an equivalent 2.29%, increasing this rate by £5.55 a week. The Secretary of State has decided to up-rate the widow's and widower's pension in Industrial Death Benefit in line with CPI (3.0%) so that it has the same cash value as the full basic pension in a Category A and Category B State Pension.
- 4.9 Sections 150A(1) and (2) of the Act also require that the basic State Pension and the full rate of the new State Pension (for people reaching State Pension age on or after 6 April 2016) must be reviewed and up-rated at least in line with earnings. The Secretary of State has decided to up-rate these by 3.0% in line with the Government's commitment to a 'triple lock' on these payments (see paragraph 7.2 for policy background on the 'triple lock').
- 4.10 Section 151A provides for up-rating of inherited increments of old State Pension and certain amounts which exceed the full rate of the new State Pension, which are payable under transitional arrangements. Transitional components of a new State Pension award covered by section 151A must also be increased in line with prices.
- 4.11 Each benefit has an individual rounding convention for how new rates are calculated. The majority of new rates are rounded to the nearest 5p. This includes, for example, the standard (full) rates of Category A and Category B basic State Pension and the full rate of new State Pension.

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<sup>4</sup> Apart from the initial rate.

<sup>5</sup> The Average Weekly Earnings (AWE) revised statistic, whole economy, including bonuses, seasonally adjusted showed annual growth of 2.2% for the quarter ending July 2017.

- 4.12 The Minister for Family Support, Housing and Child Maintenance announced the proposed rates of social security benefits and pensions for 2018-19 to Parliament in a Written Statement on 27 November 2017.<sup>6</sup>
- 4.13 In accordance with the 1992 Act, a draft of this Order is laid before Parliament for approval by resolution of each House together with a copy of the report by the Government Actuary giving his opinion on the likely effect on the National Insurance Fund of the making of this Order.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.
- 5.3 The Department for Communities in Northern Ireland will be responsible for making corresponding provision for Northern Ireland.

## **6. European Convention on Human Rights**

- 6.1 The Minister for Family Support, Housing and Child Maintenance (Parliamentary Undersecretary of State), Kit Malthouse MP, has made the following statement regarding human rights:

“In my view the provisions of the Social Security Benefits Up-rating Order 2018 are compatible with the Convention rights.”

## **7. Policy background**

### *What is being done and why*

- 7.1 The annual review of social security benefit rates is required by sections 150, 150A and 151A of the 1992 Act. A full list of the proposed social security benefit rates for 2018-19 is attached and can also be found online at <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-11-27/HCWS268>.

### *Basic State Pension*

- 7.2 The statutory minimum increase to the basic State Pension is the rise in earnings (see paragraph 4.9). However, the Government has given a ‘triple lock’ commitment to increase the basic State Pension by the highest out of the growth in average earnings, the growth in prices or 2.5%. As the relevant increase in prices (3.0% CPI) is higher than both growth in earnings (2.2% AWE) and 2.5%, the basic State Pension will increase by 3.0% from April 2018.
- 7.3 The rate of the full basic pension in a Category A and Category B State Pension (based respectively on a person’s own National Insurance contributions and those of a late spouse or civil partner) will be increased from £122.30 a week to £125.95 a week from April 2018.
- 7.4 The lower rate of Category B basic pension, payable in certain circumstances to a married person or civil partner, will be increased from £73.30 a week to £75.50 a week from April 2018.

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<sup>6</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-11-27/HCWS268/>

7.5 Our forecasts show an estimated 12 million recipients of the basic State Pension during 2017-18.<sup>7</sup>

#### *New State Pension*

7.6 As with the basic State Pension, the statutory minimum increase to the full rate of new State Pension is the rise in earnings. The Government has, however, also given the ‘triple lock’ commitment in relation to the new State Pension. The full rate of the new State Pension will therefore increase by 3.0% from April 2018 – from £159.55 to £164.35 a week.

7.7 Existing awards of the new State Pension as at April 2018 will be at the transitional rate. This incorporates a ‘starting amount’ based on a person’s National Insurance contributions to 5 April 2016, plus, where the starting amount is less than the full rate, an increase of 1/35<sup>th</sup> of the full rate for each qualifying year gained between April 2016 and State Pension age, up to a maximum of the full rate. The transitional rate is therefore not a fixed rate, and can be more or less than, or equal to, the full rate. Schedule 2 to the Pensions Act 2014 provides that transitional rates of the new State Pension equal to or less than the full rate are to be increased by the percentage increase in the full rate. These amounts will therefore be increased by 3.0085% - the difference between £159.55 and £164.35 as a percentage of £159.55, taking account of the rounding of the new full rate to the nearest 5p. Where the transitional rate exceeds the full rate, the excess amount – also known as the ‘protected payment’ – will be increased in line with the increase in prices (see paragraph 7.15 below).

7.8 Schedules 4 and 9 to the Pensions Act 2014 provide, respectively, for the up-rating of inherited amounts and shared State Pension. These are components which are derived from the additional State Pension in the old State Pension, and may be payable in certain circumstances as part of the transitional arrangements to widowed or divorced people who reach State Pension age under the new system. These amounts are up-rated by either the percentage increase in the full rate or prices, or by a combination of the two, depending on the total amount of the person’s award, excluding any incremental payments arising because the person has deferred taking their pension for a period after State Pension age. For example: in September 2017, Person A becomes entitled to £150 a week new State Pension at the transitional rate, plus an inherited amount of £20. The total award is £170. At up-rating 2018, £150 plus the first £9.55 of the inherited amount will be increased in line with the increase in the full rate. The balance of £10.45 inherited amount will be increased by prices. This ensures that transitional amounts are treated consistently for up-rating purposes.

