

## **EXPLANATORY MEMORANDUM TO**

### **The Social Security (2018 Benefits Up-rating) Order (Northern Ireland) 2019**

#### **S.R. 2019 No. 46**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department for Communities (“the Department”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 132, 132A, 132B and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992 and is subject to the confirmatory resolution procedure.

#### **2. Purpose**

- 2.1. This Order revokes and re-enacts the provisions of the Social Security Benefits Up-rating (No. 2) Order (Northern Ireland) 2018 which would otherwise cease to have effect by virtue of section 166(1) of the Social Security Administration (Northern Ireland) Act 1992. The Order, one of a series of statutory rules relating to the annual up-rating of social security benefits, provides for the rates of certain social security benefits, pensions and allowances in place from April 2018 to continue in force.

#### **3. Background**

- 3.1 In order to establish the percentage rate of the increase in benefits, the Secretary of State for Work and Pensions in Great Britain reviews the level of benefits in relation to the general level of prices. Where the general level is greater at the end of the period under review, benefits are increased by at least this percentage.
- 3.2 The Consumer Prices Index (CPI) for the 12-month period to the end of September 2017 showed a positive growth rate of 3 per cent. Therefore, the Secretary of State determined that those benefits specified in section 150 of the Social Security Administration Act 1992 (which includes contributory, non-contributory and extra-costs disability benefits) had not maintained their value in relation to prices and have been up-rated by 3 per cent. for 2018/19.
- 3.3 However, the Westminster Government announced in the Summer Budget 2015 that certain social security benefits would be frozen for four tax years beginning from 2016/17. It was agreed as part of the Fresh Start Agreement to make corresponding provision for Northern Ireland which was legislated for in the Welfare Reform and Work (Northern Ireland) Order 2016. Therefore, the following were not up-rated:
  - 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 capability for work element and the lower disabled child addition under Universal Credit.

These rates were not part of the Secretary of State's review and are not included in the Order.

- 3.4 Having regard to the economic situation and any other matters considered relevant, the Secretary of State may also increase other benefits by such a percentage as he or she 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 Universal Credit in line with CPI (3.0%).
- 3.5 Section 150A(1) and (2) of the Social Security Administration Act 1992 requires the Secretary of State to review and up-rate the standard minimum guarantee element of Pension Credit, 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) and widow's (apart from the initial rate) and widower's pension in Industrial Death Benefit at least in line with earnings. The Secretary of State determined that these benefits had not maintained their value in relation to earnings as measured by annual growth in the Average Weekly Earnings statistic for the quarter ending July 2017 (annual growth of 2.2 per cent.).
- 3.6 The Secretary of State decided to up-rate the standard minimum guarantee element of Pension Credit by 2.29 per cent., beyond the statutory minimum of growth in earnings (2.2 per cent.) 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 decided to up-rate the standard minimum guarantee for couples by an equivalent 2.29 per cent., increasing this rate by £5.55 a week. The Secretary of State decided to up-rate the widow's and widower's pension in Industrial Death Benefit in line with the Consumer Prices Index (3.0 per cent.) so that it has the same cash value as the full basic pension in a Category A and Category B State Pension.
- 3.7 The Secretary of State further determined that the basic State Pension and full rate of the new State Pension would increase by 3 per cent., in line with the 'triple lock' commitment (see paragraph 3.10).
- 3.8 Section 151A of the Social Security Administration Act 1992 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.

- 3.9 When the Secretary of State for Work and Pensions makes an Up-rating Order under section 150, 150A or 151A of the Social Security Administration Act 1992, the Department is empowered to make a corresponding Order. The Department has no power to set different rates for Northern Ireland. This Order will continue in force provisions brought forward in the Social Security Benefits Up-rating (No. 2) Order (Northern Ireland) 2018 which in turn corresponds to provision made by the Secretary of State for Work and Pensions.

