

**EXPLANATORY MEMORANDUM TO  
THE SOCIAL SECURITY PENSIONS (LOW EARNINGS THRESHOLD)  
ORDER 2010**

**2010 No. 468**

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 Order is made each year to set the low earnings threshold for additional pension for the following year. (Further information is given in section 7.)

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

None.

4. **Legislative Context**

4.1 The low earnings threshold was first used when State Second Pension was introduced in 2002.

4.2 Section 148A of the Social Security Administration Act 1992 requires the Secretary of State to review each year the low earnings threshold in line with any changes in the general level of earnings and make the Low Earnings Threshold Order.

4.3 This yearly Order is being made to affect the annual up-rating of the earnings factors for tax years 2009/10. As is normal practice, this Order is laid at the same time as the Social Security Revaluation of Earnings Factors Order 2010 for which a separate explanatory memorandum has been produced.

5. **Territorial Extent and Application**

This instrument applies to Great Britain. Equivalent provision will be made by statutory rule in relation to Northern Ireland.

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 Additional State Pension was introduced from April 1978 and was normally referred to as the State Earnings Related Pension Scheme (SERPS).

In April 2002 the Government reformed SERPS with the introduction of State Second Pension. The additional pension is a combination of both SERPS and State Second Pension and is paid with the basic State Pension at State Pension age<sup>1</sup>, although it can be paid on its own if there is no basic State Pension payable.

7.2 An important element of State Second Pension was that additional resources were targeted on low earners. Additionally, carers and some long-term disabled people unable to maintain a full work record due to their caring responsibilities and disabilities built up additional pension entitlement for the first time.

7.3 The low earnings threshold (LET) allows earnings, used to determine an additional pension, that fall between the National Insurance lower earnings limit (LEL) and the LET to be treated as being at the LET.

7.4 The LEL is the level at which a person's earnings become relevant for benefit purposes.

7.5 The following will be treated as if they had earnings at the LET for State Second Pension purposes:

- employees earning at or above the annual LEL up to the LET;
- qualifying carers; and
- qualifying disabled people.

7.6 The LET is £13,900 for the 2009/10 tax year. Each year the Secretary of State is obliged to review the level of average earnings and, where he sees fit, set the LET for the following year accordingly by Order.

7.7 The Office for National Statistics' September whole economy (non-seasonally adjusted) index showed that the rise in average earnings over the period 1 October 2008 to 30 September 2009 is 1.2%. This means that, with rounding, the threshold is increased to £14,100 for 2010/11. The level of this threshold is set by the Order.

7.8 The LEL is £4,940 for 2009/10 and will be £5,044 for 2010/11.

## Consolidation

7.9 As the instrument does not amend another instrument, the question of consolidation does not arise.

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<sup>1</sup> Currently, the State Pension age is 65 for men and 60 for women born before 6 April 1950. For women born after 5 April 1950 and before 6 April 1955, the State Pension age will increase gradually to 65 between 2010 and 2020. From 6 April 2020 the State Pension age will be 65 for both men and women but will then increase to 68 between 2024 and 2046.

**8. Consultation**

Consultation on this order is not appropriate.

**9. Guidance**

9.1 Leaflets and guidance will be up-dated to reflect the new figures in due course.

9.2 An information notice will be issued to the financial press. The figures will also be published on the Department for Work and Pensions website.

**10. Impact**

10.1 This instrument has no new impact on the costs of business, charities and voluntary bodies.

10.2 The impact on the public sector is negligible.

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

**11. Regulating small business**

This instrument has no new impact on the costs of small business.

**12. Monitoring and review**

The Social Security Pensions (Low Earnings Threshold) Order is made each year.

**13. Contact**

**Dave Annison** (at the Department for Work and Pensions Tel: 0207 4497145 or e-mail: [dave.annison@dwp.gsi.gov.uk](mailto:dave.annison@dwp.gsi.gov.uk)) can answer any queries regarding the instrument.