

**Private Pensions Policy
and Regulation**

**Disclosure of Information:
Proposed Amending Regulations
and Response to Earlier
Consultation**

Consultation on draft regulations

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About this consultation

Who this consultation is aimed at

1. This consultation is aimed primarily at pension industry professionals, pension schemes, trustees, and industry and member representative organisations, but we would be interested in views from any source.

Subject of consultation

2. The consultation concerns a draft statutory instrument containing proposed amendments to regulations covering disclosure of information requirements in occupational, personal and stakeholder pension schemes. The consultation paper also sets out the Government's response to the consultation exercise on "Review of consultation requirements applying to occupational, personal and stakeholder pension schemes" which was carried out in 2009.

Purpose of the consultation

3. The amendments contained in the draft statutory instrument affect various regulations dealing with disclosure requirements. The Department is keen to receive comments on these proposed amendments, both on a technical level and on the wider underlying policy. Your views are also sought on the **Impact Assessment** on the effect of the draft regulations, which accompanies this document.

The consultation arrangements

4. 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, the consultation document is of a technical, specialised nature and mainly only of interest to professionals in the pensions industry. The issues covered were also subject of a previous consultation in March. Ministers have therefore agreed a limited consultation period of eight weeks is appropriate.
5. The consultation period runs until **1 March 2010**.

Scope of consultation

6. This exercise applies to England, Scotland and Wales.

How can you respond to the consultation?

7. We would be pleased to receive your responses by email to:

adelphi.sft@dwp.gsi.gov.uk

Alternatively, responses can be sent by post to:

Tim Found
Dept for Work and Pensions
7th Floor
Caxton House
Tothill Street
London
SW1 9DA

8. We would be grateful if you would ensure your response reaches us by **1 March 2010**. If responding by email (which we would prefer), there is no need also to send a hard copy. We will acknowledge receipt of all responses.
9. In responding, it would be helpful if you would indicate whether you are doing so as an individual or whether you are representing an organisation. If you are responding on behalf of a representative organisation, please make it clear how the views of constituent members have been gathered.

Queries about the content of this document

10. Any queries about the subject matter of this consultation should be made to:

Tim Found
Dept for Work and Pensions
7th Floor
Caxton House
Tothill Street
London
SW1 9DA

Email: adelphi.sft@dwp.gsi.gov.uk

Freedom of information

11. All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purpose 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 which is 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. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.
12. If you want to find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Charles Cushing
Department for Work and Pensions
Information Policy Division
Central Freedom of Information Team
Adelphi, 1-11 John Adam Street
London
WC2N 6HT

Email charles.cushing@dpw.gsi.gov.uk

or carol.smith14@dpw.gsi.gov.uk

13. Please note that Charles and Carol cannot advise on this particular consultation exercise, only on Freedom of Information issues.
14. More information about the Freedom of Information Act can be found on the website of the Ministry of Justice.
<http://www.justice.gov.uk/guidance/guidancefoi.htm>
15. The information you send us may need to be passed to colleagues within the Department for Work and Pensions and published in a summary of responses received, and referred to in the published consultation report.

The consultation criteria

16. The consultation is being conducted in line with the Government Code of Practice on Consultation – [Government Code of Practice on Consultation](#). The seven consultation criteria are:
 - **When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.

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- **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.

Feedback on this consultation

17. 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
Room 4F, Britannia House,
2, Ferensway
Hull
HU2 8NF

Phone: 01482 609571

Fax: 01482 609658

Email: roger.pugh@dwp.gsi.gov.uk

18. In particular, please tell us if you feel that the consultation does not satisfy the consultation criteria. Please also make any suggestions as to how the process of consultation could be improved further.
19. If you have any requirements that we need to meet to enable you to comment, please let us know.
20. The responses to the consultation will be published in a report on our consultation website that will summarise the responses and the action that we will take as a result of them.

Government response to the March consultation and proposals for change

21. The Department carried out a public consultation exercise between March and May 2009 on a possible approach to simplifying the requirements on pension schemes to disclose information to members and others. This approach was based on the adoption of a limited degree of principles-based legislation, through the adoption of a 'key overarching principle' which trustees and managers would need to take into account when interpreting the requirements of streamlined prescriptive requirements. Other proposals included the consolidation of disclosure regulations into one statutory instrument, replacement of specified timescales with references to "within a reasonable period", backed by a Code of Practice, and amendment of the legislation to facilitate schemes' use of electronic methods of communication. The earlier consultation document sets out the background and proposals more fully and is available at:–
<http://www.dwp.gov.uk/docs/pen-scheme-disclosure-reqts-consultation.pdf>
22. The consultation exercise concluded in May. Sixty-five responses were received from a wide range of individuals, professional consultancies, industry representative bodies, trades unions, pension schemes and pressure groups.
23. Careful consideration has been given to the views expressed by respondents in deciding on the way forward. This paper summarises the responses received and explains the Government's revised proposals.
24. A draft statutory instrument is attached as an Annex to this document. This draft legislation sets out amendments which, with one exception, we aim to introduce with effect from 1 October 2010, subject to comments received as part of this further consultation exercise. This is later than the originally planned coming into force date of the 6 April 2010. The delay is the result of extending the e-comms provisions beyond the scope originally envisaged in March.
25. Apart from the change to the timescale for providing basic scheme information, the amendments are permissive in nature and schemes should not need to make changes to remain compliant with the requirements. We propose the amendment reducing the timescale for the provision of basic scheme information will come into force from 1 October 2012.

Consultation Question 1: Are we correct to say the regulations will not require schemes to make any changes?

Consultation Question 2: Do you have any comments on the regulations generally, either technically or on the underlying policies?

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26. The summary below sets out the Government's response to the six specific questions raised in the March consultation document, and explains the changes being proposed in the draft amending regulations.

The first question we asked was: "Against the background that a streamlined set of prescriptive provisions would still be required for the purposes of satisfying European law¹ and in the interests of certainty for schemes, do you support the addition to the legislation of a key, overarching disclosure principle?"

27. The response to this proposal was very mixed.
28. Those in favour expressed a range of views on why the adoption of an overarching principle would be helpful. The prospect of increased flexibility for schemes through the removal of some prescriptive requirements was welcomed and some respondents also welcomed the prospect of schemes providing more individually tailored information to scheme members to help them make appropriate decisions. A number of other respondents indicated they were in favour of the proposal without giving reasons.
29. Respondents who were against the adoption of the proposed overarching principle expressed several concerns about the proposals. A widespread objection was that the proposed overarching principle would act as a requirement for schemes to consider the differing information needs of various groups of members, or even of individuals, on top of providing information which fully satisfied the specific statutory requirements. This would be a very difficult – and expensive – standard for schemes to try and meet.
30. A key concern expressed strongly by some respondents was the possibility of future legal challenge from dissatisfied members arising from the uncertainty created by the insertion of a disclosure principle. This could result from assertions that the information provided by the scheme had not met the requirements implied by an overarching principle, even when a scheme had clearly met all of the prescriptive requirements. Some respondents noted that at least the current, prescriptive approach gives comfort to the trustees of a scheme that they are meeting the relevant legal requirements in providing the prescribed information.
31. The alternative possibility of legislation being 'watered down' was a concern for some respondents who feared that members might lose clear rights to information if prescriptive requirements were removed, even though trustees would need to consider the overarching principle in determining their policies on disclosure of information.

