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

DRAFT STATUTORY INSTRUMENTS

2005 No.

SOCIAL SECURITY
TERMS AND CONDITIONS OF EMPLOYMENT

The Social Security Benefits Up-rating Order 2005

Made - - - - 2005

Coming into force in accordance with article 1

Whereas, it appeared to the Secretary of State for Work and Pensions, having made a review under section 150(1) of the Social Security Administration Act 1992(**1**), that the general level of prices was greater at the end of the period under review than it was at the beginning of that period, and whereas a draft of the following Order was laid before Parliament in accordance with the provisions of sections 150(2) and 190(1)(a) of that Act and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Work and Pensions, with the consent of the Treasury(**2**), in exercise of the powers conferred by sections 150(**3**), 151(**4**) and 189(1), (4) and (5)(**5**) of the Social Security Administration Act 1992, and of all other powers enabling him in that behalf, 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), paragraphs 23 and 24 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30) ("the 1999 Act"), paragraphs 8 and 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") and paragraphs 8 and 14 of Schedule 7 to the Employment Act 2002 (c. 22). *See* also section 4(8) of the 1994 Act and regulation 18(3) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 (S.I. 1995/310).

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

(**3**) 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.

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

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

PART 1

INTRODUCTION

Citation, commencement and effect

1.—(1) This Order may be cited as the Social Security Benefits Up-rating Order 2005.

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

(a) articles 1, 2, 6, 21, 22 and 27, on 1st April 2005;

(b) 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 2005, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the Computation of Earnings Regulations;

(c) articles 3 to 5, 7, 12, 13 and 26, on 11th April 2005;

(d) article 9, on 6th April 2005;

(e) article 10, on 3rd April 2005, except for the purpose of determining the rate of maternity allowance in accordance with section 35A(1)(**6**) of the Contributions and Benefits Act(**7**), for which purpose it shall come into force on 11th April 2005;

(f) article 11, on 3rd April 2005;

(g) articles 14 and 15, on 14th April 2005;

(h) articles 16 to 18, 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 2005, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the Income Support Regulations;

(i) articles 19 and 20, in relation to a case where rent is payable at intervals of a week or any multiple thereof, on 4th April 2005, and in relation to any other case, on 1st April 2005;

(j) articles 23 to 25, 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 2005, and for the purpose of this sub-paragraph "benefit week" has the same meaning as in the Jobseeker's Allowance Regulations.

(3) The increases 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 23(c) in so far as it is relevant for the purposes referred to in article 6(11),

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(**8**);

(**6**) 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.

(**7**) 1992 c. 4 ("the Contributions and Benefits Act").

(**8**) S.I. 1996/2745; the relevant amending instrument is S.I. 2002/842.

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

"the Council Tax Benefit Regulations" means the Council Tax Benefit (General) Regulations 1992(**9**);

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations 1987(**10**);

"the Income Support Regulations" means the Income Support (General) Regulations 1987(**11**);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations 1996(**12**);

"the Pension Schemes Act" means the Pension Schemes Act 1993(**13**);

"the State Pension Credit Regulations" means the State Pension Credit Regulations 2002(**14**); and

"the 2003 Regulations" means the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(**15**).

PART 2

SOCIAL SECURITY BENEFITS AND PENSIONS

Increase in rates or amounts of certain benefits under the Contributions and Benefits Act

3.—(1) The sums specified in paragraph (2) shall be increased from and including the respective dates specified in article 6 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 I, the sum specified for child's special allowance;

(b) Part III, the sums specified for guardian's allowance and for age addition to a pension of any category and otherwise under section 79 of that Act;

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

(d) 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.

(**9**) S.I. 1992/1814; the relevant amending instruments are S.I. 1993/688 and 2118, 1994/1924, 1996/462, 1510, 1803, 2518 and 2545, 1998/776, 1999/2555, 2000/2239 and 2629 and 2002/2497.
(**10**) S.I. 1987/1971; the relevant amending instruments are S.I. 1988/1444, 1989/416 and 1017, 1990/546 and 1775, 1992/50, 1993/2118, 1994/578, 1996/462, 1803, 2432, 2518 and 2545, 1997/65, 1998/766, 1999/2555, 2000/2239 and 2629 and 2002/2497.
(**11**) S.I. 1987/1967; the relevant amending instruments are S.I. 1988/663, 1445 and 2022, 1989/1034, 1990/547, 1168, 1776 and 2324, 1992/3147, 1993/2119, 1994/527, 1995/516, 1613 and 2927, 1996/206, 1803, 2431, 2518 and 2545, 1998/563 and 766, 1999/2422, 2555 and 3109, 2000/636, 2239 and 2629, 2001/3651, 2002/2497 and 3019 and 2003/1121 and 1195 and 2004/552.
(**12**) S.I. 1996/207; the relevant amending instruments are S.I. 1996/1516, 1517, 1803, 2518, 2538 and 2545, 1998/766, 1999/2555 and 2860, 2000/636, 1978, 2239 and 2629, 2001/518, 3651 and 3767 and 2003/1121 and 1195.
(**13**) 1993 c. 48.
(**14**) S.I. 2002/1792; the relevant amending instruments are S.I. 2002/3197 and 2003/2274.
(**15**) S.I. 2003/325; the relevant amending instruments are S.I. 2003/1338 and 2275.