#### *Basic State Pension*

- 3.10 The statutory minimum increase to the basic State Pension is the rise in earnings (see paragraph 3.5). However, the Westminster Government has given a 'triple lock' commitment to increase the basic and new State Pension by the highest in the growth in average earnings, the growth in prices or 2.5 per cent. As the relevant increase in prices (3.0 per cent.) was higher than both growth in earnings (2.2 per cent.) and 2.5 per cent., the basic State Pension increased by 3.0 per cent. from April 2018.
- 3.11 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) increased from £122.30 a week to £125.95 a week from April 2018.
- 3.12 The lower rate of Category B basic pension, payable in certain circumstances to a married person or civil partner, increased from £73.30 a week to £75.50 a week from April 2018.

#### *New State Pension*

- 3.13 As with the basic State Pension, the statutory minimum increase to the full rate of new State Pension is the rise in earnings. The Westminster Government has, however, also given the 'triple lock' commitment in relation to the new State Pension. The full rate of the new State Pension therefore increased by 3.0 per cent. from April 2018 – from £159.55 to £164.35 a week.
- 3.14 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  $\frac{1}{35}$ <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 (Northern Ireland) 2015 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 have therefore been increased by 3.0085 per cent. - 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' – has been increased in line with the increase in prices (see paragraph 3.19 below).

- 3.15 Schedules 4 and 9 to the Pensions Act (Northern Ireland) 2015 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 have been increased in line with the increase in the full rate. The balance of £10.45 inherited amount has been increased by prices. This ensures that transitional amounts are treated consistently for up-rating purposes.

#### *Pension Credit*

- 3.16 The statutory minimum increase to the standard minimum guarantee element of Pension Credit is the rise in earnings. However, the Secretary of State decided that the standard minimum guarantee would increase by 2.29 per cent. 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 standard minimum guarantee for single people matched the cash increase in the full rate of the basic State Pension (£3.65 a week for single people). The increase in the standard minimum guarantee for couples matched the increase for single people in percentage terms (2.29 per cent.).
- 3.17 Pension Credit (Savings Credit) thresholds have been increased in order to fund the increase in the standard minimum guarantee. The threshold has increased 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.

#### *Benefits that must rise at least with earnings (2.2 per cent.)*

- 3.18 The higher rate of widow's pension and the widower's pension in Industrial Death Benefit has been increased by 3 per cent. 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.

#### *Benefits that must rise at least with prices (3.0 per cent.)*

- 3.19 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 have been increased by 3.0 per cent. 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*

- 3.20 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 Universal Credit, and limited capability for work and work-related activity component of Universal Credit have been increased by 3.0 per cent.
- 3.21 Bereavement Support Payment remains 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.
- 3.22 Increments to new State Pension are to be treated in the same way for up-rating purposes as old State Pension increments, which is to say that they have been increased by 3.0 per cent.

#### **4. Consultation**

- 4.1. Consultation with the Social Security Advisory Committee regarding this Order is not required as it forms part of the annual up-rating package.

#### **5. Equality Impact**

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on proposals for the Order and concluded that it does not have significant implications for equality of opportunity or good relations. In light of this, the Department considered that an equality impact assessment is not necessary.

#### **6. Regulatory Impact**

- 6.1. The Order does not require a Regulatory Impact Assessment as it does not impose any costs on business, charities, social enterprises or voluntary bodies.

## **7. Financial Implications**

- 7.1. The implementation of the proposals for the up-rating of benefits is expected to increase the Department's annually managed expenditure by approximately £125 million over 2018/19.

## **8. Section 24 of the Northern Ireland Act 1998**

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—
- (a) is not incompatible with any of the Convention rights,
  - (b) is not incompatible with Community law,
  - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
  - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

## **9. EU Implications**

- 9.1. Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1. The corresponding Great Britain Order is the Social Security Benefits Up-rating Order 2018.
- 10.2. Parity of substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998. To enable rates of benefit that were in place from April 2018 to continue in operation, it was necessary to make this further Order during interregnum.

## **11. Additional Information**

- 11.1. Not applicable