¹ Principally Directive 2003/41/EC *On the activities and supervision of institutions for occupational retirement provision* (IORP).

Government's position

32. The different interpretations of the meaning of the overarching principle which were evident amongst respondents illustrated the danger of uncertainty should this proposal be adopted. Whilst these interpretations related to the particular wording for the proposed overarching principle, alternative forms of words – which, by the nature of the proposal would have to be general in nature – could give rise to similar problems for schemes and members.
33. Overall, there appears to be a significant risk that the outcome of the proposed reform could be counter-productive. Trustees of schemes might consider they need to review, and potentially change, all of their existing disclosure policies and procedures even if they took the view that they were satisfactory and compliant with the old legislation. If that proved to be the outcome, then in practice the reform would clearly not have met the aim of being deregulatory.

Having considered all the issues raised in the consultation exercise, the Government has decided not to proceed with this proposal.

34. The insertion of a disclosure principle was intended to be a pilot for principles-based legislation more generally. It was apparent from this consultation that prescription is valued by some stakeholders and has some clear advantages. The most obvious of these is that the law is not dependent upon an individual scheme's interpretation and so individuals who are members of several schemes know what they can expect to receive from each of them. The universal nature of prescriptive legislation also helps pension professionals because they do not have to come to a decision about legal requirements on a case by case basis for each scheme that they advise. Being able to use a single IT solution for different schemes is a further advantage that extends from prescriptive legislation that applies to all schemes.
35. However it was also clear from respondents that stakeholders want the *degree* of prescription within legislation to be carefully managed, and kept to the minimum necessary to achieve the policy intention. They also wanted regulations to be flexible enough to allow for the appropriate use of judgement by scheme advisors and trustees in managing how schemes fulfil their obligations to members.
36. As a result of the review we will, therefore, consider how future legislation can incorporate the lessons learnt from the review of disclosure regulations and examine how the degree of prescription can be managed to meet the differing needs of all stakeholders. Any outcome will need to recognise conflicting views on the merits of certainty against flexibility, and operate within any applicable EU legislation.

The second question we asked was – "Do you support the consolidation of general disclosure provisions into one set of regulations, rather than the existing position where disclosure requirements affecting occupational, personal and stakeholder pension schemes are dealt with separately?"

37. Many respondents were in favour of this proposal, though some expressed reservations. Care would have to be taken not to change the effect of the current regulations so as to cause schemes to have to review their procedures. Also, the consolidated provisions should be clearer and easier to follow than the present legislation or the initiative could be counter-productive. The advantage of consolidating the provisions would be realised if it was possible to achieve a single, comprehensive set of requirements which were easier to follow.
38. A number of respondents assumed that bringing the various regulations into one statutory instrument would also mean harmonising the rules applying to different types of scheme, removing any disparity between occupational and personal pensions. This, however, was not the intention. As some respondents pointed out, there are good reasons to have different rules covering certain aspects of disclosure of information by occupational schemes and contract-based schemes.
39. A number of respondents also believed the proposal to remove DWP provisions duplicated in the FSA disclosure rules would also result in harmonisation of the rules for all types of schemes. However, stripping out duplication would not deliver this outcome.
40. Other respondents were concerned that putting provisions affecting different types of schemes into one set of regulations covering all schemes would not enable any administrative savings and preferred the current position.

Government's position

41. A single set of regulations covering occupational, personal and stakeholder schemes and incorporating individual provisions from other sets of regulations could be considered unwieldy. Nonetheless, there may be some advantage to bringing regulations together in this way and the issue is finely balanced.

The Government is currently considering what more can be done in this area, but the issues are being progressed outside the scope of the current amending regulations.

The third question we asked was – "Do you consider that the proposed approach outlined in Annex C [which set out a framework for streamlined regulations] is appropriate? Detailed comments on particular requirements would of course be welcome."

42. The responses to this question varied from high-level comments on the overall approach to detailed comments about technical matters. Some respondents wished to see actual draft regulations before commenting in detail.
43. A number of respondents welcomed the suggestion in the consultation document that the current provisions covering Statutory Money Purchase Illustrations (SMPIs) for Defined Contribution schemes should be simplified. This could be done through removing some requirements for information to be automatically included in the illustration and through making use of "signposting" to where the member can access further information, if desired. Respondents welcomed the prospect of being able to send out shorter, more user-friendly SMPI statements which many members would be more likely to read.
44. Several respondents expressed disappointment that there was no proposal to require the annual benefit statement in a Defined Benefit scheme to be provided automatically (rather than being available on request, as at present).

Government's position

The Government accepts the points made about the benefits of amending the legislation covering SMPI statements.

45. The draft statutory instrument includes amendments to these requirements and, subject to the consultation response, it is intended to make these changes to come into force on the 1st October 2010. These changes would not *require* schemes to change their current arrangements but would enable the production of shorter, simpler SMPI statements for those schemes wishing to review the information provided to members.
46. There are no current plans to require Defined Benefit schemes to issue annual benefit statements automatically to all members. Making annual benefit statements mandatory for DB schemes would not fit with the deregulatory nature of this review. We are aware, however, that many Defined Benefit schemes do provide automatic annual statements on a voluntary basis and we continue to encourage this as good practice.

Proposed amendments to regulations covering SMPI statements

47. In developing our proposals for amending regulations, we have taken into account available research in this area, considered comments made in the earlier consultation and also sought views of some key stakeholders.

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48. The proposals concentrate on the deregulatory nature of the disclosure review and cover all occupational, personal and stakeholder pension scheme requirements.
49. The aim is to give schemes more flexibility in the way the statement can be delivered, with the intent that this will lead to shorter, clearer and more concise statements to further engage members and help improve their understanding.
50. The proposals concentrate on streamlining regulatory requirements to allow 'signposting' to certain required information (enabled by the new proposed instructions on electronic communications) and remove requirements where they are not felt to add greatly to the member's understanding of their pension position, specifically:
 - removing the requirement to provide a date of birth when used for determining the appropriate age-related rebate;
 - removing three of the required statements within the SMPI;
 - allowing 'sign-posting' to certain statements – enabling members who want this information, access to it; and
 - amending the requirement for stakeholder pension schemes so that schemes can choose whether to either provide detailed breakdown information automatically or alternatively provide only the total contribution and deduction details making members aware that more detailed information is available for those that want it.
51. Further detail is set out in the commentary below (see pages 19-23).
52. We are also conscious that these regulatory amendments are only one part of the bigger picture and the Board for Actuarial Standards are also reviewing the guidance² that supports these regulations. The Board for Actuarial Standards plan to consult on changes to TM1 that will be published separately. We will liaise with the Board for Actuarial Standards on both consultation responses and final requirements.

