

EXPLANATORY MEMORANDUM TO
THE PENSIONS INCREASE (PENSION SCHEME FOR KENNETH
MACDONALD) REGULATIONS 2007

2007 No. 802

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This instrument will come into force on 9 April 2007 and apply the provisions of the Pensions (Increase) Act 1971 (“the Act”) to any pensions payable under pension schemes made under section 1 of the Superannuation Act 1972 for Kenneth Macdonald, the Director of Public Prosecutions.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 HM Treasury is responsible for making the annual order for the indexation of official pensions specified in Schedule 2 to the Act. Section 5(2) of the Act provides that the Minister for the Civil Service may by regulations provide that the Act shall have effect in relation to pensions not specified in Schedule 2 as if they were specified in that schedule. This power was transferred to HM Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981.
5. **Extent**
 - 5.1 This instrument applies to England and Wales
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Public service pensions in payment, preserved pensions and preserved lump sums are increased annually to take account of increases in the cost of living so that they maintain their purchasing power. This is done either under the statutory provisions, including the annual order, or under separate analogous arrangements.
- 7.2 The level of increase is equal to the percentage specified by the Secretary of State for Work and Pensions for the increase of state pensions (State Earnings Related Pensions and State Second Pensions) and social security benefits in the annual direction made under section 151 of the Social Security Administration Act 1992. This increase is equal to the percentage rise in the Retail Price Index (RPI) in the twelve months to the preceding September. Since 1987 the increase of official pensions has taken effect from the first Monday of the tax year.
- 7.3 The post of Director of Public Prosecutions is not pensionable under the Judicial Pensions and Retirement Act 1993. It has been necessary to make individual arrangements for Sir Kenneth Macdonald under the Superannuation Act 1972. These arrangements are based on those that apply to judges under the Judicial Pensions and Retirement Act 1993. It is intended that the pension should be increased in the same way as official pensions.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.
- 8.2 When a pension is paid to Sir Ken Macdonald it will be increased in line with RPI movements like other official pensions. As this had always been assumed there will not be any increase in public expenditure.

9. Contact

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