Annex F - Other Pensions Act measures

1. Further details of the measures contained in the Pensions Act 2011 are available in the Explanatory Notes accompanying the Act. These can be obtained from http://www.legislation.gov.uk/ukpga/2011/19/contents/enacted.

Power to set date for commencement of additional pension consolidation by order

2. With reference to Section 3.

3. Following the measures to simplify State Pensions introduced in the Pensions Act 2007, the Pensions Act 2008 introduced measures to further simplify the state second pension scheme, with the aim of helping people to understand their entitlement.

4. The 2008 Act provides for earnings-related State Pensions built up before the flat rate introduction year to be combined into a single cash amount (a process known as consolidation). It also provides that only people reaching State Pension age from 6 April 2020 would have any earnings-related State Pension combined in this way. Based on the legislated timetable for increasing women's State Pension age, 6 April 2020 is the date that State Pension age for men and women is equalised. The policy intention was that at State Pension age this cash amount would be added to flat rate additional State Pension (built up from the flat rate introduction year) and basic State Pension to form a person's overall State Pension entitlement.

5. Section 3 is a technical measure designed to provide flexibility as to the period covered by consolidation, and the group affected. The clause removes references to the start date as being the flat rate introduction year. It also removes the provision that only those reaching State Pension age from 6 April 2020 would be affected by consolidation. The clause also provides an order making power for the Secretary of State to set the date at which consolidation will occur and the group who will have any earnings-related State Pension combined in this way.

6. All other aspects of the existing policy would remain the same. As such, any earnings-related State Pension built up before the consolidation date would be combined into a single cash amount based on the rules in force at that time. The measure would have no impact on a person's overall State Pension income over the course of their retirement.

7. As contracted-out pension rights are offset against additional State Pension entitlement built up before 1997 a number of people would only gain additional State Pension for that period at some time after State Pension age. Under consolidation actuarial factors would be applied to a person's contracted-out pension rights in order to smooth the disparities in entitlement that occur during retirement. This is likely to affect around 11 million people who built up contracted-out pension rights between 1978 and 1997.

8. Under consolidation the pattern of payments a person with pre-1997 contracted-out rights receives would change. Their entitlement would be flattened over their retirement resulting in a greater amount paid early in retirement and less paid later. The amount of any individual gain or loss is measured relative to average life expectancy. There would be no effect on the total retirement income of a person who lives to average life expectancy; however, a pensioner who dies earlier than average would gain with losses experienced by those who live longer than the average.

9. A full Impact Assessment was carried out for the original proposal, as legislated for in the Pensions Act 2008.[1] The policy remains broadly unchanged so a further Impact Assessment is not necessary. Any proposal to bring forward the consolidation date would bring forward costs, but a start date for consolidation is yet to be decided. The measure would be broadly cost neutral over the long term.

Abolition of Payable Uprated Contracted-out Deduction Increments (PUCODIs)

10. With reference to Section 2.

11. Where individuals contracted-out of the additional State Pension between 1978 and 1997 and delay taking their contracted-out benefits, they earn increments on these benefits. These benefits are payable by their pension scheme but, as the increments are not fully indexed by that pension scheme, the Government currently adds small amounts to the scheme member's underlying state additional pension. The original policy intention was to ensure parity between those who were contracted out and those who were not. However, past policy changes to the State Pension and contracted-out benefits have eroded this policy intention.

[1] The full Impact Assessment for the Pensions Bill 2007, which became the Pensions Act 2008, is available at:
http://www.ialibrary.berr.gov.uk/ImpactAssessment/?IAID=6817a6a7312046c0bdb41968b15db2aa
See Chapter Seven for assessment of the impacts of this measure.

12. Section 2 removes the provision from the state for new awards of small "top-up" amounts to a person's State Pension from 6 April 2012, where that person is a member of a Defined Benefit contracted-out scheme who has delayed taking their pension, or is the survivor of such a member. Awards which have been made and are in payment before this date will not be affected.

13. The amendment will create no impact on the private sector or civil society organisations.

14. The abolition of PUCODIs is expected to create Government savings of less than £1 million per year between 2011/12 and 2015/16.

15. Around 120,000 people (approximately less than 10 per cent of the total current pensioner population) currently receive this increment in their own right. Of these individuals, around 80 per cent receive less than £1 a week (although the maximum payment is £14). Where an increment is in payment, it represents 0.6 per cent, on average, of a person's State Pension income. Around 9,000 people have inherited these additions, for whom the mean amount is 60 pence a week (the maximum payment is £6.30).

