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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

**The Social Security Benefits Up-rating Order 2005**

**PART 2**

**SOCIAL SECURITY BENEFITS AND PENSIONS**

**Increase in rates or amounts of certain benefits under the Contributions and Benefits Act**

**3.—**(1) The sums specified in paragraph (2) shall be increased from and including the respective dates specified in article 6 so that Schedule 4 to the Contributions and Benefits Act (contributory periodical benefits, non-contributory periodical benefits, increases for dependants and rates of industrial injuries benefit), except paragraph 5 of Part III of that Schedule (guardian's allowance), has effect as set out in Schedule 1 to this Order.

(2) The sums mentioned in paragraph (1) are the sums specified in Parts I, III, IV and V of Schedule 4 to the Contributions and Benefits Act except, in—

- (a) Part I, the sum specified for child's special allowance;
- (b) Part III, the sums specified for guardian's allowance and for age addition to a pension of any category and otherwise under section 79 of that Act;
- (c) Part IV, the sums specified in column (2) (increase for qualifying child); and
- (d) Part V, the sums specified for the increase in disablement pension for dependent children, widow's pension (initial rate) and death benefit allowance in respect of children.

**Increase in rates or amounts of certain pensions and allowances under the Contributions and Benefits Act**

**4.—**(1) The sums specified in paragraphs (2) to (5) shall be increased from and including the respective dates specified in article 6.

(2) The sums falling to be calculated under paragraph 13(4) of Schedule 7 to the Contributions and Benefits Act (calculation of weekly rate of a beneficiary's retirement allowance) shall be increased by 3.1 per cent. of their amount apart from this Order.

(3) In section 44(4) of the Contributions and Benefits Act<sup>(1)</sup> (basic pension in a Category A retirement pension)—

- (a) for "£71.15" substitute "£73.35"; and
- (b) for "£79.60" substitute "£82.05".

(4) It is directed<sup>(2)</sup> that the sums which are—

- (a) the additional pensions in long-term benefits calculated by reference to any final relevant year earlier than the tax year 2004-2005 shall be increased by 3.1 per cent. of their amount apart from this Order;

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(1) Section 44(4) was substituted by section 68 of the 1998 Act.

(2) See section 151(1) of the Administration Act.

- (b) the increases in the rates of retirement pensions under Schedule 5 to the Contributions and Benefits Act(3) (increase of pension where entitlement is deferred) shall be increased by 3.1 per cent. of their amount apart from this Order; and
  - (c) payable to a pensioner as part of his Category A or Category B retirement pension by virtue of an order made under section 126A of the Social Security Act 1975(4), section 63 of the Social Security Act 1986(5) or section 150(1)(e) of the Administration Act shall be increased by 3.1 per cent. of their amount apart from this Order.
- (5) The sums which, under—
- (a) section 55A of the Contributions and Benefits Act(6), are shared additional pensions; and
  - (b) section 55C of the Contributions and Benefits Act(7), are increases in the rates of such pensions,
- shall in each case be increased by 3.1 per cent. of their amount apart from this Order.

### **Increase in rates or amounts of certain benefits under the Pension Schemes Act**

5.—(1) It is directed(8) that the sums specified in paragraph (2) shall be increased from and including the respective dates specified in article 6.

(2) Sums which are payable by virtue of section 15(1) of the Pension Schemes Act (which provides for increases in a person's guaranteed minimum pension if payment of his occupational pension is postponed after he attains pensionable age) to a person who is also entitled to a Category A or Category B retirement pension (including sums payable by virtue of section 17(2) and (3) of that Act), shall be increased by—

- (a) 3.1 per cent. of their amount apart from this Order where the increase under section 15(1) is attributable to earnings factors for the tax year 1987-88 and earlier tax years(9); and
- (b) 0.1 per cent. of their amount apart from this Order where the increase under section 15(1) is attributable to earnings factors for the tax years 1988-89 to 1996-97 inclusive.

