

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY BENEFITS UP-RATING REGULATIONS 2018**  
**2018 No. 332**

**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 Regulations 2018 (“the Regulations”) make provisions in consequence of the Social Security Benefits Up-rating Order 2018 (“the Up-rating Order”) (S.I 2018/281) which provides for the annual up-rating of social security benefits.

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

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

- 3.1 This instrument relies on section 105 of the Deregulation Act 2015 in relation to the power in section 53 of the Pensions Act 2014. Regulation 3 is made in part under the power to make an order in section 53 of the Pensions Act 2014 and section 105 of the Deregulation Act 2015 allows that provision to be included in this instrument, rather than requiring a separate instrument.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The Regulations are consequential on the Social Security Benefits Up-rating Order 2018 which is made under sections 150, 150A and section 151A of the Social Security Administration Act 1992 (“the Act”). Under those sections the Secretary of State must review the rates of certain social security benefits. The Up-rating Order provides for the annual up-rating of those benefits.
- 4.2 The provisions in the Regulations cannot be included in the Up-rating Order because there is no power in section 150, 150A or 151A of the Act to make such provisions.

**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 Corresponding provision will be made for Northern Ireland.

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

- 6.1 As the instrument is subject to 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 (“Exceptions relating to payment of additional benefit by virtue of the Up-rating Order”) prevents any rate that is changed by the Up-rating Order from applying in cases where there is a question about its effect on a benefit that is already in payment that is still to be determined. This provision is intended to avoid incorrect payments of benefit where the increase or decrease is not payable, either in part or full. This may take place, for example, where an adjustment of a benefit is required because another benefit is also in payment and the two benefits are subject to overlapping benefit provisions. Overlapping benefit provisions prevent a person who is entitled to two or more relevant benefits from being paid both of them in full.
- 7.2 Regulation 3 (“Persons not ordinarily resident in Great Britain”) restricts the application of increases of benefits, including State Pensions, specified in the Up-rating Order to beneficiaries who are 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 to do so – e.g. in another Member State of the European Economic Area, Switzerland or a country or territory with which the United Kingdom has a reciprocal agreement that allows for up-rating.
- 7.3 Regulation 4 (“Amendment of the Social Security Benefit (Dependency) Regulations 1977”) specifies the increase by 3 per cent of the earnings limits for spouses or partners of people claiming increases of Carer’s Allowance in respect of dependent children in transitionally protected cases. These increases were abolished by section 1(3)(e) of, and Schedule 6 to, the Tax Credits Act 2002 but are saved for transitional cases by virtue of article 3 of the Tax Credits Act 2002 (Commencement No. 3 and Transitional Provisions and Savings) Order 2003 (S.I. 2003/938). The 3.0 per cent increase mirrors the September 2017 figure for the annual growth in prices, as measured by the Consumer Prices Index.
- 7.4 Regulation 5 (“Amendment of the Social Security (Claims and Payments) Regulations 1987”) increases by 3.0 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.
- 7.5 Regulation 6 (“Revocations”) revokes the Social Security Benefits Up-rating Regulations 2015 (S.I. 2015/496) (to the extent that they remain in force) and the Social Security Benefits Up-rating Regulations 2017 (S.I. 2017/349).

### *Consolidation*

- 7.6 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 Regulations form part of the regular annual up-rating requirements, and consultation is therefore usually not necessary.
- 8.2 The Regulations were considered by the Social Security Advisory Committee which agreed that proposals in respect of the Regulations should not be referred to it.

## **9. Guidance**

- 9.1 Leaflets will be up-dated to reflect the new rates in due course. Guidance has been issued to operational staff to advise them on the new rates.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is negligible.
- 10.2 The impact on the public sector is negligible.
- 10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 The rates of social security benefits under sections 150, 150A and 151A of the Act are subject to review each tax year (see paragraph 4.1 above).

## **13. Contact**

- 13.1 Dave Pryce at the Department for Work and Pensions (Telephone: 020 7449 5723; or email: [dave.pryce@dwp.gsi.gov.uk](mailto:dave.pryce@dwp.gsi.gov.uk)) can answer any queries regarding the instrument.