

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY BENEFITS UP-RATING REGULATIONS 2016**  
**2016 No. 246**

**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 Social Security Benefits Up-rating Regulations 2016 (“the Regulations”) make provision in consequence of the Social Security Benefits Up-rating Order 2016 (“the Up-rating Order”) (S.I.2016/230) which provides for the annual up-rating of certain social security benefits.
- 2.2 The Regulations provide for the prevention of any up-rating if there is a question on how the Up-rating Order affects an existing benefit payment; and for the restriction of retirement pensions up-rating for people not ordinarily resident in Great Britain unless there is a legal obligation to do so.

**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 Regulations are consequential on the Up-rating Order which is made under section 150A of the Social Security Administration Act 1992<sup>1</sup> (“the Act”). This Order covers earnings indexed benefits, including the basic State Pension and the Pension Credit standard minimum guarantee.
- 4.2 Unlike in previous years, this Order does not cover those benefits specified in section 150 of the Act including contributory, non-contributory and extra-costs disability benefits. The Secretary of State has determined that those benefits have maintained their value in relation to prices as measured by the Consumer Prices Index (CPI) over the 12 month period ending September 2015<sup>2</sup>. Therefore, no Order has been laid under section 150 to increase the rates of those benefits.

---

<sup>1</sup> The Act can be accessed on the Legislation.gov.uk website (<http://www.legislation.gov.uk/ukpga/1992/5/contents/enacted>).

<sup>2</sup> The Consumer Prices Index (all items) for the 12 month period to end September 2015 showed a negative growth rate, at -0.1 per cent.

## **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 Social Development 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 The Regulations prevent any rate that is changed by the Up-rating Order from applying in cases where there is a question about its effect on a benefit that is already in payment. This provision is intended to avoid incorrect payments of benefit where the increase is not payable, either in part or full. This may take place, for example, where an adjustment of a benefit is required because another benefit is also in payment under the overlapping benefit provisions. Overlapping benefit provisions prevent a person who is entitled to two or more benefits from being paid both of them in full.
- 7.2 The Regulations further restrict the application of increases of retirement pensions specified in the Up-rating Order to beneficiaries who are ordinarily resident in Great Britain, another Member State of the European Economic Area, Switzerland or a country or territory with which Great Britain has a relevant reciprocal agreement. 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 The Regulations also revoke similar provisions in the Social Security Benefits Up-rating Regulations 2015 (“the 2015 Regulations”). However, they do not affect the remaining provisions in the 2015 Regulations. These are: the increases made to the earnings limits for child dependency increases payable with Carer’s Allowance; and the increases to the amount of benefit a person must be left with if they live in a care home and the care home costs are paid directly from their benefit to the person or body charging for their care (this may be because the person finds it difficult to budget for their care fees).

### *Consolidation*

- 7.4 Informal consolidated text of instruments is available to the public free of charge via ‘The Law Relating to Social Security’ (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security> or the National Archive website [legislation.gov.uk](http://www.legislation.gov.uk). An explanation as to which instruments are maintained on each site is available from <http://www.dwp.gov.uk/docs/lawvolnews.pdf>.

## **8. Consultation outcome**

- 8.1 The Regulations are part of the regular annual up-rating requirements and consultation is therefore not necessary.

## **9. Guidance**

- 9.1 Public information products will be updated by April 2016 and guidance bulletins have been issued to operational staff.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The instrument has a negligible impact on the public sector, in line with previous year's consequential regulations on Up-rating Orders.
- 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 rates of social security benefits covered by sections 150 and 150A of the Act are subject to review each tax year.

## **13. Contact**

- 13.1 Stephen Wan at the Department for Work and Pensions (Telephone: 02073404460 or e-mail: [stephen.wan@dpw.gsi.gov.uk](mailto:stephen.wan@dpw.gsi.gov.uk)) can answer any queries regarding the instrument.