

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSIONS (REVALUATION) ORDER 2009

2009 No. 3267

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**

This instrument sets out the percentages by which preserved pensions are to be revalued in final salary occupational pension schemes.
3. **Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]**

None.
4. **Legislative Context**

The Secretary of State is required by law to lay an Order each year which sets out the minimum required level of revaluation for pension rights (excluding guaranteed minimum pensions) of people who were early leavers from final salary occupational pension schemes on or after 1 January 1986 where the accrued rights have been left in the scheme.
5. **Territorial Extent and Application**

This instrument applies to Great Britain.
6. **European Convention on Human Rights**

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

7.1 Sections 83-86 of, and Schedule 3 to, the Pension Schemes Act 1993 provide for preserved pension rights to be revalued. The revaluation provisions, first introduced in the Social Security Act 1985, are designed to protect early leavers from the effects of inflation. The requirement applies to rights of members who leave pensionable service on or after 1 January 1986 where there is at least a year between the date of leaving and the member attaining their scheme's normal pension age.

7.2 The Order sets out the revaluation required (over and above guaranteed minimum pension rights) for people who will reach their scheme's normal pension age in 2010.

7.3 For preserved pension based on pensionable service carried out before 6 April 2009, the increase must be at least in line with the increase in the general level of prices over the whole period of deferment or 5% compound per annum whichever is the lower. The Pensions Act 2008 reduced the 5% 'cap' to 2.5% compound per annum for pension based on service from 6 April 2009, though schemes may continue to use the higher cap under scheme rules. No revaluation percentage may be less than zero, even if the general level of prices declines.

7.4 People who left pensionable employment on or after 1 January 1991 have all preserved rights revalued, including pre-1986 service. Similarly those people with all their pensionable service falling on or after 1 January 1985 will have all their preserved rights revalued. People who left between 1 January 1986 and 31 December 1990 have a right to a revaluation only of the rights accrued from pensionable service on or after 1 January 1985.

7.5 An example of revaluation follows. A person leaves an employment in 1996. When he leaves, the pension rights he has accrued in his occupational pension scheme are preserved within the scheme. At the time he leaves in 1996 the value of his pension is £30 per week. In 2010, the person reaches the normal pension age of his former scheme and is therefore entitled to a pension. Before the pension is put into payment, the scheme will revalue it using the appropriate percentage from the Order. For a person who ceased pensionable service in 1996 the appropriate percentage is 40.1%. (No revaluation applies for part years, so the revaluation period starts from 1 January 1997.) The original amount of the pension, £30, will therefore be uplifted by this percentage to give a new pension entitlement of £42.03.

8. Consultation outcome

The Order provides an annual uprating of revaluation percentages to take account of inflation, as required by the primary legislation, and there is no requirement in sections 182 to 186 of the Pension Schemes Act 1993 to consult on it. The Order does not amend other legislation.

9. Guidance

The latest revaluation Order comes into effect from 1 January each year and all occupational pension schemes have procedures in place to implement the relevant revaluation increases. No guidance is therefore necessary.

10. Impact

10.1 The Order has a negligible impact on business, charities or voluntary bodies because the scheme actuary will have built in provision for revaluation when working out a scheme's funding requirement.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment is not required for this instrument.

11. Regulating small business

11.1 The Order applies to all salary-related occupational pension schemes in amending an existing regulatory regime by a pre-determined formula.

11.2 It is not possible to minimise the impact of the requirements on firms employing up to 20 people without an adverse effect on scheme members.

12. Monitoring & review

This Order will be replaced in 12 months' time, as the primary legislation requires, by a new Order reflecting updated inflation figures.

13. Contact

Tim Found at the Department for Work and Pensions Tel: 020 7449 7375 or e-mail: tim.found@dwp.gsi.gov.uk can answer any queries regarding the instrument.