² Technical Memorandum:TM1

Consultation question 3: Do you agree the proposals will provide flexibility for schemes to achieve shorter clearer and more concise annual benefit statements in defined contribution arrangements?

Consultation question 4: Do you agree that after removing some of the mandatory information and making it available on request for stakeholder pension scheme members the annual benefit statement will still provide sufficient information?

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The fourth question we asked was – "Do you support the proposal for regulations to require relevant information to be provided "within a reasonable period", backed with a Code of Practice, replacing the existing approach where timescales are specified in regulations?"

53. There was no consensus on this issue. Many respondents were in favour, seeing the possibility of greater flexibility for schemes, but others felt that the proposal simply reduced members' rights to the provision of information in clearly understood timescales.
54. The question was posed as to whether the Pensions Regulator would have the resources to monitor compliance with a Code of Practice, to investigate complaints where a scheme departed from the Code's recommendations, and to respond to breaches with appropriate timely action.

Government's position

55. The Government notes there were no general complaints that current, prescribed timescales are unreasonable, and, of course, schemes already have procedures in place to meet these requirements.
56. Against that background – and given the concerns expressed by some respondents – the Government takes the view that no great advantage would be likely to be conferred on schemes from any move to require the provision of information "within a reasonable period". Furthermore, there is a small possibility that some scheme members' interests could be compromised and that such a move could create difficulties for tPR.

The Government does not believe, therefore, there is a sufficient case for this change.

The fifth question we asked was – "Do you have any views on the disclosure of information by schemes in the context of the automatic enrolment requirement for employers, commencing from 2012?" (Paragraph 4 of Annex C proposed a requirement for schemes to provide basic scheme information within 14 days when a new employee commences pensionable service.)

57. Some respondents to this consultation preferred to comment on the consultation on proposed auto-enrolment legislation which was carried out around the same time. Others felt unable to comment at all at this stage, without having seen fuller details of the parameters within which employers are to operate auto-enrolment.
58. Most respondents who did comment on this issue thought that it was reasonable to reduce the timeframe to 14 days for schemes to provide basic scheme information. A few thought this period either too long or too short.

Government position

59. The Government has decided to extend the auto-enrolment "joining window" from the originally proposed 14 days to 1 month. (See <http://www.dwp.gov.uk/docs/pae-regulations-2009-govt-response-sept09.pdf> for further details of the revised timescales and procedures for automatic enrolment.)

In line with this change, the Government has decided that the time limit for the provision by occupational pension schemes of basic information to new members should also be 1 month.

60. Based on the responses received to the March consultation, this reduction from the current maximum limit of 2 months should cause no difficulty for schemes. In the great majority of cases, new members are likely to continue to receive basic scheme information in the form of a new members' booklet shortly before, at, or shortly after taking up employment, which is a satisfactory arrangement for both schemes and members. We propose the change in this time limit will take effect from October 2012.

The sixth question we asked was – "Do you have views on the proposal to allow greater use of electronic communications and on how schemes could make significant cost savings from this change?"

61. This proposal was welcomed by most respondents who saw it as potentially helpful in assisting schemes to communicate with members more efficiently and effectively. There may be cost savings for schemes, though respondents were unable to quantify financial effects at this stage.
62. A minority of respondents took the view that it should be for members actively to opt into electronic communications if they wish to receive information in this way, rather than having to opt out if they object.

Government's position

63. The Government proposes to proceed with the necessary amendments to allow schemes to use electronic communications as their default method of communication if they wish. In order to promote efficient administration and minimise burdens, it should be for members to opt out if they do not wish to receive information in this way. Some safeguards are proposed, however, to ensure that members are alerted to changes in communication methods and that the needs of groups such as the visually impaired are taken into account. More detail is set out in the commentary section, below.

Consultation question 5: Do the proposed changes achieve the right balance between providing additional flexibility for schemes and meeting the information needs of members?

Commentary on the draft regulations

The following summary explains the purpose of each of the provisions:

1. **Regulation 1** contains the citation and commencement arrangements. All provisions will come into force from 1 October 2010 with the exception of regulation 4(4)(b) which will come into force on 1 October 2012.
2. **Regulation 2** amends the Personal Pension Schemes (Disclosure of Information) Regulations 1987 (SI 1987/1110).
3. Regulation 2(2) inserts definitions of “electronic communication” and “recipient” into the regulations. For consistency the definition of electronic communication links to the Electronic Communications Act 2000. It also extends the meaning of “address” in the definition of “excluded person” to include both electronic and postal addresses.
4. Regulation 2(3) and (5) amend provisions relating to the requirement to give access to scheme documentation and other information on request. It allows schemes to discharge their obligations by placing the information on a website.
5. Regulation 2(4) makes amendments which are connected to regulation 2(7). The reasons for the changes are described in the commentary to regulation 2(7).
6. Regulation 2(6) substitutes a new regulation 7. Regulation 7 makes revised provision for the service of information and documents by a scheme. Schemes will, subject to certain safeguards, be able to provide information by e-mail and by making it available on a website.
7. Schemes will not be allowed to fulfil their disclosure obligations by means of e-mail or website if the member requests otherwise in writing. And schemes can only provide the information electronically if they are satisfied the website or other electronic communications have been designed so that recipients will be able to access and print the information. They will also have to take account of the needs of people with disabilities.
8. New regulation 7(4) & (5) provide additional protection for existing members who are used to receiving information by post. If the scheme wants to convert from paper to electronic communication, the member must be given written notification and the opportunity to opt for continued paper communication.
9. New regulation 7A makes it clear that members can request information from schemes electronically, provided the request is in a printable form.

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10. New regulation 7B sets out the circumstances where information and documents can be made available on a website. Before trustees or managers can make information available via a website for the first time, they must write to the member's electronic or postal address advising them the information will be placed on a website. The notification must include the web address and details of how to access the relevant information (which in the case of personal information might include login and initial password details).
11. If any further or updated information is placed on the website, the trustees or managers must notify the member using either an electronic or postal address – unless regulation 7B(6) applies.
12. New regulation 7B(6) allows trustees or managers to continue to post information to a website without sending any further communication to the member if they have written to a member at least three times asking for an electronic address, and the member has failed to respond either by providing an electronic address or by requesting paper communication.
13. Regulation 2(7) makes changes to the requirement to provide illustrations of future benefits – the changes should be read in conjunction with the changes made by regulation 2(4). They reduce the amount of information required to accompany the illustration, and allow certain information to be provided by signposting to a website (or by E-Mail) rather than with the illustration.
14. The information no longer required at all is:
 - a statement that the illustration should not be regarded as the only consideration by reference to which the member should make decisions about their pension arrangements,
 - a statement to the effect that the provision of some information is required by law, and
 - a statement to the effect that the illustration has been prepared by reference to certain assumptions.
15. The information that can be provided by signposting is:
 - the statement that general assumptions have been made about the nature and performance of investments, which may be different from their actual nature and performance;
 - the statement that the actual amount of pension payable will depend on considerations, including investment performance and annuity purchase, which may be different from the assumptions made;
 - the statement specifying assumptions made in relation to future contributions to the scheme; and

