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

DRAFT STATUTORY INSTRUMENTS

2011 No. 000

SOCIAL SECURITY
TERMS AND CONDITIONS OF EMPLOYMENT

The Social Security Benefits Up-rating Order 2011

Made - - - - 2011

Coming into force in accordance with Article 1

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

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

The Treasury(**3**) 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(**4**), 150A, 151(**5**) and 189(1), (4) and (5)(**6**) of the Social Security Administration Act 1992 makes the following Order.

(**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 1993 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) ("the 1995 Act"), 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) ("the 2002 Act"), 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), paragraph 8 of the Schedule to S.I. 2005/2053 and by article 2 of S.I. 2006/2839. *See* also section 4(8) of the 1994 Act and regulation 18(3) of S.I. 1995/310. The effect of section 150 was modified in relation to incapacity benefit and severe disablement allowance by S.I. 2008/3270.

(**2**) Section 150A was inserted by section 5(1) of the Pensions Act 2007.

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

(**4**) 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.

(**5**) Section 151 was amended by paragraph 29 of Schedule 8 to the 1993 Act, section 130(2) of the Pensions Act 1995 and paragraph 22 of Schedule 11 to the Pensions Act 2004.

PART 1

INTRODUCTION

Citation, commencement and effect

1.—(1) This Order may be cited as the Social Security Benefits Up-rating Order 2011.

(2) Subject to paragraph (3), this Order shall come into force for the purposes of—

(a) this article and articles 2, 6 and 29, on 1st April 2011;

(b) article 3—

(i) in so far as it relates to any increase to which article 6(10)(b) applies, on 1st April 2011, and

(ii) for all other purposes, on 11th April 2011;

(c) articles 4, 5, 7, 12, 13 and 16, on 11th April 2011;

(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 2011, 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 2011;

(f) article 10, on 3rd April 2011, except for the purpose of determining the rate of maternity allowance in accordance with section 35A(1)(**7**) of the Contributions and Benefits Act(**8**), for which purpose it shall come into force on 11th April 2011;

(g) article 11, on 3rd April 2011;

(h) articles 14 and 15, on 14th April 2011;

(i) articles 17 to 19, 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 11th April 2011, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the Income Support Regulations;

(j) articles 20 and 21, in relation to a case where rent is payable at intervals of a week or any multiple thereof, on 4th April 2011, and in relation to any other case, on 1st April 2011, and, in each case, immediately after the coming into force of regulations 2 and 3 respectively of the Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2010;

(k) articles 22 and 23, on 1st April 2011 immediately after the coming into force of regulations 4 and 5 respectively of the Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2010(**9**);

(l) articles 24 to 26, in so far as they relate to a particular beneficiary—

(**6**) Section 189(1) was amended by paragraph 109 of Schedule 7, and Schedule 8, to the Social Security Act 1998 ("the 1998 Act") (c. 14), 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.

(**7**) Section 35A was inserted by section 53 of the 1999 Act. Subsection (1) was substituted by section 48 of the Employment Act 2002. 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.

(**8**) 1992 c. 4 ("the Contributions and Benefits Act").

(**9**) S.I. 2010/2449.

(i) for the purposes of article 24(c), in so far as it relates to an increase to which article 6(10)(b) applies, on 1st April 2011, and

(ii) for all other purposes, on the first day of the first benefit week to commence for that beneficiary on or after 11th April 2011, and for the purposes of this head "benefit week" has the same meaning as in the Jobseeker's Allowance Regulations;

(m) article 27, 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 11th April 2011, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the State Pension Credit Regulations; and

(n) article 28, 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 11th April 2011, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the Employment and Support Allowance Regulations.

(3) The changes made—

(a) in the sums specified for rates or amounts of benefit under the Contributions and Benefits Act or the Pension Schemes Act; and

(b) by article 24(c) in so far as it is relevant for the purposes referred to in article 6(10),

shall take effect for each case on the date specified in relation to that case in article 6.

