

# The impact of using CPI as the measure of price increases on private sector occupational pension schemes

Consultation on Government proposals

December 2010

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# Foreword

This consultation sets out the Government's assessment of the impact of the decision to use the consumer prices index (CPI) as the measure of price increases on private sector occupational pension schemes, and seeks views on an amendment to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006.

The Chancellor of the Exchequer announced in the emergency Budget statement on 22nd June 2010 that the Government proposes to use the consumer prices index (CPI) as the basis for increasing most benefits and public sector pensions. On 8 July 2010, the Minister of State for Pensions announced that the Government intends to use the CPI as the basis for the statutory minimum revaluation and indexation of occupational pension schemes, and for relevant payments made by the Pension Protection Fund (PPF) and the Financial Assistance Scheme (FAS).

The Government is conscious of the need for clarity about whether there is likely to be further statutory intervention to ensure that pension schemes can make operational decisions for the future.

A consultation document was published on 12<sup>th</sup> August seeking views on the draft Financial Assistance Scheme and Pension Protection Fund (Valuation, Revaluation and Indexation Amendments) Regulations 2011. These draft Regulations are intended to deliver some of the changes to the Financial Assistance Scheme and the Pension Protection Fund in relation to the calculation of certain payments by reference to CPI.

*This consultation focuses on the impact on private sector occupational pension schemes.*

The consultation is aimed primarily at pension industry professionals and others with an interest in occupational pension schemes. However, the Government is mindful that the matters covered in this consultation will affect a wider range of individuals. Therefore, the Government would welcome feedback from those who may be affected, and their representatives.

## Subject of consultation

The main impact of the announcement on occupational pension schemes is that the annual revaluation order due to be published shortly will use the CPI as the measure for the increase in the general level of prices for the last 12 months of the inflation reference period ending on 30<sup>th</sup> September 2010. The order is expected to be laid before Parliament today.

This consultation document sets out the Government's views on:

- the impact of using CPI on private sector occupational pension schemes;
- whether there should be legislative provision to enable schemes to adopt CPI as their preferred inflation measure; and
- the case for legislation to avoid schemes having to pay the higher of CPI or the retail prices index (RPI).

The Government also proposes changing the requirements on employers to consult with their employees before making important changes to their pension scheme.

## Purpose of the consultation

We welcome your comments on:

- The Government's view on the impact of the decision to use the consumer prices index (CPI) as the measure of price increases on private sector occupational pension schemes, and
- The proposed amendment to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006.

## The consultation arrangements

The Government Code of Practice on Consultation advises that a minimum of 12 weeks is appropriate for public consultations, unless there are good reasons for a shorter period. In this case, consultation will run for 12 weeks.

The consultation is being conducted in line with the Government Code of Practice on Consultation – [www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html](http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html) – and its seven consultation criteria, which are as follows:

- **When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.
- **Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.
- **Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.

- **Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.
- **The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- **Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- **Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

## How to respond

The consultation exercise will run from **8 December 2010 to 2 March 2011**.

Any replies received after that date may not be taken into account so please ensure your response reaches us by that date.

Please send your responses, preferably by email, to: [adelphi.sft@dwp.gsi.gov.uk](mailto:adelphi.sft@dwp.gsi.gov.uk)

or by post to:

Michelle Boreland  
Department for Work and Pensions  
7<sup>th</sup> Floor,  
Caxton House  
Tothill Street  
London.  
SW1H 9NA

Tel. 020 7449 7372

Please remember to indicate if you are responding on behalf of an organisation or as an individual.

## Freedom of Information

The information you send us may need to be passed to colleagues within the Department for Work and Pensions, published in a summary of responses received and referred to in the published consultation report.

All information contained in your response may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.