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- the statement about assumptions made in respect of any contracting-out deductions and annuities.
16. Regulation 2 (7)(c) removes the requirement to provide a date of birth when the scheme uses one for determining the appropriate age-related rebate.
 17. **Regulation 3** amends the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (SI 1991/167). The Personal Account scheme being set up under section 67 of the Pensions Act 2008 will not be required to furnish information to early leavers. This is because, in the case of the Personal Accounts scheme, members will often leave one participating employer and soon after join another. Furthermore, members may continue to contribute even when not in participating employment. So the issuance of 'early leaver' information might not be very helpful for members and potentially could give rise to confusion.
 18. **Regulation 4** amends the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (SI1996/1655). The changes largely mirror those to the Personal Pension Schemes (Disclosure of Information) Regulations described above. The differences are described in the following paragraphs.
 19. Regulation 4(4)(c) disapplies the Personal Accounts scheme being set up under section 67 of the Pensions Act 2008 from specific disclosure requirements. These relate to the information that is not considered essential given the nature of the Personal Accounts scheme – the scheme will not have the same relationship with members or participating employers as single employer schemes.
 20. The time limit for providing basic information about a scheme is being reduced by regulation 4(4)(b) from two months to one month to align with the time limits for automatic enrolment into a qualifying scheme. This change will take effect from October 2012 and will apply to all occupational pension schemes including Personal Accounts.
 21. Regulation 4(6) removes an obsolete provision.
 22. Regulation 4(7) inserts new regulations 10, 10A and 10B which make provisions for electronic communication.
 23. Regulation 4(8)(a) removes the reference to simplified defined contribution schemes, which no longer applies.
 24. Regulation 4(9) disapplies paragraph 16 of schedule 3 in respect of the Personal Accounts scheme being established under section 67 of the Pensions Act 2008. That scheme will not be required to disclose employer related investments as part of the annual report. Given the likely number of participating employers, it is unrealistic to expect the scheme to be able to comply with such a requirement.

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25. **Regulation 5** amends the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (SI 1996/1975). The requirement to include information about Employer related investment in audited accounts will not apply to the Personal Accounts scheme. Again it is unrealistic to expect the scheme to be able to comply with such a requirement.
26. **Regulation 6** amends the Stakeholder Pension Schemes Regulations 2000 (SI2000/1403). The amendments largely mirror the changes to both the occupational and personal pension scheme disclosure regulations; they reduce the amount of information required to accompany annual illustrations, and allow certain information to be provided on a website rather than with the illustration. In addition, they also reduce the amount of information that has to be supplied on annual benefit statements by making some of the information that is currently mandatory available only on request.
27. Regulation 6(2) inserts a definition of “electronic communication” into the regulations and removes the existing provision relating to electronic communications that is superseded by new regulation 18A.
28. Regulation 6(3)(a) inserts a new regulation that allows schemes to choose what information they send, either detailed breakdown information, including:
 - Information about investment gains or losses
 - Itemised contributions by the employer and member, and in the form of tax relief or contracting-out rebates
 - Transfer payments
 - Pension credits
 - Certain deductions
 - Information about with-profits funds

Or, if the scheme prefers, the total contribution and deductions details together with a statement advising the member that more detailed information is available on request.

29. Regulation 6(3)(d) inserts a new regulation for schemes that have chosen to send the total information proposing that they provided the detailed information to the member within to months of a request
30. Regulation 6(3)(e) removes a list of items from regulation 18(5) of the regulations that currently have to be included automatically on every annual benefit statement,
31. Regulation 6(3)(g) inserts into regulation 18 the list of information that has to be sent automatically or available on request.

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32. Regulation 6(4) inserts new regulations 18A, 18B and 18C which make provision for electronic communication.

The draft regulations

2010 No. [draft consultation]

PENSIONS

**The Occupational, Personal and Stakeholder Pension Schemes
(Disclosure of Information) (Amendment) Regulations 2010**

Made - - - - 2010

Laid before Parliament 2010

Coming into force in accordance with regulation 1(2)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 113, 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(a), sections 41(1)(b) and (6), 124(1) and 174(2) and (3) of the Pensions Act 1995(b) and sections 1(1)(b), 8(1) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999(c).

[In accordance with section 185(1) of the Pension Schemes Act 1993(d) and section 120(1) of the Pensions Act 1995, 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, Personal and Stakeholder Pension Schemes (Disclosure of Information) (Amendment) Regulations 2010.

(2) These Regulations come into force—

- (a) except for the purposes of regulation 4(4)(b), on [1st October 2010], and
- (b) for the purposes of regulation 4(4)(b), on 1st October 2012.

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987(e) are amended as follows.

(2) In regulation 1(2) (interpretation)—

- (a) after the definition of “contracted-out employment”(f), insert—

(a) 1993 c.48. Section 113 was amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8), section 52 of the Child Support, Pensions and Social Security Act 2000 (c.19), paragraph 17 of Schedule 12 to the Pensions Act 2004 (c.35), paragraph 6 of Schedule 5 to the Pensions Act 2007 (c.22) and S.I. 2005/2053. Section 181(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(b) 1995 c.26. Section 41(6) was amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998. Section 124(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(c) 1999 c.30. Section 8(1) is cited for the meaning it gives to “prescribed”.

(d) Section 185(1) was amended by paragraph 46 of Schedule 3 and paragraph 80(a) of Schedule 5 to the Pensions Act 1995.

(e) S.I. 1987/1110.

(f) The definition of “contracted-out employment” was inserted by S.I. 2002/1383.