Interpretation

2. In this Order—

"the Administration Act" means the Social Security Administration Act 1992;

"the Computation of Earnings Regulations" means the Social Security Benefit (Computation of Earnings) Regulations 1996(**10**);

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits Act 1992;

"the Council Tax Benefit Regulations" means the Council Tax Benefit Regulations 2006(**11**);

"the Council Tax Benefit (SPC) Regulations" means the Council Tax Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006(**12**);

"the Employment and Support Allowance Regulations" means the Employment and Support Allowance Regulations 2008(**13**);

"the Housing Benefit Regulations" means the Housing Benefit Regulations 2006(**14**);

"the Housing Benefit (SPC) Regulations" means the Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006(**15**);

"the Income Support Regulations" means the Income Support (General) Regulations 1987(**16**);

(**10**) S.I. 1996/2745; the relevant amending instrument is S.I. 2002/842.
(**11**) S.I. 2006/215; the relevant amending instruments are S.I. 2006/588 and 718, 2008/1042, 1082 and 2428, 2009/2608 and 2010/793 and 2449.
(**12**) S.I. 2006/216; the relevant amending instruments are S.I. 2006/718, 2008/1082 and 3157 and 2010/793 and 2449.
(**13**) S.I. 2008/794; the relevant amending instruments are S.I. 2008/2428 and 3195, 2009/2655 and 3228 and 2010/793 and 1811.
(**14**) S.I. 2006/213; the relevant amending instruments are S.I. 2006/718, 2007/2868, 2008/1082 and 2428, 2009/2608 and 2010/793 and 2449.
(**15**) S.I. 2006/214; the relevant amending instruments are S.I. 2006/718, 2007/2869, 2008/3157 and 2010/793 and 2449.
(**16**) S.I. 1987/1967; the relevant amending instruments are S.I. 1990/1168 and 1776, 1995/516, 1613 and 2927, 1996/206, 1803, 2518 and 2545, 1998/766, 1999/2555, 3109 and 3178, 2000/2629, 2001/3651, 2002/2497 and 3019, 2003/455, 2004/2327 and 2825, 2005/3360, 2006/718, 2007/719, 2008/3195, 2009/3228 and 2010/641, 793 and 1811.

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations 1996(**17**);

"the Pension Schemes Act" means the Pension Schemes Act 1993(**18**); and

"the State Pension Credit Regulations" means the State Pension Credit Regulations 2002(**19**).

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 6—

(a) the sums specified in paragraph (2) shall be increased; and

(b) the sums specified in paragraph 3(a) and (b) of Part III of Schedule 4 to the Contributions and Benefits Act (age related addition – higher and middle rates) shall be reduced(**20**),

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 sums specified for age related addition (higher and middle rates) and 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, widow's pension (initial rate) and death benefit allowance in respect of children and qualifying young persons(**21**).

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 6.

(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 3.1 per cent.

(3) In section 44(4) of the Contributions and Benefits Act(**22**) (basic pension in a Category A retirement pension)—

(a) for "£87.75" substitute "£90.45"; and

(**17**) S.I. 1996/207; the relevant amending instruments are S.I. 1996/1516, 1803, 2518 and 2545, 1998/766, 1999/2555 and 2860, 2000/636, 1978 and 2629, 2001/518 and 3651, 2003/455 and 511, 2004/2327 and 2825, 2005/2877, 2006/718, 2007/719, 2008/698, 1554 and 3195, 2009/1488, 1575 and 3228 and 2010/793 and 1811.

(**18**) 1993 c. 48. Relevant amending instrument is S.I. 2005/2050.

(**19**) S.I. 2002/1792; the relevant amending instruments are S.I. 2002/3197, 2004/2327 and 2825, 2005/3360, 2006/588 and 2378, 2007/2618, 2008/3195 and 2010/793 and 1811.

(**20**) *See*S.I. 2008/3270 which modifies the effect of section 150 of the Administration Act so that these rates may be reduced.

(**21**) 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").

(**22**) Section 44(4) was substituted by section 68 of the 1998 Act.

(b) for "£97.65" substitute "£102.15".

