Draft Order laid before Parliament under sections 150(2), 150A(2A) and 190(1)(a) of the Social Security Administration Act 1992, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

SOCIAL SECURITY
TERMS AND CONDITIONS OF EMPLOYMENT

The Social Security Benefits Up-rating Order 2021

Made - - - - 2021
Coming into force in accordance with article 1(3) and (4)

The Secretary of State for Work and Pensions has made a review as required by sections 150(1)(**1**) and 151A(1)(**2**) of the Social Security Administration Act 1992 and it appeared to the Secretary of State that the general level of prices was greater at the end of the period under review than it was at the beginning of the period.

The Secretary of State for Work and Pensions has also made a review as required by section 150A(1) of that Act(**3**) and it appeared to the Secretary of State that the general level of earnings was no greater at the end of the period under review than it was at the beginning of the period and the Secretary of State considers it appropriate having regard to the national economic situation and

(**1**) 1992 c. 5 ("the Administration Act"). Section 150 was amended by paragraph 28 of Schedule 8 to the Pension Schemes Act 1993 (c. 48) ("the Pension Schemes Act"), sections 2(3) and 9(4) of the Social Security (Incapacity for Work) Act 1994 (c. 18) ("the 1994 Act"), paragraph 64 of Schedule 2 to the Jobseekers Act 1995 (c. 18), section 131(2) of the Pensions Act 1995 (c. 26), paragraph 24 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30) ("the 1999 Act"), paragraph 16 of Schedule 2 to the State Pension Credit Act 2002 (c. 16), paragraph 35 of Schedule 3, and Schedule 6, to the Tax Credits Act 2002 (c. 21) ("the Tax Credits Act"), paragraph 14 of Schedule 7 to the Employment Act 2002 (c. 22), paragraph 21 of Schedule 11 to the Pensions Act 2004 (c. 35), section 6(1) to (4) of, and paragraph 21 of Schedule 1 to, the Pensions Act 2007 (c. 22), paragraph 10(21) of Schedule 3 to the Welfare Reform Act 2007 (c. 5), section 2(1) of the Pensions Act 2011 (c. 19), paragraph 22 of Schedule 2, and paragraph 17 of Schedule 9, to the Welfare Reform Act 2012 (c. 5) ("the 2012 Act"), paragraphs 18 and 70 of Schedule 12, paragraph 56 of Schedule 13, and paragraphs 20 and 30 of Schedule 16, to the Pensions Act 2014 (c. 19) ("the Pensions Act"), S.I. 2005/2053, 2006/2839 and 2014/2888. *See* also section 4(8) of the 1994 Act and S.I. 1995/310. Legislative competence for carers', disability and industrial injuries benefits was devolved to the Scottish Parliament by section 22(2) of the Scotland Act 2016 (c. 11), which inserted exceptions into the Scotland Act 1998 (c. 46), Schedule 5, Part 2, Section F1. Section 22(2) was brought into force on 17th May 2017 by S.I. 2017/455, subject to transitional arrangements set out in S.I. 2017/444, which modified the operation of section 53 of the Scotland Act 1998. The transitional arrangements in respect of carers' benefits were ended by the commencement of section 81 of the Social Security (Scotland) Act 2018 (asp 9) on 3rd September 2018 (*see*S.S.I. 2018/250). The transitional arrangements in respect of disability benefits including disability living allowance, personal independence payment and industrial injuries benefits ended on 31st March 2020 (*see* regulation 4 of S.I. 2017/444). Accordingly, in so far as the functions under section 150 are exercisable within devolved competence for various benefits, they are now exercisable by the Scottish Ministers instead of by the Secretary of State.

(**2**) Section 151A was inserted by paragraph 21 of Schedule 12 to the Pensions Act and amended by S.I. 2015/1754.

(**3**) Section 150A was inserted by section 5(1) of the Pensions Act 2007 and amended by paragraphs 8, 19 and 82 of Schedule 12 to the Pensions Act and S.I. 2014/2888. Section 150A was modified by section 1 of the Social Security (Up-rating of Benefits) Act 2020 (c. 23).

other matters which the Secretary of State considers relevant to increase the amounts referred to in section 150A(1) of that Act.

A draft of this Order was laid before Parliament in accordance with sections 150(2), 150A(2A)(**4**) and 190(1)(a) of that Act, and approved by a resolution of each House.

The Treasury(**5**) has consented to the making of this Order.

Accordingly, the Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 150(**6**), 150A, 151(**7**), 151A and 189(1), (4) and (5)(**8**) of the Social Security Administration Act 1992, makes the following Order.

PART 1

INTRODUCTION

Citation, extent, commencement and effect

1.—(1) This Order may be cited as the Social Security Benefits Up-rating Order 2021.