- ““electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(a);”,
- (b) in the definition of “excluded person”(b) before both places where “address” appears, insert “electronic or postal”, and
- (c) after the definition of “pensionable age”(c), insert—
- ““recipient” means the person to whom these Regulations require information or documents to be made available;”.
- (3) For regulation 3(2) (constitution of scheme), substitute—
- “(2) A copy of the contents of any of the documents referred to in paragraph (1) must, within a reasonable time of a request being made by a person in the categories specified in paragraph (4) (not being a request made by a person within 12 months of the last occasion on which a copy of the contents of the same document was made available for the same person), be made available free of charge—
- (a) for inspection at a place which is reasonable having regard to the circumstances of the request; or
- (b) on a website (see regulation 7B).”.
- (4) In regulation 5 (information to be made available to individuals)(d)—
- (a) for paragraph (2), substitute—
- “(2) Each member of the scheme except an excluded person must be furnished, as of course, at least once in every period of 12 months after the date the member became a member of the scheme, with the information mentioned in paragraphs 1 and 2 of Schedule 2 and subject to paragraph (2A)—
- (a) that information must be accompanied by the additional information specified in paragraph 2A(6) of Schedule 2;
- (b) the information mentioned in paragraph 2A(1) of Schedule 2 must also be furnished; and
- (c) the further information specified in paragraph 2A(7) of Schedule 2 must be provided by one of the methods in paragraph (2C) of this regulation.”,
- (b) in paragraph (2B), for the words from “then that information” to the end substitute—
- “then—
- (a) that information must be accompanied by the additional information specified in paragraph 2A(6) of Schedule 2; and
- (b) the further information specified in paragraph 2A(7) of Schedule 2 must be provided by one of the methods in paragraph (2C) of this regulation,
- as if that additional and further information had been provided under paragraph 2A(1) of Schedule 2.”, and
- (c) after paragraph (2B), insert—
- “(2C) The methods referred to in paragraphs (2)(c) and (2B)(b) are for the further information to—
- (a) accompany the information described in paragraph 2A(1) of Schedule 2; or
- (b) be furnished by the trustees of the scheme.”.
- (5) For regulation 6(3) (availability of other information)(e), substitute—

(a) 2000 c.7.

(b) The definition of “excluded person” was inserted by S.I. 1992/1531.

(c) The definition of “pensionable age” was substituted by S.I. 1996/776.

(d) Regulation 5(2) was amended by S.I.s 1992/1531, 1996/1435 and 2002/1383 and regulation 5(2B) was inserted by S.I. 2002/1383.

(e) Regulation 6(3) was amended by S.I. 1992/1531.

“(2A) Any scheme member may request a copy of any document or series of documents referred to in paragraph (1) if—

- (a) the document or series of documents are not the latest and do not relate to a scheme year which ended more than 5 years previously; and
- (b) the request is not being made by a person within 3 years of the last occasion on which a copy of the same document or series of documents was made available for the same person.

(3) Subject to paragraph (5), where a request within paragraph (2A) has been made, a copy of the document or series of documents must, within a reasonable time of the request, be made available free of charge—

- (a) for inspection at a place which is reasonable having regard to the circumstances of the request; or
- (b) on a website (see regulation 7B).”.

(6) For regulation 7 (service of documents by post), substitute—

“Service of information and documents by a scheme

7.—(1) The trustees of the scheme may furnish any relevant information by—

- (a) sending it to the recipient’s last known postal address; or
- (b) subject to paragraphs (2) to (4), using either or both of the following methods—
 - (i) sending it to the recipient’s last known electronic address,
 - (ii) making it available on a website (see regulation 7B).

(2) Where the recipient has requested in writing that—

- (a) any particular relevant information; or
- (b) all relevant information,

is not furnished in accordance with paragraph (1)(b), that information may not be furnished in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished in accordance with paragraph (1)(b) where the trustees of the scheme are satisfied that the website or electronic communications have been designed—

- (a) so that the recipients will be able to—
 - (i) get access to, and
 - (ii) print,the relevant information; and
- (b) taking into account the requirements of disabled recipients.

(4) Where—

- (a) a recipient was a beneficiary or member of the scheme on [1st October 2010]; and
- (b) that recipient has not received relevant information by means of an electronic communication before [1st October 2010],

relevant information may not be furnished to that recipient in accordance with paragraph (1)(b) unless the trustees of the scheme have given them by post the written notice referred to in paragraph (5).

(5) The written notice mentioned in paragraph (4) must state that—

- (a) the trustees of the scheme propose to furnish relevant information to the recipient by means of an electronic communication; and
- (b) the recipient may request in writing that relevant information is not furnished by means of an electronic communication.

(6) In this regulation, “relevant information” means any information or document which these Regulations require the trustees of a scheme to furnish to any person.

Service of information, documents and notifications to a scheme

7A.—(1) Any person may—

- (a) make a request for information or documents; or
- (b) give a notification,

to the trustees of the scheme for the purposes of these Regulations by sending it to the trustees’ last known electronic or postal address.

(2) The request or notification referred to in paragraph (1) may only be made or given to an electronic address where the person reasonably considers that the trustees of the scheme will be able to print it.

Provision of information on a website

7B.—(1) This regulation sets out the circumstances in which information or documents may be made available on a website under—

- (a) regulation 3(2)(b);
- (b) regulation 6(3)(b); and
- (c) regulation 7(1)(b)(ii).

(2) Before the trustees of the scheme make the first information or document available on a website, they must send a notification to the recipient’s last known—

- (a) postal address; or
- (b) electronic address.

(3) The notification referred to in paragraph (2) must include—

- (a) a statement that the information or document is available on the website;
- (b) the address of the website;
- (c) details of the place on the website where the information or document may be read; and
- (d) an explanation of how the recipient may read the information or document on the website.

(4) Except where paragraph (6) applies, before the trustees of the scheme make any subsequent information or document available on a website, they must send a notification to the recipient’s last known—

- (a) postal address; or
- (b) electronic address.

(5) The notification referred to in paragraph (4) must include a statement that the information or document is available on the website.

(6) This paragraph applies where—

- (a) at least three letters have been—
 - (i) given to the recipient by hand, or
 - (ii) sent to the recipient’s last known postal address;
- (b) each of those letters—
 - (i) asks the recipient to send their electronic address to the trustees of the scheme, and
 - (ii) states that the recipient may request in writing that information or documents are not furnished or given by means of an electronic communication; and

- (c) the trustees of the scheme—
 - (i) do not know the recipient’s electronic address, or
 - (ii) have not received a written request that information or documents are not furnished or given to the recipient by means of an electronic communication.”
- (7) In Schedule 2 (information to be made available to individuals)—
- (a) in paragraph 2A(6)—
 - (i) in paragraph (a)—
 - (aa) for the first comma, substitute “and”, and
 - (bb) omit the words from “, and that it should not” to the end, and
 - (ii) omit paragraphs (b), (d), (e), (g), (h) and (i),
 - (b) after paragraph 2A(6), insert—

“(7) The further information which is to be provided is—

 - (a) a statement to the effect that certain general assumptions have been made about the nature of the investments made for the purposes of the member’s money purchase benefits and their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;
 - (b) a statement to the effect that the actual amount of any pension payable to or in respect of the member under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purposes of providing the information under sub-paragraph (1);
 - (c) a statement specifying any assumptions made in relation to future contributions to the scheme; or
 - (d) a statement of the assumptions made in accordance with sub-paragraphs (3)(b)(iii) and (4) or as mentioned in sub-paragraph (5).”, and
 - (c) omit paragraph 12.

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991

3. In paragraphs (1) and (3) of regulation 27A (information to be furnished to early leavers) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(a), after “The trustees or managers of any scheme” insert “except the pension scheme established under section 67 of the Pensions Act 2008(b)”.