More information about the Freedom of Information Act can be found at [www.dwp.gov.uk/freedom-of-information](http://www.dwp.gov.uk/freedom-of-information)

## Feedback on responses

A summary of responses will be published following the consultation. The Government will aim to publish this summary within three months of the consultation closing. The summary of responses will be available on the Department's website:

<http://www.dwp.gov.uk/consultations/2010/>

## Feedback on this consultation

We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Roger Pugh  
DWP Consultation Coordinator  
1<sup>st</sup> floor, Crown House  
2, Ferensway,  
Hull  
HU2 8NF  
[roger.pugh@dwp.gsi.gov.uk](mailto:roger.pugh@dwp.gsi.gov.uk)

In particular, please tell us if you feel that the consultation does not satisfy the Government Code of Practice on Consultation. Please also make any suggestions as to how the process of consultation could be improved further.

If you have any requirements that we need to meet to enable you to comment, please let us know.

## Impact Assessment

An assessment of the impact of the Government's decision to use CPI is published alongside this document.

# The impact of using CPI

## Background

- 1 On the 8 July the Government made a written statement about the intention to use the CPI as the basis for determining the statutory minimum percentage increase for revaluation and indexation of private sector occupational pensions, PPF compensation and FAS payments.
- 2 The main vehicle for implementing the decision to use CPI for private sector occupational pensions is the 2010 revaluation order which is due to be laid before Parliament at the same time this document is published. The only difference this year is that it uses the September CPI figure as the measure of increase in the general level of prices. Occupational pension schemes will use the order from 1 January 2011 to determine the minimum amounts for both revaluation and indexation as usual.
- 3 The Government is conscious of the need for clarity about whether there is likely to be further legislation. Assumptions about the extent to which CPI will become the measure of inflation are important for any activity that require trustees and sponsoring employers to calculate the value of pensions; including funding negotiations, transfer values, commutation factors and risk reduction exercises.
- 4 The Government is also aware that some schemes will find it difficult to continue to mirror statutory indexation and revaluation without legislation.
- 5 This consultation document sets out the Government's views on:
  - the impact of using CPI on private sector occupational pension schemes;
  - whether there should be legislative provision to enable schemes to modify scheme rules to remove or replace references to RPI; and
  - the case for legislation to avoid schemes having to pay the higher of CPI or RPI in any one calendar year.
  - the addition of a further "listed change" for the purpose of the employer consultation requirements

## The statutory requirements for indexation and revaluation

- 6 Defined Benefit (DB) occupational pension schemes are required to index pension rights accrued from 1997 onwards. The amount of the required increase is determined annually when the Secretary of State makes a decision on the percentage increase in the general level of prices. The statutory minimum increase is capped at 5% for pension accrued between 1997 and 2005, and capped at 2.5% thereafter.
- 7 Salary-related contracted-out pension schemes who, as a condition of contracting out between 1978 and 1997, must provide a Guaranteed Minimum Pension (GMP) are required to index GMP rights accrued from 1988 to 1997. Again this is determined by the general level of prices but with a cap of 3%.
- 8 Occupational pension schemes are also required to revalue deferred pensions for the period between leaving active membership and reaching scheme pension age. Again, the statutory minimum required increase is determined annually when the Secretary of State makes a decision on the percentage increase in the general level of prices. These increases are capped at 5% for service before 2009 and 2.5% thereafter.
- 9 In the case of GMPs, occupational pension schemes are required to revalue them by the increase in the general level of earnings, therefore the change to CPI is not a relevant factor.
- 10 The statutory increases set out in the annual revaluation order are the minimum schemes have to provide for. These increases underpin the provisions schemes have set out in their scheme rules.
- 11 The legislation on indexation and revaluation of private sector occupational pensions does not specify a particular measure of inflation. In previous years the figures in the revaluation order have been calculated by reference to RPI. The 2010 revaluation order has been prepared using CPI as the measure of the level of general increase in prices for the 12 month inflation period ending 30<sup>th</sup> September.