### **Dates on which sums specified for rates or amounts of benefits under the Contributions and Benefits Act or the Pension Schemes Act are increased by this Order**

6.—(1) Paragraphs (2) to (9), which are subject to the provisions of paragraphs (10) and (11), specify the date on which the increases made by this Order in the sums specified for rates or amounts of benefit under the Contributions and Benefits Act or the Pension Schemes Act shall take effect for each case.

(2) Subject to paragraph (3), any increases in the sums mentioned in articles 3, 4 and 12 for Category A and Category B retirement pension and graduated retirement benefit together with, where appropriate, any increases for dependants, shall take effect on 11th April 2005.

(3) In the case of a person over pensionable age—

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- (3) Schedule 5 was amended by paragraph 42 of Schedule 8 to the 1993 Act, paragraph 40 of Schedule 1 to the 1994 Act, paragraphs 6 and 21 of Schedule 4, and Schedule 7, to the Pensions Act 1995, section 39 of the Child Support, Pensions and Social Security Act 2000 (c. 19) ("the 2000 Act") and Schedule 6 to the Tax Credits Act.
  - (4) 1975 c. 14; section 126A was inserted by section 12 of the Social Security Act 1979 (c. 18) and repealed by section 86 of, and Schedule 11 to, the Social Security Act 1986 (c. 50).
  - (5) Section 63 was repealed by Schedule 1 to the Social Security (Consequential Provisions) Act 1992 (c. 6).
  - (6) Section 55A was inserted by paragraph 3 of Schedule 6 to the 1999 Act and amended by section 41 of the 2000 Act.
  - (7) Section 55C was inserted by paragraph 3 of Schedule 6 to the 1999 Act.
  - (8) See section 151(2) of the Administration Act.
  - (9) See section 151(4) of the Administration Act. Under section 151(4), where an increment under section 15(1) of the 1993 Act is increased by an order under section 109 of that Act, the increase that would otherwise fall to be made by this Order is reduced by the amount of the increase under section 109. Section 109 of the 1993 Act was amended by section 55 of the Pensions Act 1995. The Guaranteed Minimum Pensions Increase Order 2005 (S.I. 2005/[ ]) provides for an increase of 3 per cent. where the increase under section 15(1) is attributable to the tax years 1988–89 and subsequent tax years up to and including 1996–97.

- (a) whose entitlement to a Category A retirement pension is deferred; and
- (b) for whom the rate of short-term incapacity benefit falls to be calculated in accordance with section 30B(3) of the Contributions and Benefits Act<sup>(10)</sup>,

any increases in the sums mentioned in articles 3, 4 and 12 for Category A and Category B retirement pension and graduated retirement benefit together with, where appropriate, any increases for dependants, shall take effect on 14th April 2005.

(4) The increases in the sums mentioned in articles 4(4)(c) and 5(2) shall take effect on 11th April 2005.

(5) Any increases in the sums specified for—

- (a) the rate of—
  - (i) Category C and Category D retirement pension,
  - (ii) child's special allowance<sup>(11)</sup>,
  - (iii) attendance allowance, and
  - (iv) carer's allowance (except in a case where the Secretary of State has made arrangements for it to be paid on a Wednesday); and
- (b) any increases in—
  - (i) Category C retirement pension and carer's allowance referred to in sub-paragraph (a) (i) and (iv), and
  - (ii) maternity allowance, widowed mother's allowance and widowed parent's allowance,

in respect of dependants,

shall in all cases take effect on 11th April 2005.

(6) Any increases in the sums specified for—

- (a) the rate of—
  - (i) carer's allowance in a case where the Secretary of State has made arrangements for it to be paid on a Wednesday,
  - (ii) disablement benefit,
  - (iii) maximum disablement gratuity under paragraph 9(2) of Schedule 7 to the Contributions and Benefits Act,
  - (iv) industrial death benefit by way of widow's and widower's pension and allowance in respect of children,
  - (v) the maximum of the aggregate of weekly benefit payable for successive accidents, under section 107(1) of the Contributions and Benefits Act; and
- (b) any increases in—
  - (i) the benefits referred to in heads (i), (iii) and (iv) of sub-paragraph (a) in respect of dependants, and
  - (ii) disablement pension,

shall in all cases take effect on 13th April 2005.

