

2004 No. 758

PENSIONS

The Pensions Increase (Review) Order 2004

Made - - - - - *12th March 2004*

Laid before Parliament *15th March 2004*

Coming into force - - *12th April 2004*

Whereas by virtue of section 151(1) of the Social Security Administration Act 1992(a) a direction has been given(b) under section 150(2) and section 190(1)(a) of that Act by the Secretary of State for Work and Pensions that the sums mentioned in section 150(1)(c) of that Act are to be increased;

Now therefore the Treasury, in exercise of the powers conferred by section 59(1), (2), (5) and (5ZA) of the Social Security Pensions Act 1975(c) and now vested in them(d), and all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Pensions Increase (Review) Order 2004 and shall come into force on 12th April 2004.

(2) This Order and the existing Orders may be cited together as the Pensions Increase (Review) Orders 1972 to 2004.

Interpretation

2.—(1) In this Order—

“the 1971 Act” means the Pensions (Increase) Act 1971(e);

“the 1974 Act” means the Pensions (Increase) Act 1974(f);

“the 1975 Act” means the Social Security Pensions Act 1975;

“basic rate” and “derivative pension” have the meanings given by section 17(1) of the 1971 Act(g);

(a) 1992 c. 5.

(b) The direction is contained in 2004/552.

(c) 1975 c. 60; section 59(1) was amended by section 1(7) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) and by the Social Security (Consequential Provisions) Act 1992 (c. 6) Schedule 2, paragraph 34. Section 59(5) was amended by section 11 of the Social Security Act 1979 (c. 18) and the Social Security Act 1985 (c. 53), Schedule 5, paragraph 33. Section 59 was also amended by the Social Security Act 1979, sections 11 and 21(4) and Schedule 3, paragraph 20, section 9(8) of the Social Security Act 1986 and section 5 of the Pensions (Miscellaneous Provisions) Act 1990, which inserted sub-section (5ZA). Section 59 is modified by section 59A, which was inserted by section 11(4) of the Social Security Act 1979 and amended by section 9(9) of the Social Security Act 1986, and further amended by section 190, Schedule 8, paragraph 9(2) of the Pension Schemes Act 1993.

(d) S.I. 1981/1670.

(e) 1971 c. 56.

(f) 1974 c. 9.

(g) Section 17(1) was amended by sections 1(3) and 3(3) of the 1974 Act; by sections 1(6) and 7(3) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 190, Schedule 8, paragraph 5 of the Pension Schemes Act 1993 and by the Welfare Reform and Pensions Act 1999 (c. 30), section 39(1) and (5).

“the existing Orders” means the Pensions Increase (Annual Review) Order 1972(a), the Pensions Increase (Annual Review) Order 1973(b), the Pensions Increase (Annual Review) Order 1974(c), the Pensions Increase (Annual Review) Order 1975(d), the Pensions Increase (Annual Review) Order 1976(e), the Pensions Increase (Annual Review) Order 1977(f), the Pensions Increase (Annual Review) Order 1978(g), the Pensions Increase (Review) Order 1979(h), the Pensions Increase (Review) Order 1980(i), the Pensions Increase (Review) Order 1981(j), the Pensions Increase (Review) Order 1982(k), the Pensions Increase (Review) Order 1983(l), the Pensions Increase (Review) Order 1984(m), the Pensions Increase (Review) Order 1985(n), the Pensions Increase (Review) Order 1986(o), the Pensions Increase (Review) Order 1987(p), the Pensions Increase (Review) Order 1988(q), the Pensions Increase (Review) Order 1989(r), the Pensions Increase (Review) Order 1990(s), the Pensions Increase (Review) Order 1991(t), the Pensions Increase (Review) Order 1992(u), the Pensions Increase (Review) Order 1993(v), the Pensions Increase (Review) Order 1994(w), the Pensions Increase (Review) Order 1995(x), the Pensions Increase (Review) Order 1996(y), the Pensions Increase (Review) Order 1997(z), the Pensions Increase (Review) Order 1998(aa), the Pensions Increase (Review) Order 1999(bb), the Pensions Increase (Review) Order 2000(cc), the Pensions Increase (Review) Order 2001(dd), the Pensions Increase (Review) Order 2002(ee), and the Pensions Increase (Review) Order 2003(ff);