16. Around 6,000 of the 9,000 people in receipt of inherited PUCODIs are women. The average received by women is similar to men: around 30p. Like the State Additional Pension, all recipients of PUCODIs are likely to see a decrease in the increases they receive through the state on account of the fact that PUCODIs will be increased by the rate of CPI in future rather than RPI.

Financial Assistance Scheme – transfer of assets

17. With reference to Section 24.

18. The Financial Assistance Scheme (FAS) was established through Regulations under the Pensions Act 2004 in 2005 to provide help to members of certain defined benefit occupational pension schemes which had begun to wind up under-funded and, as a consequence, the members lost some or all of their accrued pension.

19. Regulations made in 2010 provide for the transfer of FAS scheme assets to the Secretary of State. The Regulations achieve this by modifying various provisions of the Pensions Act 2004. During Parliamentary passage, the JCSI reported that this was an unusual use of the modification powers and expressed concern over whether assets could be transferred to the Secretary of State given the explicit reference to assets transferring to the Scheme Manager (who is the Pension Protection Fund) under s.286(3)(c).

20. Section 24 intends to put this matter beyond doubt by amending 286(3)(c) to provide that assets can be transferred to a prescribed person, which will be the Secretary of State. This change will also allow FAS Regulations to be amended to make their meaning more obvious to the reader.

21. The change will have no significant impact on business, or civil society organisations; nor create any costs to the public sector. The change will have no significant impact on individuals, nor will it create any equal treatment issues.

FAS – amount of payments

22. With reference to Section 23.

23. Primary legislation requires annual payments to be at least 80 per cent of the expected pension, initial payments at least 90 per cent and that survivors must get at least 50 per cent of their deceased partner's expected pension. These provisions were inserted into the primary legislation when the FAS provided relatively limited and simple payments.

24. Since then, new provisions to allow for early payments where people are in ill health and to allow for payments to surviving spouses, where the member dies having been in a polygamous marriage have been introduced. The regulations providing for these payments are unnecessarily complex as a result of these restrictions in primary legislation.

25. Section 23 allows for regulations to make exceptions to these minimum percentages, which should allow the regulations to be significantly shorter and more easily understood. There is no intention to use this provision to change the current levels of payment made by the FAS.

26. The change will have no significant impact on business, or civil society organisations; nor create any costs to the public sector.

27. The change will have no significant impact on individuals, nor will it create any equal treatment issues.

Money purchase benefits – definition of money purchase benefits and supplementary powers

28. With reference to Sections 29 to 33.

29. On 27 July 2011 the Supreme Court handed down judgment in *Houldsworth and another v Bridge Trustees & Secretary of State for*

Work and Pensions. The Supreme Court decided that certain benefits which could develop funding deficits or surpluses could still fall within the definition of 'money purchase benefit'. Parliament has previously legislated on the assumption that a money purchase benefit could not develop a funding deficit or surplus.

30. Section 29 clarifies the definition of money purchase benefit to make clear that a benefit that could develop a deficit is not a money purchase benefit. Sections 30 to 33 make transitional, consequential or supplementary provision as well as the power to make further amendments to the definition of 'money purchase benefits' if necessary.

31. The change will have no significant impact on individuals, or civil society organisation; nor create any costs to the public sector.

32. The change will have no significant impact on individuals, nor will it create any equal treatment issues.

Amendments to legislation concerning payments of surplus to employers, to some schemes and in some circumstances

33. With reference to Section 25.

34. Section 251 of the Pensions Act 2004, which came into force from 6 April 2006, gave trustees a transitional power to confirm or amend powers in scheme rules to make payments to the employer. These transitional provisions accompanied the revision of Section 37 of the Pensions Act 1995, which sets out conditions which must be satisfied before a payment can be made to a sponsoring employer from pension scheme funds (often referred to as the surplus rules).

35. Section 25 amends Section 251 to ensure it does not apply to schemes and payments in circumstances to which Section 37 of the Pensions Act 2005 does not apply. The clause also extends the transitional period during which Section 251 will apply by five years (to 6 April 2016). The need for the amendment was identified following a number of queries from pensions industry professionals which indicated that Section 251, as worded, could apply to payments which were not themselves subject to Section 37.