# The impact on pension schemes

## The impact on indexation and revaluation

- 12 Using CPI to measure price increases will affect occupational pension schemes in different ways because of the interaction between legislation and the rules of the scheme. Scheme rules vary enormously, but most can be put into five broad categories. These are:
- Schemes which make no specific reference to a particular level of revaluation or indexation in the rules; or acknowledge that requirements of overriding legislation apply.
  - Schemes with rules that specify RPI.
  - Schemes which provide increases at a greater rate than required by law.
  - Schemes where the trustees have some discretion over benefit increases.
  - Schemes that for historical reasons refer to the Pensions (Increase) Act 1971.
- 13 Consequently, the impact on individual members will depend on:
- Whether there is further legislation,
  - What the rules of their scheme say, and
  - What provisions there are for changing the rules and whether schemes choose to change them.
- 14 In the absence of further legislation or changes to scheme rules:
- For schemes which make no specific reference to a particular level of revaluation or indexation in the rules, or acknowledge that requirements of overriding legislation apply, pensions in payment will be increased by CPI (subject to the relevant cap) and deferred pensions will be revalued in line with the latest revaluation order
  - Schemes with rules that specify RPI for pension increases will continue to increase pensions according to the rules, except in years where the statutory minimum calculated using CPI is higher than RPI under scheme rules. Some schemes use inflation reference periods other than the year to

30<sup>th</sup> September, so it won't just be where CPI is higher than RPI on 30<sup>th</sup> September

- Schemes which provide increases at a greater rate than the statutory minimum will continue to pay increases according to the rules
- The outcome in schemes where the trustees have some discretion over benefit increases will depend on the nature and extent of the discretion, and whether the trustees choose to exercise the discretion. A number of schemes use a form of words that provides for “RPI or such other index as the trustees determine” or similar, and this creates a potential opportunity to move to CPI
- Schemes that for historical reasons refer to the Pensions (Increase) Act 1971 will continue to be tied to the Pensions Increase (Review) Order.

**Q1: The Government welcomes views on whether the impact of using CPI has been correctly summarised**

## **Employer consultation requirements**

- 15 Some schemes will want to change their rules in response to the changes to statutory indexation and revaluation. Some changes to scheme rules that affect future accruals are subject to consultation under section 259 of the Pensions Act 2004. Section 259 requires consultation by the sponsoring employer for at least 60 days before making a “listed change”. Listed changes to occupational pension schemes are set out in regulation 8 of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006.
- 16 At the moment, changes to revaluation and indexation rules are not “listed changes” for the purpose of the employer consultation requirements. This means that there is no requirement for employers to consult under these provisions with employees affected by changes to scheme rules on indexation or revaluation.
- 17 The Government recognises the importance of consultation on certain changes to occupational pension schemes. The requirement to consult gives affected members the opportunity to have their say about future changes to the pension scheme and ensures they are fully aware of the changes and the implications for their future pension provision. Although employers are required to consult, failure to comply with the requirements doesn't invalidate any rule change.
- 18 The Government proposes to make certain changes to scheme rules on indexation or revaluation a listed change for the purpose of the employer consultation requirements. Draft regulations are attached at Annex B. The

change would be brought into force as soon as possible.

**Q2: The Government welcomes views on whether it is right to apply the employer consultation requirements in respect of changes scheme rules on indexation and revaluation.**

**Q3: The Government welcomes views on the draft Occupational Pension Schemes (Consultation by Employers – Amendment) Regulations 2011**

## **Career average schemes**

- 19 As a form of DB scheme, career average schemes are subject to the indexation requirements in section 51 of the Pensions Act 1995 in the same way as any other DB scheme. The revaluation provisions apply in a different way, however, as once a member reaches pension age the scheme is required to revalue the deferred pension in the same way they revalue for active members (paragraph 3 of Schedule 3 to the Pension Schemes Act 1993).
- 20 The Government is not aware that using CPI instead of RPI for statutory indexation and revaluation raises any particular issues for career average schemes.