“official pension” has the meaning given by section 5(1) of the 1971 Act(gg);

“pension authority” has the meaning given by section 7(1) of the 1971 Act;

“qualifying condition” means one of the conditions laid down in section 3 of the 1971 Act(hh);

“relevant injury pension”, “substituted pension” and “widow’s pension” have the meanings given by section 17(1) of the 1971 Act.

(2) For the purposes of this Order the time when a pension “begins” is that stated in section 8(2) of the 1971 Act(ii), and the “beginning date” shall be construed accordingly.

(a) S.I. 1972/1298.

(b) S.I. 1973/1370.

(c) S.I. 1974/1373.

(d) S.I. 1975/1384.

(e) S.I. 1976/1356.

(f) S.I. 1977/1387.

(g) S.I. 1978/1211.

(h) S.I. 1979/1047.

(i) S.I. 1980/1302.

(j) S.I. 1981/1217.

(k) S.I. 1982/1178.

(l) S.I. 1983/1264.

(m) S.I. 1984/1307.

(n) S.I. 1985/1575.

(o) S.I. 1986/1116.

(p) S.I. 1987/130.

(q) S.I. 1988/217.

(r) S.I. 1989/477.

(s) S.I. 1990/483.

(t) S.I. 1991/684.

(u) S.I. 1992/198.

(v) S.I. 1993/779.

(w) S.I. 1994/776.

(x) S.I. 1995/708.

(y) S.I. 1996/800.

(z) S.I. 1997/634.

(aa) S.I. 1998/503.

(bb) S.I. 1999/522.

(cc) S.I. 2000/672.

(dd) S.I. 2001/664.

(ee) S.I. 2002/699.

(ff) S.I. 2003/681.

(gg) Section 5(1) was amended by the Superannuation Act 1972 (c.11), section 29(1), Schedule 6, paragraph 85.

(hh) Section 3 was amended by section 3(3) of the 1974 Act, section 1 of the Pensions (Miscellaneous Provisions) Act 1990, by the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.I. 1972/1299), by section 171 of the Pensions Act 1995 (c. 26) and by the Welfare Reform and Pensions Act 1999 (c.30), section 39(1) and (2).

(ii) Section 8(2) was amended by section 1(5) of the Pensions (Miscellaneous Provisions) Act 1990 and by the Welfare Reform and Pensions Act 1999(c.30), section 39(1) and (4).

(3) Where, for the purposes of this Order, it is necessary to calculate the number of complete months in any period an incomplete month shall be treated as a complete month if it consists of at least 16 days.

Pension increases

3. The annual rate of an official pension may, if a qualifying condition is satisfied or the pension is a derivative or substituted pension or a relevant injury pension, be increased by the pension authority in respect of any period on or after 12th April 2004 as follows—

- (1) a pension beginning before 7th April 2003 may be increased by 2.8 per cent of the basic rate as increased by the amount of any increase under section 1 of the 1971 Act or the existing Orders;
- (2) a pension beginning on or after 7th April 2003 and before 12th April 2004 may be increased by 2.8 per cent multiplied by

$$\frac{A}{B}$$

where

- (a) A is the number of complete months in the period between the beginning date of the pension and 12th April 2004, and
- (b) B is 12.