(2) This Order extends to England and Wales and Scotland, save for the following provisions which extend to England and Wales only—

(a) paragraphs (3) and (5) in so far as they provide for the coming into force dates for the provisions mentioned in sub-paragraphs (b) to (f) of this paragraph;

(b) article 3, in so far as it either states or increases the sums specified in—

(i) Part III of Schedule 4 to the Contributions and Benefits Act for attendance allowance, severe disablement allowance, age related addition and carer's allowance,

(ii) Part IV of Schedule 4 to that Act for the increase for a qualifying child payable with severe disablement allowance and with carer's allowance and for the increase for an adult dependant payable with severe disablement allowance,

(iii) Part V of Schedule 4 to that Act;

(c) article 7, in so far as it specifies the taking into effect dates for the provision made in article 3 as to the sums specified in the provisions referred to in sub-paragraph (b) of this paragraph;

(d) article 8, in so far as it states the earnings limits in respect of child dependency increases payable with severe disablement allowance and with carer's allowance;

(**4**) Section 1 of the Social Security (Up-rating of Benefits) Act 2020 provides that, in relation to the review under section 150A(1) for the tax year ending 5 April 2021, section 150A is to have effect as if it includes the subsection (2A) that is provided for by section 1 of that Act.

(**5**) *See* section 189(8) of the Administration Act.

(**6**) The functions of the Secretary of State under section 150, so far as relating to child benefit and guardian's allowance, were transferred to the Commissioners of Inland Revenue by section 50(1) of the Tax Credits Act. The functions of those Commissioners were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that in so far as appropriate in consequence of section 5 a reference to the Commissioners of Inland Revenue (in whatever terms) is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**7**) Section 151 was amended by paragraph 29 of Schedule 8 to the Pension Schemes Act, section 130(2) of the Pensions Act 1995, paragraph 22 of Schedule 11 to the Pensions Act 2004, section 2(3) of the Pensions Act 2011 and paragraph 20 of Schedule 12 to the Pensions Act.

(**8**) Section 189(1) was amended by paragraph 109 of Schedule 7, and Schedule 8, to the Social Security Act 1998 (c. 14) ("the 1998 Act"), paragraph 57 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and Schedule 6 to the Tax Credits Act.

(e) article 15; and

(f) article 16.

(3) Subject to paragraphs (4) and (5), this Order shall come into force for the purposes of—

(a) this article and articles 2 and 7, on 1st April 2021;

(b) article 3—

(i) in so far as it relates to any increase to which article 7(9)(b) applies, on 1st April 2021, and

(ii) for all other purposes, on 12th April 2021;

(c) articles 4, 5, 6, 12, 13, 14, 15, 16, 19 and 20, on 12th April 2021;

(d) article 8, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 1st April 2021, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in regulation 2(1) of the Computation of Earnings Regulations;

(e) article 9, on 6th April 2021;

(f) article 10, on 4th April 2021, except for the purpose of determining the rate of maternity allowance in accordance with section 35A(1)(**9**) of the Contributions and Benefits Act (appropriate weekly rate of maternity allowance under section 35), for which purpose it shall come into force on 12th April 2021;

(g) article 11, on 4th April 2021;

(h) articles 17 and 18, on 15th April 2021;

(i) articles 21, 22 and 23, in so far as they relate to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 12th April 2021, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the Income Support Regulations;

(j) articles 24 and 25, in relation to a case where rent is payable at intervals of a week or any multiple thereof, on 5th April 2021, and in relation to any other case, on 1st April 2021;

(k) articles 26, 27 and 28, in so far as they relate to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 12th April 2021, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the JSA Regulations 1996;

(l) article 29, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 12th April 2021, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the JSA Regulations 2013;

(m) article 30, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 12th April 2021, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the State Pension Credit Regulations;

(n) article 31, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 12th April 2021, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the ESA Regulations 2008;

(o) article 32, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 12th April 2021, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the ESA Regulations 2013;

(**9**) Section 35A was inserted by section 53 of the 1999 Act. Subsection (1) was substituted by section 48 of the Employment Act 2002 (c. 22). The rate of maternity allowance is linked to the prescribed rate of statutory maternity pay set out in regulation 6 of S.I. 1986/1960.

(p) article 33, in so far as it relates to a particular beneficiary, on the first day of the first assessment period to commence for that beneficiary on or after 12th April 2021(**10**), and for the purpose of this sub-paragraph "assessment period" has the same meaning as in section 7(2) of the Welfare Reform Act 2012(**11**); and

(q) article 34, on 10th May 2021.

(4) In so far as articles 3, 4, 5, 6, 10, 12, 13, 14, 17, 18, 19, 29 and 32 relate to a beneficiary in favour of whom an award of universal credit is in force, those articles shall come into force for the purposes of determining the beneficiary's unearned income in relation to that award on the same day as article 33 comes into force for that beneficiary.

(5) The changes made in the sums specified for rates or amounts of benefit in—

(a) articles 3, 4, 5, 6, 12, 13 and 14; and

(b) article 26(b), in so far as that sum is 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,

shall take effect for each case on the date specified in relation to that case in article 7.