**Q4: The Government welcomes views on whether there are any issues that should be considered in respect of career average arrangements.**

## **Revaluation and indexation of Guaranteed Minimum Pensions (GMPs)**

- 21 The rules for revaluation and indexation of GMPs are set out in legislation.
- 22 GMP revaluation is linked to earnings rather than prices, so no issues will arise in respect of using CPI for statutory increases in non GMP benefits.
- 23 Increases to GMPs in payment are set out in the annual GMP Increase Order and are determined by the general level of prices or 3% whichever is less. This means that, generally, where the annual increase in RPI is greater than CPI there will be an effect on a scheme's liabilities from the change from RPI to CPI. However, where both CPI and RPI exceed 3%, the change to CPI will have no effect.

- 24 The Government's understanding is that it would be very rare to find scheme rules that set out indexation and revaluation rules for GMPs. Consequently the Government does not propose any further legislation in respect of GMPs as a result of the decision to use CPI as the measure of inflation.

**Q5: The Government welcomes views on whether there are any issues that should be considered in respect of GMPs.**

## **Annuities**

- 25 An annuity is usually a contract between the scheme member and the pension provider and the change from RPI to CPI will not, therefore, affect pensions payable under an annuity in the same way as it does for benefits within an occupational pension scheme. Although this means some pensioners will continue to receive increases calculated by reference to RPI, this was generally an explicit promise when the product was purchased and was reflected in the amount of starting pension payable. The Government is aware there may be some scope for annuity contracts to have different forms of wording around pension increases, but considers this to be a matter between the member and the provider.

## **Buy-outs/buy-ins**

- 26 Buy-outs and buy-ins are both forms of contract for securing benefits through an insurance company. The impact of using CPI for statutory indexation and revaluation will not directly interfere with any existing contracts.
- 27 Some schemes may attempt to renegotiate existing buy-out or buy-in contracts already agreed on the assumption (at the time of the agreement) that indexation would continue to be based on RPI, but that is a matter for the scheme, the employer, the provider and their advisors.

## The case for statutory intervention

- 28 The Government is aware that there has been some speculation that private sector occupational schemes would be forced or expected to adopt CPI as the measure of inflation for indexation and revaluation.
- 29 The Government has also acknowledged there may be a case for considering legislation to make it easier for schemes to change their own rules if they want to.
- 30 It follows that statutory intervention could take two forms:
- (1) Legislation that would directly override the rules of individual schemes, (a “**statutory override**”) or
  - (2) A permissive power that would make it easier for schemes to change their own rules if they chose to (a “**modification power**”)
- 31 The Government has looked at a number of issues in deciding whether statutory intervention is justified including:
- The fact that many schemes have RPI written into scheme rules in an attempt to mirror the statutory minimum
  - The fact that some schemes may have written RPI into scheme rules as a result of negotiations between schemes, members, unions and sponsoring employers
  - The fact that outcomes for members will depend on what the scheme rules currently provide and on whether the scheme can change its rules without government assistance
  - Administrative burdens on schemes
- 32 In considering the case for statutory intervention, the Government is mindful of the need to preserve and promote confidence in saving into private pensions. This means there needs to be compelling justification for intervening in the relationship between pension scheme members, the trustees and the sponsoring employer.

### Statutory Override

- 33 The Government **does not** propose to introduce legislation that would directly override the rules of occupational pension schemes without the consent of

trustees or employers. The Government believes this would:

- (a) represent an unwarranted interference in the rights of employers and trustees to manage their financial affairs. It would potentially override arrangements agreed through collective bargaining arrangements, privatisation agreements and private contracts;
- (b) create unnecessary complications and difficulties in respect of employment and other contracts; and
- (c) potentially have a detrimental impact on members in schemes where the employer is prepared to fund increases at a rate above the required statutory minimum.

34 The Government has no plans to interfere with existing contracts for buy-outs or buy-ins by means of a statutory override and no plans to interfere with existing annuity contracts.

**Q6: The Government welcomes views on whether there is any justification for overriding the rules of private sector occupational pension schemes to impose CPI as the measure of increase in prices**

## **Modification powers**

35 An alternative to overriding legislation is to make legislation that would make it easier for schemes to amend their own rules if they want to. The Government recognises that the issues here are finely balanced and welcomes views.