7.9 Our forecasts show an estimated 600,000 recipients of the new State Pension in 2017-18.<sup>8</sup>

#### *Pension Credit*

7.10 The statutory minimum increase to the standard minimum guarantee (SMG) element of Pension Credit is the rise in earnings. However, the Secretary of State has decided that the SMG will increase by 2.29% from April 2018 - from £159.35 to £163.00 for single people and from £243.25 to £248.80 for couples. The increase in the SMG for single people matches the cash increase in the full rate of the basic State Pension

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<sup>7</sup> <https://www.gov.uk/government/publications/benefit-expenditure-and-caseload-tables-2017>

<sup>8</sup> <https://www.gov.uk/government/publications/benefit-expenditure-and-caseload-tables-2017>

(£3.65 a week for single people). The increase in the SMG for couples matches the increase in the SMG for single people in percentage terms (2.29%).

7.11 Pension Credit (Savings Credit) thresholds have been increased in order to fund the increase in the SMG. The threshold will increase from £137.35 to £140.67 a week for single people and from £218.42 a week to £223.82 a week for couples. This concentrates spending on the poorest pensioners who are in receipt of the Guarantee Credit.

7.12 There have been an estimated 1.8 million recipients of the Guarantee Credit element of Pension Credit during 2017-18.

*Benefits that must rise at least with earnings (2.2%)*

7.13 The higher rate of widow's pension and the widower's pension in Industrial Death Benefit will be increased by 3% from £122.30 a week to £125.95 a week. This matches the cash value of a full basic pension in a Category A and Category B State Pension.

7.14 There have been an estimated 5,000 recipients of Industrial Death Benefit during 2017-18.

*Benefits that must rise at least with prices (3.0%)*

7.15 Additional State Pension, Graduated Retirement Benefit, increments to State Pension, Attendance Allowance, Carer's Allowance, Disability Living Allowance, Personal Independence Payment, Industrial Injuries Benefit, Widowed Mother's Allowance, Widow's Pension, Widowed Parent's Allowance, Incapacity Benefit and Severe Disablement Allowance will be increased by 3.0%. This also applies to transitional amounts of new State Pension above the level of the full rate, and to inherited increments of old State Pension payable to a surviving spouse or civil partner in the new State Pension.

*Benefits over which the Secretary of State has discretion*

7.16 Statutory Sick Pay, Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay, Statutory Shared Parental Pay, Support Group component of Employment and Support Allowance, disability premiums, carer premiums, carer element of UC, and Limited capability for Work and Work-Related Activity component of UC will be increased by 3.0%.

7.17 Bereavement Support Payment will remain the same as in 2017/18. This benefit has replaced Bereavement Payment, Bereavement Allowance and Widowed Parent's Allowance for death on or after 6 April 2017. Claimants with dependent children receive a first payment of £3,500 and up to 18 monthly payments of £350. Claimants who do not have dependent children receive a first payment of £2,500 and up to 18 monthly payments of £100.

7.18 Increments to new State Pension are treated in the same way for up-rating purposes as old State Pension increments, which is to say that they will be increased by 3.0%.

### ***Consolidation***

7.19 Informal consolidated text of instruments is available to the public free of charge via The National Archives website [legislation.gov.uk](http://legislation.gov.uk).

## **8. Consultation outcome**

- 8.1 The Order forms part of the annual up-rating requirements and is therefore not subject to consultation requirements.

## **9. Guidance**

- 9.1 Public information products will be updated to reflect the new rates where applicable, and guidance bulletins have been issued to operational staff to advise them of the new rates.

## **10. Impact**

- 10.1 There will be negligible impact on business, charities or voluntary bodies.
- 10.2 There will be an estimated £2.9 billion of extra payments in 2018-19 from the National Insurance Fund as a result of the Order, as estimated by the Government Actuary in the report laid before Parliament.
- 10.3 An Impact Assessment has not been prepared for this instrument as it has negligible impact on business or civil society organisations.

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses. In respect of Statutory Adoption Pay, Statutory Paternity Pay, Statutory Maternity Pay and Statutory Sick Pay, this Order does not impose any new costs on small businesses. The impact on such employers continues to be minimised in respect of Statutory Adoption Pay, Statutory Paternity Pay and Statutory Maternity Pay, with regard to small businesses whose annual gross National Insurance payments are £45,000 or less, as such employers are reimbursed 100% of the amount paid out plus an additional 3% in compensation for employers' National Insurance costs on these payments. Larger employers are reimbursed 92%.
- 11.2 Small businesses, like all employers, meet the costs of Statutory Sick Pay without reimbursement.

## **12. Monitoring & review**

- 12.1 The rates of social security benefits covered by sections 150, 150A and 151A of the 1992 Act are subject to review each tax year.

## **13. Contact**

- 13.1 Ben Pugh at the Department for Work and Pensions (Telephone: 0207 416 6266 or e-mail: ben.pugh5@dwp.gsi.gov.uk) can answer any queries regarding the instrument.