

2011 No. 826**PENSIONS****The Pensions Increase (Modification) Regulations
2011**

<i>Made</i> - - - -	<i>16th March 2011</i>
<i>Laid before Parliament</i>	<i>17th March 2011</i>
<i>Coming into force</i> -	<i>10th April 2011</i>

The Treasury, being satisfied that it is proper so to do, in exercise of the power conferred by section 5(3) of the Pensions (Increase) Act 1971(a) and now vested in them(b), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pensions Increase (Modification) Regulations 2011, and shall come into force on 10th April 2011.

Interpretation

2. In these Regulations—
 “the 1971 Act” means the Pensions (Increase) Act 1971;
 “the 1975 Act” means the Social Security Pensions Act 1975(c).

Modification

3. The provisions of section 59 of the 1975 Act shall apply in relation to an official pension(d) subject to the modification in regulation 4.

4. “Base period”, in relation to the direction specified in regulation 5, means the period ending with the coming into force of that direction and beginning on 12th April 2010.

5. The direction specified in this regulation is the direction mentioned in section 59(1) of the 1975 Act coming into force on 11th April 2011(e).

*Michael Fabricant
James Duddridge*

16th March 2011

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 1971 c. 56; section 5(3) was amended by Social Security Pensions Act 1975 (c. 60), Schedule 4, paragraph 18, S.I. 1974/1264 and S.I. 1979/1451.

(b) By virtue of article 2(1)(c) and (d) of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

(c) 1975 c. 60. By virtue of section 59(7), as amended by the Social Security Act 1979 (c. 18), Schedule 3, paragraph 20, section 59 and section 59A of the 1975 Act and the 1971 Act have effect as if section 59 and section 59A were contained in Part I of the 1971 Act.

(d) By virtue of section 9(1) of the 1971 Act references to a person apply in relation to any allowance benefit or compensation whether it takes the form of periodical payments or of a gratuity or other lump sum.

(e) This direction is contained in S.I. 2011/821.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 59 of the Social Security Pensions Act 1975 as amended, and as modified by section 59A of that Act, the Treasury (in whom the functions conferred by those provisions are now vested) are required to provide by order for the increase in the rates of public service pensions. Under section 59(7) of the 1975 Act, section 59 of that Act has effect as if it were contained in the Pensions (Increase) Act 1971. Section 9(1) of the 1971 Act provides that references in the Act to a pension shall apply in relation to any allowance, benefit or compensation whether it takes the form of periodical payments or of a gratuity or other lump sum; and section 9(2)(c) provides that references to the “rate” of pension shall have effect as references also to the amount of a lump sum benefit. The increase is the percentage by which the Secretary of State for Work and Pensions has, by direction given under the provisions of section 151(1) of the Social Security Administration Act 1992, increased the sums referred to in section 150(1)(c) of that Act. These are the sums which are the additional pensions in long term benefits, namely the additional pension entitlements accruing to employees in respect of earnings after 5th April 1978.

Where the pension began since the last direction given by the Secretary of State for Work and Pensions the increase is a fraction of the percentage provided for in the latest direction. This usually means that pensions which have been in payment for less than a year get a proportionate fraction of the increase. However there was no direction in 2010. Accordingly the provisions of the 1975 Act would require all pensions which began from the date of the direction in 2009 (6th April 2009) to the date of the 2011 direction (11th April 2011) to receive a proportionate fraction of the increase. The modification in regulation 4 of these regulations restores the usual position so that pensions beginning before 12th April 2010 will receive the full increase (3.1%) and only those pensions beginning on or after 12th April 2010 (but before 11th April 2011) will get a proportionate fraction of the increase.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.