36. The amendment is not expected to involve any costs to business, civil society organisations and the public sector; nor to individuals. Conversely, if the amendment is not introduced it is likely that there would be a small cost for some pension schemes.

Amendments to legislation concerning the requirement for Cash Balance scheme members to purchase an indexed annuity

37. With reference to Section 21.

38. Cash Balance (CB) schemes are schemes where the member accrues benefits in the form of a lump sum or fund, the level of which can be determined in advance, is guaranteed to reach a particular minimum, or is determined by the application of a notional accrual rate or rate of interest. The fund is then used to buy an annuity or to provide a pension from scheme funds. Currently Section 51 of Pensions Act 1995 requires that members buying or receiving an annuity or being paid a pension from a cash balance scheme must receive Limited Price Indexation.

39. Section 21 amends Section 51 to remove the requirement for cash balance benefits (either annuities or scheme pensions) to be indexed, and to allow members of CB schemes to purchase any type of annuity they want on the open market. It is limited in effect to giving people more choice about how they shape their income from cash balance schemes.

40. There is no change in the regulatory burden for sponsoring employers, for whom the annuity type chosen by their members is irrelevant.

41. This amendment will not affect scheme pensions/annuities already in payment, and there will be no reduction or increase to the value/amount of the Cash Equivalent Transfer Value.

42. It is envisaged that the measure will affect around 80,000[2] members of cash balance schemes in the UK, who will now have a greater choice over what type of annuity they can purchase. There might be a small change in the pattern of annuity purchases as a result. The measure does not have any differential impacts for different groups of individuals.

Amendment to legislation concerning the governance framework of The Pensions Advisory Service

43. As referenced by Section 35.

44. Section 174 of the Pension Schemes Act 1993 concerns payments of grants to bodies that provide advice or assistance to people in

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[2] An estimated figure based on Barclays scheme membership (around 60,000) plus members of other cash balance schemes (for example Diageo, RSPB, Provident Financial Services, House of Fraser)

connection with occupational and personal pensions or carry out such other functions as may be specified in regulations.

45. Section 35 amends Section 174 to enable the Secretary of State to make payments of grant-in-aid to any person or body providing advice or assistance. This will allow payments to be made direct to The Pensions Advisory Service whereas currently it is necessary for these to be routed via the Pensions Regulator.

46. This is a minor and technical amendment only and will have no significant impact on business, civil society organisations, or the public sector.

47. It does not create any equal treatment issues.

Amendment to legislation concerning calculation of debt owing to a pension scheme

48. As referenced by Section 27.

49. Schedule 4 of the Pension Schemes Act 1993 concerns the calculation of the amount of debt owed (with respect to the contributions), by employer or employee, to a contracted-out pension scheme in the event of bankruptcy.

50. An inaccurate consequential amendment made to Schedule 4 needs to be corrected. The amendment is consequential to Section 15 Pensions Act 2007 (abolition of Defined Contribution contracting-out); and contained within paragraph 60 of Schedule 4 to the Pensions Act 2007 which is intended to be brought into force by 6 April 2015.

51. Section 27 amends Schedule 4 to enable the calculation of the amount of debt (in respect of the contributions owed) to be made according to the correct rebate percentages.

52. This is a minor and technical amendment that corrects a previous incorrect amendment. It will have no significant impact on business, civil society organisations, or the public sector. It does not create any equal treatment issues.

53. Without this amendment to legislation, the amount of debt (in respect of the contributions owed) will continue to be calculated according to the old rebate percentages, with possible consequential cost to schemes.

Amendment to legislation concerning calculation of debt owing to a pension scheme

54. As referenced by Section 28.

55. Schedule 4 of the Pension Schemes Act 1993 concerns the calculation of the amount of debt owed with respect to the contributions, by employer or employee, to a contracted-out pension scheme in the event of bankruptcy.

56. A missed consequential amendment means that the power in section 42(6), which previously allowed the percentages specified in Schedule 4 of the Act to be changed in line with changes to the rebate percentages, is now unclear.

57. Section 28 will amend Section 42(6) to make the power clear, by ensuring that Section 42(6) cross-refers to the correct part of Schedule 4.

58. This is a minor and technical amendment that corrects a previous incorrect amendment. It will have no significant impact on business, civil society organisations, or the public sector. It does not create any equal treatment issues.

59. Without this amendment to legislation, the amount of debt (in respect of the contributions owed) will continue to be calculated according to the old rebate percentages, with possible consequential cost to schemes.