(4) It is directed(**23**) that the sums which are—

(a) additional pensions in long-term benefits calculated by reference to any final relevant year earlier than the tax year 2010-2011;

(b) increases in the rates of retirement pensions under Schedule 5 to the Contributions and Benefits Act(**24**) (pension increase or lump sum where entitlement to retirement pension is deferred);

(c) lump sums to which surviving spouses or civil partners will become entitled under paragraph 7A of that Schedule(**25**) on becoming entitled to a Category A or Category B retirement pension (entitlement to lump sum where pensioner's deceased spouse or civil partner has deferred entitlement); and

(d) payable to a pensioner as part of their Category A or Category B retirement pension by virtue of an order made under section 126A of the Social Security Act 1975(**26**), section 63 of the Social Security Act 1986(**27**) or section 150(1)(e) of the Administration Act,

shall in each case be increased by 3.1 per cent.

(5) The sums which, under—

(a) section 55A of the Contributions and Benefits Act(**28**), are shared additional pensions; and

(b) paragraph 2 of Schedule 5A to the Contributions and Benefits Act(**29**), are increases in the rates of such pensions,

shall in each case be increased by 3.1 per cent.

Increase in rates or amount of certain benefits under the Pension Schemes Act

5.—(1) It is directed(**30**) that the sums specified in paragraph (2) shall be increased from and including the respective dates specified in article 6.

(2) Sums which are payable by virtue of section 15(1) of the Pension Schemes Act (which provides for increases in a person's guaranteed minimum pension if payment of their occupational pension is postponed after they attain pensionable age) to a person who is also entitled to a Category A or Category B retirement pension (including sums payable by virtue of section 17(2)(**31**) and (3) of that Act), shall be increased by—

(a) 3.1 per cent. where the increase under section 15(1) is attributable to earnings factors for the tax year 1987-88 and earlier tax years(**32**); and

(**23**) *See* section 151(1) of the Administration Act.
(**24**) Schedule 5 was amended by paragraph 42 of Schedule 8 to the 1993 Act, paragraph 40 of Schedule 1 to the 1994 Act, paragraphs 6 and 21 of Schedule 4, and Schedule 7, to the Pensions Act 1995, section 39 of the Child Support, Pensions and Social Security Act 2000 (c. 19) ("the 2000 Act"), Schedule 6 to the Tax Credits Act, paragraphs 2 to 14 of Schedule 11 to the Pensions Act 2004 (c. 35), paragraphs 19 and 20 of Schedule 1, and Schedule 7, to the Pensions Act 2007 and S.I. 2005/2053.
(**25**) Paragraph 7A was inserted by paragraph 11 of Schedule 11 to the Pensions Act 2004 and amended by paragraph 5(11) of the Schedule to S.I. 2005/2053.
(**26**) 1975 c. 14; section 126A was inserted by section 12 of the Social Security Act 1979 (c. 18) and repealed by section 86 of, and Schedule 11 to, the Social Security Act 1986 (c. 50).
(**27**) Section 63 was repealed by Schedule 1 to the Social Security (Consequential Provisions) Act 1992 (c. 6).
(**28**) Section 55A was inserted by paragraph 3 of Schedule 6 to the 1999 Act and amended by section 41(3) of the 2000 Act.
(**29**) Schedule 5A was inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.
(**30**) *See* section 151(2) of the Administration Act.
(**31**) Section 17(2) was amended by paragraph 4(b) of Schedule 1 to S.I. 2005/2050.
(**32**) *See* section 151(4) of the Administration Act. Under section 151(4), where an increment under section 15(1) of the 1993 Act is increased by an order under section 109 of that Act, the increase that would otherwise fall to be made by this Order is reduced by the amount of the increase under section 109. Section 109 of the 1993 Act was amended by section 55 of the Pensions Act 1995. The Guaranteed Minimum Pensions Increase Order 2011 (S.I. 2011/) provides for an increase of 3 per cent. where the increase under section 15(1) is attributable to the tax years 1988-89 and subsequent tax years up to and including 1996-97.