Increases in certain lump sums

4. In respect of any lump sum or instalment of a lump sum which became payable before 12th April 2004 but on or after 7th April 2003 there may be paid an increase of 2.8 per cent of the amount of the lump sum or instalment (as increased by the amount under section 1 of the 1971 Act or under the existing Orders) multiplied by

$$\frac{A}{B}$$

where

- (a) A is the number of complete months in the period between the beginning date for the lump sum or, if later, 7th April 2003 and the date on which it became payable; and
- (b) B is 12.

Reductions in respect of guaranteed minimum pensions

5. The amount by reference to which any increase in the rate of an official pension provided for by this Order is to be calculated shall, in the case of a person—

- (a) who is entitled to a guaranteed minimum pension on 12th April 2004, and
- (b) whose entitlement to that guaranteed minimum pension arises from an employment from which (either directly or by virtue of the payment of a transfer credit) entitlement to the official pension also arises,

be reduced by an amount equal to the rate of the guaranteed minimum pension unless the Treasury(a) otherwise direct, in accordance with the provisions of section 59A of the 1975 Act.

6. The amount by reference to which any increase in the rate of a widow's or widower's pension provided for by this Order is to be calculated shall, where the pensioner becomes entitled on the death of the deceased spouse to a guaranteed minimum pension, be reduced in accordance with section 59(5ZA) of the 1975 Act.

12th March 2004

Joan Ryan
Nick Ainger
Two of the Lords Commissioners of Her Majesty's Treasury

(a) See S.I. 1981/1670, articles 2(1)(c) and 3(5).

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 59 of the Social Security Pensions Act 1975 as amended, and as modified by section 59A of that Act, the Treasury (in whom the functions conferred by those provisions are now vested) are required to provide by order for the increase in the rates of public service pensions. Under section 59(7) of the 1975 Act, section 59 of that Act has effect as if it were contained in the Pensions (Increase) Act 1971. Section 9(2)(c) of the 1971 Act provides that references to the “rate” of pension shall have effect as references also to the amount of a lump sum benefit. The increase is the percentage (or in some circumstances a fraction of the percentage) by which the Secretary of State for Work and Pensions has, by direction given under the provisions of section 151(1) of the Social Security Administration Act 1992, increased the sums referred to in section 150(1)(c) of that Act. These are the sums which are the additional pensions in long term benefits, namely the additional pension entitlements accruing to employees in respect of earnings after 5th April 1978.

For pensions which began before 7th April 2003 the increase is 2.8 per cent. For pensions which began on or after 7th April 2003 the increases are as follows—

<i>Pensions Beginning</i>	<i>Percentage Increase</i>	<i>Pensions Beginning</i>	<i>Percentage Increase</i>
7th April 2003 to 27th April 2003	2.8%	28th September 2003 to 27th October 2003	1.40%
28th April 2003 to 27th May 2003	2.57%	28th October 2003 to 27th November 2003	1.17%
28th May 2003 to 27th June 2003	2.33%	28th November 2003 to 27th December 2003	0.93%
28th June 2003 to 27th July 2003	2.10%	28th December 2003 to 27th January 2004	0.70%
28th July 2003 to 27th August 2003	1.87%	28th January 2004 to 27th February 2004	0.47%
28th August 2003 to 27th September 2003	1.63%	28th February 2004 to 27th March 2004	0.23%

Article 4 of the Order provides for increases on certain deferred lump sums which became payable on or after 7th April 2003 and before 12th April 2004.

The Order also makes provision for the amount by reference to which any increase in the rate of an official pension is to be calculated to be reduced by the amount equal to the rate of the guaranteed minimum pension entitlement deriving from the employment which gives rise to the official pension. This is required by section 59(5) of the Social Security Pensions Act 1975. However by virtue of section 59A of that Act and the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 the Treasury are empowered to direct that in respect of specified cases or classes of case either no such reduction be made or the reduction shall be less than the rate of the guaranteed minimum pension. Section 59(5ZA) was inserted into section 59 by section 5 of the Pensions (Miscellaneous Provisions) Act 1990. This applies section 59(5) to a widow's or widower's pension.

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