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. of their amount apart from this Order.

(3) In section 44(4) of the Contributions and Benefits Act(**16**) (basic pension in a Category A retirement pension)—

(a) for "£71.15" substitute "£73.35"; and

(b) for "£79.60" substitute "£82.05".

(4) It is directed(**17**) that the sums which are—

(a) the additional pensions in long-term benefits calculated by reference to any final relevant year earlier than the tax year 2004-2005 shall be increased by 3.1 per cent. of their amount apart from this Order;

(b) the increases in the rates of retirement pensions under Schedule 5 to the Contributions and Benefits Act(**18**) (increase of pension where entitlement is deferred) shall be increased by 3.1 per cent. of their amount apart from this Order; and

(c) payable to a pensioner as part of his Category A or Category B retirement pension by virtue of an order made under section 126A of the Social Security Act 1975(**19**), section 63 of the Social Security Act 1986(**20**) or section 150(1)(e) of the Administration Act shall be increased by 3.1 per cent. of their amount apart from this Order.

(5) The sums which, under—

(a) section 55A of the Contributions and Benefits Act(**21**), are shared additional pensions; and

(b) section 55C of the Contributions and Benefits Act(**22**), are increases in the rates of such pensions,

shall in each case be increased by 3.1 per cent. of their amount apart from this Order.

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

5.—(1) It is directed(**23**) 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 his occupational pension is postponed after he attains 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) and (3) of that Act), shall be increased by—

(**16**) Section 44(4) was substituted by section 68 of the 1998 Act.
(**17**) *See* section 151(1) of the Administration Act.
(**18**) 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") and Schedule 6 to the Tax Credits Act.
(**19**) 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).
(**20**) Section 63 was repealed by Schedule 1 to the Social Security (Consequential Provisions) Act 1992 (c. 6).
(**21**) Section 55A was inserted by paragraph 3 of Schedule 6 to the 1999 Act and amended by section 41 of the 2000 Act.
(**22**) Section 55C was inserted by paragraph 3 of Schedule 6 to the 1999 Act.
(**23**) *See* section 151(2) of the Administration Act.

(a) 3.1 per cent. of their amount apart from this Order where the increase under section 15(1) is attributable to earnings factors for the tax year 1987-88 and earlier tax years(**24**); and

(b) 0.1 per cent. of their amount apart from this Order where the increase under section 15(1) is attributable to earnings factors for the tax years 1988-89 to 1996-97 inclusive.

Dates on which sums specified for rates or amounts of benefits under the Contributions and Benefits Act or the Pension Schemes Act are increased by this Order

6.—(1) Paragraphs (2) to (9), which are subject to the provisions of paragraphs (10) and (11), specify the date on which the increases made by this Order in the sums specified for rates or amounts of benefit under the Contributions and Benefits Act or the Pension Schemes Act shall take effect for each case.

(2) Subject to paragraph (3), any increases in the sums mentioned in articles 3, 4 and 12 for Category A and Category B retirement pension and graduated retirement benefit together with, where appropriate, any increases for dependants, shall take effect on 11th April 2005.

(3) In the case of a person over pensionable age—

(a) whose entitlement to a Category A retirement pension is deferred; and

(b) for whom the rate of short-term incapacity benefit falls to be calculated in accordance with section 30B(3) of the Contributions and Benefits Act(**25**),

any increases in the sums mentioned in articles 3, 4 and 12 for Category A and Category B retirement pension and graduated retirement benefit together with, where appropriate, any increases for dependants, shall take effect on 14th April 2005.

(4) The increases in the sums mentioned in articles 4(4)(c) and 5(2) shall take effect on 11th April 2005.

(5) Any increases in the sums specified for—

(a) the rate of—

(i) Category C and Category D retirement pension,

(ii) child's special allowance(**26**),

(iii) attendance allowance, and

(iv) carer's allowance (except in a case where the Secretary of State has made arrangements for it to be paid on a Wednesday); and

(b) any increases in—

(i) Category C retirement pension and carer's allowance referred to in sub-paragraph (a)(i) and (iv), and

(ii) maternity allowance, widowed mother's allowance and widowed parent's allowance,

in respect of dependants,

shall in all cases take effect on 11th April 2005.

(6) Any increases in the sums specified for—

(**24**) *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 2005 (S.I. 2005/[ ]) 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.

(**25**) Section 30B was inserted by section 2(1) of the 1994 Act and subsection (3) was amended by paragraph 21(3) of Schedule 4 to the Pensions Act 1995 and Schedule 6 to the Tax Credits Act.

(**26**) Child's special allowance was abolished except for existing beneficiaries as from 6th April 1987 (see section 56 of the Contributions and Benefits Act, which was amended by Schedule 6 to the Tax Credits Act).