Interpretation

2. In this Order—

"the Computation of Earnings Regulations" means the Social Security Benefit (Computation of Earnings) Regulations 1996(**12**);

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits Act 1992(**13**);

"the ESA Regulations 2008" means the Employment and Support Allowance Regulations 2008(**14**);

"the ESA Regulations 2013" means the Employment and Support Allowance Regulations 2013(**15**);

"the ESA and UC Regulations 2017" means the Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017(**16**);

"the Housing Benefit Regulations" means the Housing Benefit Regulations 2006(**17**);

"the Housing Benefit (SPC) Regulations" means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**18**);

"the Income Support Regulations" means the Income Support (General) Regulations 1987(**19**);

(**10**) *See*S.I. 2014/2888 which amends section 150(10) of the Administration Act and also inserts section 150(10ZA) and (10ZB) into that Act so that it aligns with the monthly assessment period cycle in universal credit.
(**11**) 2012 c. 5.
(**12**) S.I. 1996/2745; relevant amending instrument is S.I. 2002/842.
(**13**) 1992 c. 4 ("the Contributions and Benefits Act").
(**14**) S.I. 2008/794; relevant amending instruments are S.I. 2008/2428, 2009/2655, 2011/2428, 2015/30 and 457, 2016/242, 2017/204, 260 and 581, 2018/281, 2019/480 and 2020/234.
(**15**) S.I. 2013/379; relevant amending instruments are S.I. 2017/204 and 260, 2018/281, 2019/480 and 2020/234.
(**16**) S.I. 2017/204.
(**17**) S.I. 2006/213; relevant amending instruments are S.I. 2006/718, 2007/2868, 2008/1082 and 2428, 2009/2608, 2010/793, 2015/30, 457, 1754 and 1857, 2016/242, 2017/204, 260 and 376, 2018/281, 2019/480 and 2020/234.
(**18**) S.I. 2006/214; relevant amending instruments are S.I. 2006/718, 2007/2869, 2008/3157, 2010/793, 2015/457, 1754 and 1857, 2016/242, 2017/260 and 1187, 2018/281, 2019/480 and 2020/234.
(**19**) S.I. 1987/1967; relevant amending instruments are S.I. 1990/1168 and 1776, 1994/527, 1995/1613 and 2927, 1996/206, 1803, 2431, 2518 and 2545, 1998/766, 1999/2555 and 3178, 2000/636 and 2629, 2001/3767, 2002/2497 and 3019, 2003/455, 2004/2327, 2006/718, 2007/719, 2010/641, 2011/674 and 2425, 2013/2536, 2014/516, 2015/30 and 457, 2016/242, 2017/204 and 260, 2018/281, 2019/480 and 2020/234.

"the JSA Regulations 1996" means the Jobseeker's Allowance Regulations 1996(**20**);

"the JSA Regulations 2013" means the Jobseeker's Allowance Regulations 2013(**21**);

"the LMI Regulations 2017" means the Loans for Mortgage Interest Regulations 2017(**22**);

"the Pensions Act" means the Pensions Act 2014(**23**);

"the Pension Schemes Act" means the Pension Schemes Act 1993(**24**);

"the State Pension Credit Regulations" means the State Pension Credit Regulations 2002(**25**); and

"the Universal Credit Regulations" means the Universal Credit Regulations 2013(**26**).

PART 2

SOCIAL SECURITY BENEFITS AND PENSIONS

Rates or amounts of certain benefits under the Contributions and Benefits Act

3.—(1) From and including the respective dates specified in article 7, the sums specified in paragraph (2) shall be increased 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 III, the sum specified for age addition to a pension of any category and otherwise under section 79 of that Act;

(b) Part IV, the sums specified in column (2) (increase for qualifying child); and

(c) Part V, the sums specified for the increase in disablement pension for dependent children and death benefit allowance in respect of children and qualifying young persons(**27**).

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 7.

(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 0.5 per cent.

(**20**) S.I. 1996/207; relevant amending instruments are S.I. 1996/1516, 1803, 2518 and 2545, 1998/766, 1999/2555 and 2860, 2000/1978, 2239 and 2629, 2001/518, 2003/455 and 511, 2004/2327, 2005/2877, 2006/718, 2007/719 and 2618, 2008/698 and 1554, 2009/1488 and 1575, 2011/674, 2013/388 and 2536, 2014/516, 2015/30 and 457, 2016/242, 2017/260, 2018/281, 2019/480 and 2020/234.
(**21**) S.I. 2013/378; the relevant amending instrument is S.I. 2020/234.
(**22**) S.I. 2017/725; the relevant amending instrument is S.I. 2018/307.
(**23**) 2014 c. 19.
(**24**) 1993 c. 48; relevant amending instrument is S.I. 2005/2050.
(**25**) S.I. 2002/1792; relevant amending instruments are S.I. 2002/3197, 2004/2327, 2006/2378, 2008/3195, 2015/457 and 1754, 2016/242, 2017/260 and 725, 2018/281 and 676, 2019/480 and 2020/234.
(**26**) S.I. 2013/376; relevant amending instruments are S.I. 2015/30, 457 and 1754, 2018/65, 2019/480 and 2020/234.
(**27**) Part V of Schedule 4 to the Contributions and Benefits Act was amended by paragraph 15 of Schedule 1 to the Child Benefit Act 2005 (c. 6) ("the 2005 Act").