(7) In any case where a person's weekly rate of Category A or Category B retirement pension falls to be increased under the provisions of section 47(1) or 48C(2) of the Contributions and

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<sup>(10)</sup> Section 30B was inserted by section 2(1) of the 1994 Act and subsection (3) was amended by paragraph 21(3) of Schedule 4 to the Pensions Act 1995 and Schedule 6 to the Tax Credits Act.

<sup>(11)</sup> Child's special allowance was abolished except for existing beneficiaries as from 6th April 1987 (see section 56 of the Contributions and Benefits Act, which was amended by Schedule 6 to the Tax Credits Act).

Benefits Act(12) by reference to the weekly rate of invalidity allowance or age addition to long-term incapacity benefit to which he was previously entitled, any increase in such sum shall take effect on 11th April 2005.

(8) The increases in the sums specified for the rate of incapacity benefit and severe disablement allowance (together with, where appropriate, any increases for dependants) shall take effect in all cases on 14th April 2005.

(9) The increases in the sums falling to be calculated in accordance with paragraph 13(4) of Schedule 7 to the Contributions and Benefits Act (retirement allowance) shall take effect on 13th April 2005.

(10) In the case of a person who is subject to the provisions of regulations made under section 73(1)(b) of the Administration Act(13) (adjustment of benefit for persons undergoing medical or other treatment as an in-patient in a hospital) the increase in the sum mentioned in article 4(3)(b) shall take effect in that case on the day on which the increase in the benefit payable to him apart from those regulations takes effect.

(11) Any increases in the sums specified in articles 3 and 23(c), in so far as those sums are relevant for the purposes of establishing whether the rate of any benefit is not to be increased in respect of an adult dependant because the earnings of the dependant exceed a specified amount(14), shall take effect—

- (a) except in a case where sub-paragraph (b) applies, on the first day of the first benefit week to commence for the beneficiary on or after 11th April 2005;
- (b) in a case where regulation 7(b) of the Computation of Earnings Regulations (date on which earnings are treated as paid) applies, on the first day of the first benefit week to commence for the beneficiary on or after 1st April 2005,

and for the purposes of this paragraph, “benefit week” has the same meaning as in regulation 2(1) of the Computation of Earnings Regulations.

### **Increase in rates of certain workmen’s compensation and industrial diseases benefits in respect of employment before 5th July 1948**

7. From and including—

- (a) 13th April 2005, for “£44.35” referred to in paragraph 2(6)(c) of Schedule 8 to the Contributions and Benefits Act (maximum weekly rate of lesser incapacity allowance supplementing workmen’s compensation);
- (b) 14th April 2005, for that sum referred to in paragraph 6(2)(b) of that Schedule (industrial diseases benefit schemes: weekly rate of allowance payable where disablement is not total),

substitute “£45.70”.

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(12) Section 47(1) was amended by paragraph 13 of Schedule 1 to the 1994 Act. Section 48C was inserted by paragraph 3 of Schedule 4 to the Pensions Act 1995.

(13) Section 73(1) was amended by paragraph 49(2) of Schedule 2 to the 1995 Act.

(14) See sections 82(3)(a), 83(2)(b) and 84(2)(b) of the Contributions and Benefits Act, regulations 8 and 10(2) of, and paragraph 7 of Schedule 2 to, the Social Security Benefit (Dependency) Regulations 1977 (S.I. 1977/343) (“the 1977 Regulations”) and regulation 10 of the Social Security (Incapacity Benefit—Increases for Dependants) Regulations 1994 (S.I. 1994/2945). Relevant amending instruments are S.I. 1984/1698 and 1699, 1987/355, 1988/554, 1989/523 and 1642, 1992/3041, 1994/2945, 1996/1345 and 2745 and 2002/2497. Paragraph 7 of Schedule 2 to the 1977 Regulations was also amended by section 37 of the Social Security Act 1986.

### Earnings Limits

**8.** In section 80(4) of the Contributions and Benefits Act(**15**) (earnings limits in respect of child dependency increases)—

- (a) for “£165.00”, in both places where it occurs, substitute “£170.00”; and
- (b) for “£21.00” substitute “£22.00”.