36 The Government is aware that many schemes wrote or amended their indexation and revaluation rules in response to the introduction of statutory indexation by the Pensions Act 1995. The precise formulation of the rules will have depended on a number of factors, including that, (at the time) RPI was the only generally recognised inflation measure.

37 The Government also understands that the extent to which some schemes can adopt CPI as their preferred measure without further legislation will depend to some extent on the amendment powers in scheme rules. We believe there may be as many as 70-80% of schemes<sup>1</sup> tied to RPI for the indexation of pensions in payment, and many of them could find it hard to move to CPI.

38 Schemes' ability to amend their own rules will depend on a number of factors including:

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<sup>1</sup> This is a preliminary estimate based on external surveys. The Department is conducting research to establish better information on the way pension scheme rules are currently framed.

- Whether the scheme has any relevant amendment provisions within the trust deed and rules. Some do not – sometimes as deliberate policy to fetter future discretion
- The extent of amendment powers. Some are limited to specific provisions, either by default or design
- The question of where any amendment powers are vested. Some amendments are at the discretion of the employer, some the trustees and some a combination of both. (Any change that might increase costs in a DB scheme will generally require at least the consent of the employer)

39 For those schemes with rules that contain relevant amendment powers it may not be easy to change the basis for indexation of pensions in payment or revaluation as:

- trustees will be conscious of their duty to act in the best interests of the beneficiaries of the trust, and would need to reconcile that duty with any change expected to erode the value of benefits in the long run. There will of course be counter-arguments to consider relating to the longer term viability of the scheme
- there are legislative restrictions on modifications to schemes in section 67 of the Pensions Act 1995. Considering whether explicit references to RPI indexation and revaluation in the rules of an occupational pension scheme constitute a “subsisting right” raises a number difficult legal questions (see also para 40 below)
- trustees will need to consider whether any reference to RPI in scheme rules or other scheme documentation confers any rights to indexation or revaluation at a particular rate
- the power to amend may impose onerous conditions before it can be used e.g. consultation, evidence, administration issues etc

**Q7: The Government welcomes views on whether there are other reasons why a scheme whose rules do contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation and revaluation.**

40 A number of questions have been raised about the extent to which section 67 of the Pensions Act 1995 limits the ability of schemes to make changes to rules on indexation and revaluation. These questions largely focus on:

- (a) The extent to which rules on indexation and revaluation give rise to subsisting rights within the meaning given under section 67A(6) of the

Pensions Act 1995, and

- (b) Whether the exercise of existing discretions (for example to use an index other than RPI) represents a “modification” within the meaning of section 67(1) of the Pensions Act 1995.

- 41 The Government recognises that a modification power in regulations under section 68 of the Pensions Act 1995 would remove any concerns, as such modifications would not be covered by section 67. On the other hand it is concerned that the question of what is or is not an accrued right may depend on the rules of a particular scheme, and that trustees and sponsoring employers should be considering the extent and nature of the pensions promise rather than relying on a blanket modification power.
- 42 There is also the difficult question of who should be given the power to modify. Trustees may find it difficult to reconcile using such a power with their fiduciary responsibilities, but giving modification powers to sponsoring employers would risk upsetting the balance of power both within pension schemes and possibly in the industrial relations arena.
- 43 The Government believes it would be difficult to introduce legislation that targets only those schemes who were attempting to match the statutory indexation and revaluation requirements, as it won't always be clear why a set of rules were drafted in a particular way. The danger in granting wider powers is that schemes would be able to override indexation and revaluation rules regardless of how or why the rules were drafted in that way.
- 44 The Government recognises the arguments are finely balanced, but considers that members' trust in schemes and the scheme rules could be severely damaged if it intervenes to give schemes the power to change their rules where the scheme does not already have such a power. Trust in pensions is important, and Government intervention demands strong justification.
- 45 Consequently the Government **does not** propose to introduce a modification power to allow schemes to use CPI as the basis for revaluation and indexation of members' benefits.

