

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY BENEFITS UP-RATING REGULATIONS 2012

2012 No. 819

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**

The Social Security Benefits Up-rating Regulations 2012 make provision in consequence of the Social Security Benefits Up-rating Order 2012 ('the Up-rating Order'), which provides for the annual up-rating of Social Security benefits.

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

None

4. **Legislative Background**

4.1 The Social Security Benefits Up-rating Regulations 2012 are consequential on the Up-rating Order which is made under sections 150 and 150A of the Social Security Administration Act 1992 (c.5). Under those sections the Secretary of State must review the rates of social security benefits. The Up-rating Order provides for the annual up-rating of those benefits.

4.2 The provisions in these Regulations cannot be included in the Up-rating Order because it is made under sections 150 and 150A of the Social Security Administration Act 1992 and there is no power to make such provisions in those sections.

5. **Territorial Extent and Application**

These Regulations apply to Great Britain. A separate but corresponding provision will be made for Northern Ireland.

6. **European Convention on Human Rights**

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

7. **Policy Background**

What is being done and wh

- 7.1 Regulation 2 prevents any altered rate from applying until a question, which has arisen about the effect of the Up-rating Order on a benefit already in payment, is determined. This provision is intended to avoid incorrect payments of benefit where the increase or decrease is not payable, either in part or full. For example: where adjustment of a benefit is required because another benefit is also in payment (under the overlapping benefit provisions).
- 7.2 Regulation 3 restricts the application of increases specified in the Up-rating Order where the beneficiary is not ordinarily resident in Great Britain. This provision follows the long-standing policy that benefits payable to people not ordinarily resident in Great Britain are not up-rated unless there is a legal obligation or reciprocal agreement to do so.
- 7.3 Regulation 4 increases the earnings limits for child dependency increases payable with a Carer's Allowance in line with the increase for other benefits in Article 8 of the Up-rating Order. This ensures that those receiving child dependency increases with Carer's Allowance are treated in the same way as those receiving child dependency increases with other benefits.
- 7.4 Regulation 5 increases the amount of benefit that a person must be left with if they live in a care home and, because they find it difficult to budget for their care fees, the care home costs are paid direct from their benefit to the person or body charging for care.

Consolidation

- 7.5 Informal consolidation of this instrument will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at: <http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/>

8. Consultation outcome

These Regulations form part of the regular annual up-rating requirements, and consultation is therefore not necessary.

9. Guidance

Leaflets will be up-dated to reflect the new rates in due course and guidance bulletins have been issued to operational staff to advise them of the new rates.

10. Impact

10.1 This instrument has no impact on the private sector or civil society organisations.

10.2 This instrument has only a negligible impact on the public sector.

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

11. Regulating small business

This instrument does not apply to small business.

12. Monitoring and review.

The position is subject to review each tax year (please see paragraph 4.1 above).

13. Contact

Lindsay Roome at the Department for Work and Pensions; Tel- 020 7449 7781 or Email: PENSIONS.STATE@DWP.GSI.GOV.UK can answer any queries regarding this instrument.