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

4.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996(c) are amended as follows.

- (2) In regulation 1(2) (interpretation)—
 - (a) after the definition of “deferred member”, insert—

““electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000;”, and
 - (b) for the definition of “excluded person”(d), substitute—

(a) S.I. 1991/167. Regulation 27A was inserted by S.I. 1996/2131.
 (b) 2008 c.30.
 (c) S.I. 1996/1655.
 (d) The definition of “excluded person” was amended by S.I. 2000/2691.

““excluded person” means a member or beneficiary—

- (a) whose present postal or electronic address is not known to the trustees of the scheme; and
- (b) in respect of whom the trustees of the scheme have sent correspondence to their last known postal or electronic address which has been returned;”.

(3) For sub-paragraph (a) of regulations 3(2) (constitution of scheme), 6(4) (availability and content of annual report) and 7(3) (availability of other documents), substitute—

“(a) be made available free of charge—

- (i) for inspection at a place which is reasonable having regard to the circumstances of the request and of the person who or trade union which made it, or
- (ii) on a website (see regulation 10B); or, at their option,”.

(4) In regulation 4 (basic information about the scheme)(a)—

(a) in paragraph (1), for “paragraph (4)” substitute “paragraphs (4) and (4A)”,

(b) in paragraph (2)—

- (i) for “2 months” substitute “1 month”,
- (ii) in sub-paragraph (a), omit “or by 5th April 1998, whichever is later”, and
- (iii) omit sub-paragraph (b), and

(c) after paragraph (4), insert—

“(4A) The trustee of the pension scheme established under section 67 of the Pensions Act 2008 is not required under this regulation to give any information specified in paragraphs 1, 3, 4, 5, 6, 7, 8 or 12 of Schedule 1.”.

(5) In regulation 5 (information to be made available to individuals)(b)—

(a) for paragraph (5), substitute—

“(5) Subject to paragraph (5ZA) and regulation 2(3A), each member of a scheme who is eligible for money purchase benefits except an excluded person must be furnished, as of course, within 12 months of the end of each scheme year, with the information mentioned in paragraphs 5, 6, 6ZA(1) and 6AA of Schedule 2 and—

- (a) that information must be accompanied by the additional information specified in paragraph 6ZA(6) of Schedule 2;
- (b) the further information specified in paragraph 6ZA(7) of Schedule 2 must be provided by one of the methods in paragraph (5ZD) of this regulation; and
- (c) the information provided in accordance with this paragraph must relate to the member’s money purchase benefits.”,

(b) in paragraph (5ZC), for the words from “then that information” to the end substitute—

“then—

- (a) that information must be accompanied by the additional information specified in paragraph 6ZA(6) of Schedule 2; and
- (b) the further information specified in paragraph 6ZA(7) of Schedule 2 must be provided by one of the methods in paragraph (5ZD) of this regulation,

as if that additional and further information had been provided under paragraph 6ZA(1) of Schedule 2.”, and

(c) after paragraph (5ZC), insert—

“(5ZD) The methods referred to in paragraphs (5)(b) and (5ZC)(b) are for the further information to—

(a) Regulation 4(2) was amended by S.I. 1997/3038.

(b) Regulation 5(5ZC) was inserted by S.I. 2002/1383.

- (a) accompany the information described in paragraph 6ZA(1) of Schedule 2; or
- (b) be furnished by the trustees of the scheme.”.

(6) In regulation 8 (limited disclosure requirements for certain schemes), omit paragraph (2)(b) and the word “and” immediately preceding it.

(7) For regulation 10 (service of documents by post), substitute—

“Service of information and documents by a scheme

10.—(1) The trustees of the scheme may furnish or give any relevant information by—

- (a) sending it to a member or beneficiary’s last known postal address; or
- (b) subject to paragraphs (2) to (4), using either or both of the following methods—
 - (i) sending it to a member or beneficiary’s last known electronic address,
 - (ii) making it available on a website (see regulation 10B).

(2) Where the beneficiary or member has requested in writing that—

- (a) any particular relevant information; or
- (b) all relevant information,

is not furnished or given in accordance with paragraph (1)(b), that information may not be furnished or given in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished or given in accordance with paragraph (1)(b) where the trustees of the scheme are satisfied that the website or electronic communications have been designed—

- (a) so that members or beneficiaries will be able to—
 - (i) get access to, and
 - (ii) print,the relevant information; and
- (b) taking into account the requirements of disabled persons.

(4) Where—

- (a) a beneficiary or member was a beneficiary or member of the scheme on [1st October 2010]; and
- (b) that beneficiary or member has not received relevant information by means of an electronic communication before [1st October 2010],

relevant information may not be furnished or given to that beneficiary or member in accordance with paragraph (1)(b) unless the trustees of the scheme have given them by post the written notice referred to in paragraph (5).

(5) The written notice mentioned in paragraph (4) must state that—

- (a) the trustees of the scheme propose to furnish or give relevant information to the beneficiary or member by means of an electronic communication; and
- (b) the beneficiary or member may request in writing that relevant information is not furnished or given by means of an electronic communication.

(6) In this regulation, “relevant information” means any information or document which these Regulations require the trustees of a scheme to give or furnish to a beneficiary or member of the scheme.

Service of information and documents to a scheme

10A.—(1) Any scheme information may be furnished, made or given by sending it to the trustees of the scheme—

- (a) by post; or

(b) subject to paragraph (2), by means of an electronic communication.

(2) Scheme information may only be furnished, made or given by means of an electronic communication where the person sending it reasonably considers that the trustees of the scheme will be able to print it.

(3) In this regulation, “scheme information” means any—

- (a) request for information or for a document to be given or furnished in pursuance of these Regulations; or
- (b) information to be given to the trustees of a scheme in relation to requirements imposed by these Regulations.

Provision of information on a website

10B.—(1) This regulation sets out the circumstances in which information or documents may be made available on a website under—

- (a) regulation 3(2)(a)(ii);
- (b) regulation 6(4)(a)(ii);
- (c) regulation 7(3)(a)(ii); and
- (d) regulation 10(1)(b)(ii).

(2) Before the trustees of the scheme make the first information or document available on a website, they must send a notification to the recipient’s last known—

- (a) postal address; or
- (b) electronic address.

(3) The notification referred to in paragraph (2) must include—

- (a) a statement that the information or document is available on the website;
- (b) the address of the website;
- (c) details of the place on the website where the information or document may be read; and
- (d) an explanation of how the recipient may read the information or document on the website.

(4) Except where paragraph (6) applies, before the trustees of the scheme make any subsequent information or document available on a website, they must send a notification to the recipient’s last known—

- (a) postal address; or
- (b) electronic address.

(5) The notification referred to in paragraph (4) must include a statement that the information or document is available on the website.