### Statutory Sick Pay

**9.** In section 157(1) of the Contributions and Benefits Act (rate of payment of statutory sick pay) for “£66.15” substitute “£68.20”.

### Statutory Maternity Pay

**10.** In regulation 6 of the Statutory Maternity Pay (General) Regulations 1986(**16**) (prescribed rate of statutory maternity pay) for “£102.80” substitute “£106.00”.

### Statutory Paternity Pay and Statutory Adoption Pay

**11.** In the Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations 2002(**17**)—

- (a) in regulation 2(a) (weekly rate of payment of statutory paternity pay) for “£102.80” substitute “£106.00”; and
- (b) in regulation 3(a) (weekly rate of payment of statutory adoption pay) for “£102.80” substitute “£106.00”.

### Increase in rate of graduated retirement benefit

**12.**—(1) In section 36(1) of the National Insurance Act 1965(**18**) (graduated retirement benefit)—

- (a) the sum of 9.63 pence shall be increased by 3.1 per cent.; and
- (b) from and including 11th April 2005 the reference in that provision to that sum shall have effect as a reference to 9.93 pence.

(2) The sums which are the increases of graduated retirement benefit under Schedule 2 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978(**19**) (increases for deferred retirement) shall be increased by 3.1 per cent. of their amount apart from this Order.

(3) The sums which are the additions under section 37(1) of the National Insurance Act 1965 (additions for widows and widowers) shall be increased by 3.1 per cent. of their amount apart from this Order.

### Increase in rates of Disability Living Allowance

**13.** In regulation 4 of the Social Security (Disability Living Allowance) Regulations 1991(**20**) (rate of benefit)—

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(15) Section 80 was repealed by section 60 of, and Schedule 6 to, the Tax Credits Act. Article 3 of S.I. 2003/938 saves the repealed provision in certain circumstances.

(16) S.I. 1986/1960; relevant amending instruments are S.I. 2002/2690 and 2004/552.

(17) S.I. 2002/2818; relevant amending instruments are S.I. 2004/552 and 925.

(18) 1965 c. 51. Sections 36 and 37 were repealed by the Social Security Act 1973 (c. 38) but are continued in force by regulation 3 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393), in the modified form set out in Schedule 1 to those Regulations; relevant amending instruments are S.I. 1989/1642 and 2004/552. See also regulation 2 of those Regulations, which was substituted by S.I. 1995/2606.

(19) S.I. 1978/393; relevant amending instrument is S.I. 1989/1642.

(20) S.I. 1991/2890; relevant amending instruments are 1993/1939 and 2004/552.

- (a) in paragraph (1)(a) for “£58.80” substitute “£60.60”;
- (b) in paragraph (1)(b) for “£39.35” substitute “£40.55”;
- (c) in paragraph (1)(c) for “£15.55” substitute “£16.05”;
- (d) in paragraph (2)(a) for “£41.05” substitute “£42.30”; and
- (e) in paragraph (2)(b) for “£15.55” substitute “£16.05”.

**Increase in rates of age addition to long-term incapacity benefit**

**14.** In regulation 10(2) of the Social Security (Incapacity Benefit) Regulations 1994<sup>(21)</sup> (increase in rate of incapacity benefit where beneficiary is under prescribed age on the qualifying date)—

- (a) in sub-paragraph (a) for “£15.55” substitute “£16.05”; and
- (b) in sub-paragraph (b) for “£7.80” substitute “£8.05”.

**Increase in rates of transitional invalidity allowance in long-term incapacity benefit cases**

**15.** In regulation 18(2) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995<sup>(22)</sup> (rate of long-term incapacity benefit in transitional cases)—

- (a) in sub-paragraph (a) for “£15.55” substitute “£16.05”;
- (b) in sub-paragraph (b) for “£10.00” substitute “£10.30”; and
- (c) in sub-paragraph (c) for “£5.00” substitute “£5.15”.

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<sup>(21)</sup> S.I. 1994/2946; relevant amending instrument is S.I. 2004/552.

<sup>(22)</sup> S.I. 1995/310; relevant amending instrument is S.I. 2004/552.