EXPLANATORY MEMORANDUM TO

THE STATE PENSION REVALUATION FOR TRANSITIONAL PENSIONS ORDER 2016

2016 No. 1141

1. Introduction

1.1 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

2.1 The Pensions Act 2014 introduced a new state pension for people reaching state pension age on or after 6 April 2016. This instrument specifies the percentage that will be used to revalue "protected payments" for individuals reaching state pension age on or after 10 April 2017 to take account of general price inflation in the interval between April 2016 and when they reach state pension age. A person has a protected payment if their "starting amount" – the part of their new state pension based on their pre-6 April 2016 contribution record – exceeded the full rate of new state pension as at 6 April 2016. The protected payment is the amount of the excess.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The Pensions Act 2014[1] ("the 2014 Act") inserted new section 148AC in the Social Security Administration Act 1992[2] ("the 1992 Act"). Section 148AC is part of the legislative framework providing for the revaluation of the "starting amount" in a new state pension award (see paragraph 7.2 below) in the interval before an individual reaches state pension age.

4.2 Where the starting amount exceeds the full rate, paragraph 6(5) of Schedule 1 to the 2014 Act provides that the amount of the excess (i.e. the protected payment) is to be revalued by the percentage specified in the last order made under section 148AC of the 1992 Act to come in force before the individual reaches state pension age.

4.3 Section 148AC requires the Secretary of State to review the general level of prices in each tax year, and if they have increased since 6 April 2016, to make an order specifying the percentage of the increase.

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[1] http://www.legislation.gov.uk/ukpga/2014/19/contents/enacted
[2] http://www.legislation.gov.uk/ukpga/1992/5

4.4 This instrument is required to fulfil the duty on the Secretary of State and implement the increase. This is the first order to be made under new section 148AC of the 1992 Act and will apply for the purposes of calculating entitlement to new state pension of people reaching state pension age on or after 10 April 2017. It will therefore come into force on 9 April 2017, except in respect of people who claim their state pension in advance of state pension age (see paragraph 7.7).

5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain.

5.2 The territorial application of this instrument is Great Britain.

5.3 Subject to the agreement of the Northern Ireland Assembly, the Department for Communities in Northern Ireland will be making corresponding provision for Northern Ireland.

6. European Convention on Human Rights

6.1 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 why

7.1 Where an individual reaching state pension age on or after 6 April 2016 has paid or been credited with National Insurance contributions for the period prior to 6 April 2016, their new state pension will be at the transitional rate. In the calculation of the transitional rate, as set out in Schedule 1 to the 2014 Act, those pre-6 April 2016 contributions are recognised in the form of an amount known as a "starting amount".

7.2 The starting amount is the higher of the weekly rates of the individual's state pension as at 6 April 2016 calculated under both the old and new system rules, assuming for these purposes that they had reached state pension age on 6 April 2016 and that the new system had been in place at the start of their working life.

7.3 For those reaching state pension age on or after the date on which an increase in the rate of new state pension has taken effect, the 2016 starting amount needs to be revalued to reflect the increase in the payable rate since 6 April 2016. This is to ensure that starting amounts of the same value as at 6 April 2016 maintain their value in relation to each other irrespective of when the individuals concerned reach state pension age and become entitled to their state pension. The first such increase will be made with effect from 10 April 2017 as part of the annual review and up-rating of social security benefits.[3]

7.4 Paragraph 6(4) of Schedule 1 to the 2014 Act provides for starting amounts equal to or less than the 6 April 2016 full rate (£155.65) to be revalued by increasing them by the same percentage as the increase in the full rate. Where the starting amount exceeds the full rate, the first £155.65 will be revalued in the same way. However, as explained in paragraph 4.2 above, the protected payment will be revalued by increasing it by the percentage set out in an order made under section 148AC of the 1992 Act.

[3] Increases in the rates of state pension take effect from the first Monday in the tax year.

7.5 As with revaluation of starting amounts up to the full rate, the intention is to ensure that revaluation of protected payments for people reaching state pension age from 10 April 2017 results in the equivalent of the up-rating increase that will apply with effect from 10 April 2017 to protected payments already in payment to people who reached state pension age before that date.

7.6 Protected payments in payment will be up-rated under the power conferred by new section 151A of the 1992 Act, which provides for up-rating in line with price increases. For up-rating 2017, the general level of prices will be measured over the 12 months to September 2016 using the Consumer Prices Index (CPI). The Office for National Statistics (ONS) announced in October that CPI has increased by 1% in this period.[4] This mirrors the existing arrangements under section 150 of the 1992 Act for price up-rating of certain components of old state pension, including additional state pension.

7.7 The review period for revaluing protected payments before state pension age is set by section 148AC as the period beginning on 6 April 2016. No end date is specified, but as the Secretary of State must also carry out a review in each tax year, the first review must be completed after less than 12 months as it would otherwise fall in the following tax year. The chosen review period for the first order under section 148AC runs from April 2016 to September 2016. This enables the order to be brought into force in December 2016 so that advance claims[5] from people with protected payments reaching state pension age on or after 10 April 2017 can be processed timeously, and aligns the end date with the period used for the up-rating order.

7.8 As with the up-rating provisions, the Secretary of State has discretion in how to measure changes in the general level of prices for the purpose of determining the revaluing percentage. The Secretary of State has had regard to the increase in CPI for the review period and has estimated the increase in prices for the purpose of section 148AC of the 1992 Act to be 1%.[6] The revaluation increase will therefore correspond to the up-rating increase that will apply to individuals already in receipt of their state pension as at 9 April 2017.

Consolidation

7.9 As this instrument does not amend other legislation, consolidation is not applicable.

8. Consultation outcome

8.1 There is no statutory duty on the Secretary of State to consult on this instrument, and the Department does not consider informal consultation is appropriate in this case, for the following reasons.

8.2 This is a technical order which gives effect to a statutory requirement, the terms of which are defined in the primary legislation. The discretion exercised in making the order is in the choice of CPI (all items) as the prices measure, which has been used for

[4] See https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/consumerpriceinflation/sept2016.

[5] People may submit their claim for their state pension up to four months in advance. The award takes effect from state pension age.

[6] The official CPI all items indices, which are rounded to one decimal place, are 100.2 for both September 2015 and April 2016 and 101.1 for September 2016, indicating an increase of 0.9%. The official inflation measure of 1% for the 12 months to September is based on the unrounded index levels. Based on these indices, the increase in the period April to September 2016 is 0.1% lower, at 0.9%. This has been rounded up, applying the discretionary power at s148AC(7), to align with the up-rating increase.

up-rating under section 150 of the 1992 Act since April 2011, and in the choice of September for the end date of the review, for the reasons explained in paragraph 7.7, above. With respect to the rounding up of the percentage to 1% it should be noted that ONS does not publish an official statistic of percentage changes for intervals other than one month and 12 months and the rounding is beneficial to the individuals affected.

9. Guidance

9.1 Guidance on the measure implemented by the order will be issued to operational staff. Computer systems will also be updated to enable revaluation to be taken into account in the preparation of state pension statements.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The Order imposes no new costs on the public sector. The costs are already provided for in the Government's expenditure plans for new state pension alongside the costs of up-rating.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The legislation requires a review to be undertaken in each tax year (see paragraphs 4.3 and 7.7).

13. Contact

13.1 Helen Gadd at the Department for Work and Pensions Telephone: 020 7449 7142 or email: helen.gadd@dwp.gsi.gov.uk can answer any queries regarding the instrument.