(6) This paragraph applies where—

- (a) at least three letters have been—
 - (i) given to the recipient by hand, or
 - (ii) sent to the recipient’s last known postal address;
- (b) each of those letters—
 - (i) asks the recipient to send their electronic address to the trustees of the scheme, and
 - (ii) states that the recipient may request in writing that information or documents are not furnished or given by means of an electronic communication; and
- (c) the trustees of the scheme—
 - (i) do not know the recipient’s electronic address, or

- (ii) have not received a written request that information or documents are not furnished or given to the recipient by means of an electronic communication.

(7) In this regulation, “recipient” means the person or body to whom these Regulations require information or documents to be made available.”.

(8) In Schedule 2 (information to be made available to individuals)(a)—

(a) in paragraph 5—

(i) in sub-paragraph (a)—

(aa) at the end of paragraph (ii), insert “and”, and

(bb) omit paragraph (iv) and the word “and” immediately preceding it, and

(ii) omit sub-paragraph (b),

(b) in paragraph 6ZA(6)—

(i) in paragraph (a)—

(aa) for the first comma, substitute “and”, and

(bb) omit the words from “, and that it should not” to the end, and

(ii) omit paragraphs (b), (d), (e), (g), (h) and (i), and

(c) after paragraph 6ZA(6), insert—

“(7) The further information which is to be provided is—

(a) a statement to the effect that certain general assumptions have been made about the nature of the investments made for the purposes of the member’s money purchase benefits and their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;

(b) a statement to the effect that the actual amount of any pension payable to or in respect of the member under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purposes of providing the information under sub-paragraph (1);

(c) a statement specifying any assumptions made in relation to future contributions to the scheme; or

(d) a statement of the assumptions made in accordance with sub-paragraphs (3)(b)(iii) and (4) or as mentioned in sub-paragraph (5).”.

(9) In paragraph 16 of Schedule 3 (information to be included in an annual report)(b), insert at the beginning “Except in the case of the pension scheme established under section 67 of the Pensions Act 2008,”.

Amendment of the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996

5. In regulation 3 of the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996(c)—

(a) that regulation becomes paragraph (1) of regulation 3,

(b) in paragraph (1), insert at the beginning “Subject to paragraph (2)”, and

(c) after paragraph (1), insert—

“(2) In relation to the pension scheme established under section 67 of the Pensions Act 2008, the requirement under paragraph (1)(a) for the accounts to contain the information specified in paragraph 5 of the Schedule does not apply.”.

(a) Paragraph 6ZA of Schedule 2 was inserted by S.I. 2002/1383.

(b) Paragraph 16 of Schedule 3 was substituted by S.I. 1997/786.

(c) S.I. 1996/1975. Paragraph 5 of the Schedule was substituted by S.I. 1997/3038 and amended by S.I. 2006/786.

Amendment of the Stakeholder Pension Schemes Regulations 2000

- 6.**—(1) The Stakeholder Pension Schemes Regulations 2000(a) are amended as follows.
- (2) In regulation 1 (citation, commencement and interpretation)—
- (a) in paragraph (3) after the definition of “dilution levy”(b), insert—
- ““electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000;”, and
- (b) omit paragraphs (4) and (4A).
- (3) In regulation 18 (disclosure of information to members)(c)—
- (a) in paragraph (2), after “paragraph (5)” insert “and either paragraph (5H) or (5J)”,
- (b) for paragraph (2A), substitute—
- “(2A) Subject to paragraph (2B), where a statement is provided under paragraph (2)—
- (a) that statement must also contain the information mentioned in paragraph (5B);
- (b) that statement must be accompanied by the additional information specified in paragraph (5G); and
- (c) the further information specified in paragraph (5I) must be provided by one of the methods in paragraph (2D).”,
- (c) in paragraph (2C), for the words from “then that information” to the end substitute—
- “then—
- (a) that information must be accompanied by the additional information specified in paragraph (5G); and
- (b) the further information specified in paragraph (5I) must be provided by one of the methods in paragraph (2D),
- as if that additional and further information had been provided under paragraph (5B).”, and
- (d) after paragraph (2C), insert—
- “(2D) The methods referred to in paragraphs (2A)(c) and (2C)(b) are for the further information to—
- (a) accompany the information described in paragraph (5G); or
- (b) be furnished by the trustees of the scheme.
- (2E) Where—
- (a) a statement has been issued to a member under paragraph (2);
- (b) in that statement, the trustees of the scheme provided the information listed in paragraph (5J) rather than (5H) to that member; and
- (c) that member requests any information listed in paragraph (5H) from the scheme,
- the trustees of the scheme must provide to the member a statement in accordance with the conditions referred to in paragraph (2F) containing the information listed in paragraph (5H) which the member has requested.
- (2F) The conditions referred to in this paragraph as mentioned in paragraph (2E) are—
- (a) the statement must be provided—
- (i) as soon as practicable, and
- (ii) within 2 months of the date on which the request referred to in paragraph (2E)(c) is received;

(a) S.I. 2000/1403.

(b) The definition of “dilution levy” was substituted by S.I. 2005/577.

(c) Regulation 18(2) was amended by S.I. 2001/934, regulation 18(2C) was inserted by S.I. 2002/1383, regulation 18(5) was amended by S.I.s 2001/934 and 2006/744 and regulation 18(5G) was inserted by S.I. 2002/1383.

- (b) the information must relate to the same statement year, or part of a statement year, to which the statement issued under paragraph (2) relates; and
- (c) the information must not include—
 - (i) the amount of any reduction or deduction under any of paragraphs (2) to (4) of regulation 14, and
 - (ii) the amount of any reduction under regulation 14(5)(c).”,
- (e) in paragraph (5), omit sub-paragraphs (c) to (r),
- (f) in paragraph (5G)—
 - (i) in paragraph (a)—
 - (aa) for the first comma, substitute “and”, and
 - (bb) omit the words from “, and that it should not” to the end, and
 - (ii) omit paragraphs (b), (d), (e), (g), (h) and (i),
- (g) after paragraph (5G), insert—

“(5H) The information listed in this paragraph as mentioned in paragraphs (2) and (2E) is—

 - (a) the amount of the value mentioned in paragraph (5)(b) that is attributable to investment gains or losses made or sustained by the scheme during that statement year;
 - (b) the amount of each contribution made by or on behalf of, or made in respect of, the member (except contributions falling within sub-paragraph (c)) and the date on which it was received;
 - (c) the amount of each contribution made by any employer on behalf of or in respect of the member and the date on which it was received;
 - (d) except where contributions referred to in sub-paragraphs (b) and (c) are increased by the trustees or manager in anticipation of a payment to the scheme by the Inland Revenue by way of tax relief in respect of the member, the amount of each such payment by the Inland Revenue and the date on which it was received;
 - (e) the amount of each payment to the scheme by way of minimum contributions in respect of the member and the date on which it was received;
 - (f) the amount of each payment made to the scheme by way of minimum payments in respect of the member and the date on which it was received;
 - (g) the amount of each payment made to the scheme under section 42A(3) of the 1993 Act (reduced rates of Class 1 contributions, and rebates) in respect of the member and the date on which it was received;
 - (h) the amount of any transfer payment made to the scheme in respect of the member, the name of the scheme or arrangement from which the payment was made and the date on which it was made;
 - (i) any amount credited to the member’s account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits);
 - (j) any reduction under section 31 (pension sharing: reduction of benefit), or any enactment in force in Northern Ireland corresponding to that section, in the benefits or future benefits to which the member is entitled under the scheme;
 - (k) any contributions refunded under the provisions of Chapter IV of Part XIV of the Income and Corporation Taxes Act (pension schemes, social security benefits, life annuities etc);
 - (l) any amount paid to the member by way of income withdrawal or dependants’ income withdrawal as defined in paragraph 7 or, as the case may be, 21 of Schedule 28 to the Finance Act 2004 (income withdrawal or dependants’ income withdrawal);