**Q8: The Government welcomes views on whether it is right to rule out granting modification powers.**

**Q9: The Government welcomes views on whether there would be a way to restrict any modification power to those schemes which had previously adopted RPI solely in order to match the statutory minima.**



## CPI underpin

- 46 The Government believes that a number of schemes will continue to increase pensions in payment using RPI as the measure of price inflation, and this is not something it would want to discourage. It has been pointed out, however, that if at any point in the future RPI is lower than CPI (as it was in September 2009), then schemes with RPI increases would have to increase by CPI for that year as it is the statutory minimum. This would mean that those schemes would be subject to a ratchet effect that would lead to higher increases than if they were increasing by RPI. They would also have the administrative burden of constantly have to track both indices.
- 47 The Government proposes to take action so that any scheme choosing to stick with RPI increases would not have to pay the increase at the higher of CPI or RPI in any given year. This is justified on the grounds that:
- As long as RPI is generally expected to exceed CPI, members in schemes that choose to use RPI would be better off over time compared to schemes that apply the new statutory minimum (CPI)
  - If the proposed Government action is not taken, the effect of the general change to the statutory minima would be to increase pension costs for schemes and employers, penalising or discouraging those who choose to stick with RPI

### **Q10: The Government welcomes views on whether you agree the issue of CPI underpins should be addressed.**

- 48 The precise legal mechanism for addressing this issue is to be decided, but our favoured option is to ensure there is an exception to section 51(2) of the Pensions Act 1995 for schemes where the rules provide for increases to pensions in payment by at least RPI.
- 49 The Government proposes to make these changes at the next opportunity.
- 50 It has been pointed out this is effectively the same exception as already provided under section 51(3) of the Pensions Act 1995 for different reasons. Note, however, that section 51(3) currently provides an exception from statutory indexation for schemes that provide pension increases by at least RPI – this is to allow schemes to measure inflation over a period other than the statutory reference period. As a result of using CPI for statutory indexation, section 51(3) may itself be subject to amendment to ensure

schemes providing CPI increases can also measure inflation using a reference period other than the statutory reference period. Consequently it cannot be relied on in its existing form.

**Q11: The Government welcomes views on whether there are any other options to address the CPI underpin issue.**

## Other changes to primary legislation

- 51 As a consequence of the decision to use CPI as the measure of increase in prices, the Government proposes two small changes to primary legislation to address explicit references to RPI. These changes will be made at the earliest opportunity.
- 52 Section 84(5)(b) of the Pension Schemes Act 1993 concerns contracted-out occupational pension schemes in which GMP rights have accrued. Special revaluation rules apply to GMP rights, but this provision allows a scheme to provide revaluation of the whole pension, including the GMP, in line with RPI (uncapped). The Government proposes to amend this section so that it no longer makes specific reference to the retail prices index.
- 53 A similar issue arises with respect to section 40(1) of the Welfare Reform and Pensions Act 1999 which deals with pension credit benefit. (Pension credit benefit arises from a pension sharing order on divorce.) Section 40(1) provides a power for regulations to be made requiring pension credit benefit "to be increased, as a minimum, by reference to increases in the retail prices index, so far as not exceeding the maximum percentage per annum". The Government proposes to amend this section to replace the reference to RPI.

**Q12: The Government welcomes views on whether the proposed amendments to remove references to RPI from primary legislation are satisfactory.**

## Consultation questions

**Q1:** The Government welcomes views on whether the impact of using CPI has been correctly summarised

**Q2:** The Government welcomes views on whether it is right to apply the employer consultation requirements in respect of changes to scheme rules on indexation and revaluation

**Q3:** The Government welcomes views on the draft Occupational Pension Schemes (Consultation by Employers) Amendment Regulations 2011

**Q4:** The Government welcomes views on whether there are any issues that should be considered in respect of career average arrangements

**Q5:** The Government welcomes views on whether there are any issues that should be considered in respect of GMPs

**Q6:** The Government welcomes views on whether there is any justification for overriding the rules of private sector occupational pension schemes to impose CPI as the measure of increase in prices

**Q7:** The Government welcomes views on whether there are other reasons why a scheme whose rules do contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation and revaluation.