- (m) any other amount deducted from the member's account, the nature of the deduction and the date on which it was made;
 - (n) the total amount of any part of any of the contributions and payments mentioned in sub-paragraphs (b) to (i) which has not been credited to the member's account and the manner in which that amount has been used; and
 - (o) where the whole or any part of the member's rights under the scheme is represented by rights in a with-profits fund—
 - (i) the principles adopted in allocating rights under that fund, including the extent of any smoothing of investment returns and the levels of any guarantees, and
 - (ii) the principles which will be adopted in allocating such rights if the member's rights under the scheme cease to be represented by rights in that fund.
- (5I) The further information which is to be provided is—
- (a) a statement to the effect that certain general assumptions have been made about the nature of the investments made for the purposes of the member's money purchase benefits and their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;
 - (b) a statement to the effect that the actual amount of any pension payable to or in respect of the member under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purposes of providing the information under paragraph (5B);
 - (c) a statement specifying any assumptions made in relation to future contributions to the scheme; and
 - (d) a statement of the assumptions made in accordance with paragraphs (5D)(b)(iii) and (5E) or as mentioned in paragraph (5F).
- (5J) The information listed in this paragraph as mentioned in paragraphs (2) and (2E) is—
- (a) the total amount of contributions (not including contributions falling within sub-paragraph (b)) made by or on behalf of, or made in respect of, the member;
 - (b) the total amount of contributions made by any employer on behalf of, or in respect of, the member;
 - (c) except where contributions referred to in sub-paragraphs (a) and (b) are increased by the trustees or manager in anticipation of a payment to the scheme by the Inland Revenue by way of tax relief in respect of the member, the total amount of such payments by the Inland Revenue;
 - (d) the total amount of any deductions or payments from the member's account; and
 - (e) a statement that the member may request from the scheme any of the information listed in paragraph (5H).”,
- (h) omit paragraph (8), and
- (i) in paragraph (9) before “address” in both places it appears, insert “postal or electronic”.
- (4) After regulation 18, insert—

“Service of information by a scheme

18A.—(1) The trustees or manager of the scheme may furnish or give any relevant information by—

- (a) sending it to a member or beneficiary's last known postal address; or
- (b) subject to paragraphs (2) to (4), using either or both of the following methods—
 - (i) sending it to a member or beneficiary's last known electronic address,
 - (ii) making it available on a website (see regulation 18C).

(2) Where the beneficiary or member has requested in writing that—

- (a) any particular relevant information; or
- (b) all relevant information,

is not furnished or given in accordance with paragraph (1)(b), that information may not be furnished or given in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished or given in accordance with paragraph (1)(b) where the trustees or manager of the scheme are satisfied that the website or electronic communications have been designed—

- (a) so that members or beneficiaries will be able to—
 - (i) get access to, and
 - (ii) print,the relevant information; and
- (b) taking into account the requirements of disabled persons.

(4) Where—

- (a) a beneficiary or member was a beneficiary or member of the scheme on [1st October 2010]; and
- (b) that beneficiary or member has not received relevant information by means of an electronic communication before [1st October 2010],

relevant information may not be furnished or given to that beneficiary or member in accordance with paragraph (1)(b) unless the trustees or manager of the scheme have given them by post the written notice referred to in paragraph (5).

(5) The written notice mentioned in paragraph (4) must state that—

- (a) the trustees or manager of the scheme propose to furnish or give relevant information to the beneficiary or member by means of an electronic communication; and
- (b) the beneficiary or member may request in writing that relevant information is not furnished or given by means of an electronic communication.

(6) In this regulation, “relevant information” means any information, declaration, notice or statement which these Regulations require the trustees or manager of a scheme to give or furnish to a beneficiary or member of the scheme.

Service of information to a scheme

18B.—(1) Any scheme information may be furnished, made or given by sending it to the trustees or manager of the scheme—

- (a) by post; or
- (b) subject to paragraph (2), by means of an electronic communication.

(2) Scheme information may only be furnished, made or given by means of an electronic communication where the person sending it reasonably considers that the trustees or manager of the scheme will be able to print it.

(3) In this regulation, “scheme information” means any—

- (a) request for information to be given or furnished in pursuance of these Regulations; or
- (b) information to be given to the trustees or manager of a scheme in relation to requirements imposed by these Regulations.

Provision of information on a website

18C.—(1) This regulation sets out the circumstances in which information or documents may be made available on a website under regulation 18A(1)(b)(ii).

(2) Before the trustees or manager of the scheme make the first information or document available on a website, they must send a notification to the recipient's last known—

- (a) postal address; or
- (b) electronic address.

(3) The notification referred to in paragraph (2) must include—

- (a) a statement that the information or document is available on the website;
- (b) the address of the website;
- (c) details of the place on the website where the information or document may be read; and
- (d) an explanation of how the recipient may read the information or document on the website.

(4) Except where paragraph (6) applies, before the trustees or manager of the scheme make any subsequent information or document available on a website, they must send a notification to the recipient's last known—

- (a) postal address; or
- (b) electronic address.

(5) The notification referred to in paragraph (4) must include a statement that the information or document is available on the website.

(6) This paragraph applies where—

- (a) at least three letters have been—
 - (i) given to the recipient by hand, or
 - (ii) sent to the recipient's last known postal address;
- (b) each of those letters—
 - (i) asks the recipient to send their electronic address to the trustees or manager of the scheme, and
 - (ii) states that the recipient may request in writing that information or documents are not furnished or given by means of an electronic communication; and
- (c) the trustees or manager of the scheme—
 - (i) do not know the recipient's electronic address, or
 - (ii) have not received a written request that information or documents are not furnished or given to the recipient by means of an electronic communication.

(7) In this regulation, "recipient" means the person or body to whom these Regulations require statements or information to be made available."

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

Date *Name*
Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Personal Pension Schemes (Disclosure of Information) Regulations 1987 (S.I. 1987/1110), the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167), the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (S.I. 1996/1655), the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (S.I. 1996/1975) and the Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403). [to be completed]