**Q8:** The Government welcomes views on whether it is right to rule out granting modification powers

**Q9:** The Government welcomes views on whether there would be a way to restrict any modification power to those schemes which had previously adopted RPI solely in order to match the statutory minima.

**Q10:** The Government welcomes views on whether you agree the issue of CPI underpins should be addressed

**Q11:** The Government welcomes views on whether there are any other options to address the CPI underpin issue

**Q12:** The Government welcomes views on whether the proposed amendments to remove references to RPI from primary legislation are satisfactory.

# Annex A: List of organisations consulted

Organisation
Accounting Standards Board
Association of British Insurers
Association of Consulting Actuaries
Association of Independent Financial Advisors
Association of Pension Lawyers
Auditing Practices Board
Board for Actuarial Standards
Confederation of British Industry
Engineering Employers' Federation
Federation of Small Businesses
Financial Ombudsman Service
Financial Services Authority
Independent Pensions Research Group
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants in Scotland
Institute of Directors
Institute of Payroll and Pensions Management
Investment Management Association
Joint Working Group on Occupational Pensions
Investment and Life Assurance Group
National Association of Pension Funds

Organisation
National Consumer Council
National Pensioners' Convention
The Occupational Pensioners Alliance
The Pensions Advisory Service
Pensions Action Group
Pensions Management Institute
Pensions Ombudsman
Pension Protection Fund
The Pensions Regulator
Redingtons
Social Security Policy and Legislation Division, DSD, Northern Ireland
Small Business Service
The Association of Corporate Trustees
The Institute and Faculty of Actuaries
The Law Society
The Law Society of Scotland
The Society of Pensions Consultants
The Welsh Assembly
Towers Watson
Trades Union Congress
Travers Smith
UNISON
Unite the Union

# Annex B: the draft Occupational Pension Schemes (Consultation by Employers – amendment) Regulations 2011.

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STATUTORY INSTRUMENTS

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**2011 No. [consultation draft]**

## **PENSIONS**

### **The Occupational Pension Schemes (Consultation by Employers – Amendment) Regulations 2011**

*Made* - - - -

*Laid before Parliament*

*Coming into force* - -

*xxx 2011*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 259(1) and (2), 315(2) and 318(1) of the Pensions Act 2004<sup>(2)</sup>.

[In accordance with section 317(1) of that Act, the Secretary of State has consulted such persons as the Secretary of State considers appropriate before making these Regulations.]

#### **Citation and Commencement**

**1.**—(1) These Regulations may be cited as the Occupational Pension Schemes (Consultation by Employers – Amendment) Regulations 2011.

(2) These Regulations come into force on xxx 2011.

#### **Amendment of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006**

**2.** In regulation 8(1) of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (listed changes: occupational pension schemes)<sup>(3)</sup>, after subparagraph (g) insert—

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<sup>(2)</sup> 2004 c.35. Section 259 is modified by S.I. 2006/16 for certain cases. Section 318(1) is cited for the meaning it gives to “prescribed” and “regulations”.

<sup>(3)</sup> S.I. 2006/349.



“(h) to change the rate at which—

(i) pensions in payment under the scheme are increased, or

(ii) pensions or other benefits payable under the scheme are revalued,

but only where that change would be less generous to members or members of a particular description.”.

Signed by authority of the Secretary of State for Work and Pensions.

Date

*Name*  
Minister of State,  
Department for Work and Pensions

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349). The amendments provide that consultation must be carried out before the rate at which pensions are revalued or indexed (increased) can be changed in an occupational pension scheme. Consultation does not have to be carried out if that change is beneficial for the member.

An assessment of the impact these Regulations have on business, charities and the voluntary sector is included in the Impact Assessment entitled ‘Impact of the move to CPI for Occupational Pensions’. Copies of that Impact Assessment are available from the libraries of both Houses of Parliament, the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA and the Department’s website at: <http://www.dwp.gov.uk/publications/impact-assessments>.