

The Pensions (Institute and Faculty of Actuaries – Amendment) Regulations 2012

Consultation on draft regulations

December 2011

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Purpose of the consultation

This consultation seeks views on the enclosed draft of the Pensions (Institute and Faculty of Actuaries – Amendment) Regulations 2012. The intention is that the regulations will come into force in April 2012.

The Institute of Actuaries and the Faculty of Actuaries in Scotland merged on 1 August 2010 to form a new legal entity called 'The Institute and Faculty of Actuaries'. Both bodies voted to merge their respective organisations in a ballot held on 25 May 2010.

The Pensions (Institute and Faculty of Actuaries – Amendment) Regulations 2012 replace all references to the two actuarial bodies in pensions secondary legislation with references to the Institute and Faculty of Actuaries. We plan to make a separate Order which makes the same amendment for pensions primary legislation. That Order is not subject to consultation.

Who the consultation is aimed at

The consultation is primarily aimed at the merged actuarial body, the Institute and Faculty of Actuaries. Comments are also welcomed from the wider public.

This document is available on the Department's website at:

www.dwp.gov.uk/consultations/2011

Please note that due to formatting issues that footnotes throughout these sets of draft regulations run continuously.

The consultation applies to England, Wales and Scotland.

Consultation arrangements

How to respond

Please send your response to:

A. Soule
Department for Work and Pensions
7th Floor, Caxton House
Tothill Street
London
SW1H 9DA
0207 449 7468

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

Please ensure that your response reaches us by **12 January 2012**. Any replies received after that date may not be taken into account.

Please say whether you are responding as an individual, or on behalf of an organisation. If on behalf of an organisation, please make clear who the organisation represents, and how the views of members were obtained.

We have notified this consultation to people and organisations who have already been involved in this work or who have expressed an interest in it. Please feel free to advise, or tell us about, anyone else you think may want to be involved in this consultation.

A summary of responses will be published following the consultation, along with a response from Government. The information you send us may be published in the summary of responses. We 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: www.dwp.gov.uk/consultations/2011

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.

According to the requirements of the Freedom of Information Act 2000, all information contained in the response, including personal information may be subject to publication or disclosure. By providing personal information for the purposes of the public consultation exercise, it is understood that a Respondent consents to its disclosure and publication. If this is not the case, the Respondent should limit any personal information which is provided, or remove it completely. If a Respondent requests that the information given in response to the consultation be kept confidential, this will only be possible if it is consistent with Freedom of Information Act obligations and general law on this issue. The contact point if you want to discuss this is:

Central Freedom of Information Team
Department for Work and Pensions
The Adelphi
1-11 John Adam Street
London
WC2N 6HT

freedom-of-information-request@dwp.gsi.gov.uk

Queries

If you have any queries about this consultation please contact A. Soule, 0207 449 7468, adelphi.sft@dwp.gsi.gov.uk

Feedback on the consultation process

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 Co-ordinator
1st Floor, Crown House
2 Ferensway
Hull
HU2 8NF

roger.pugh@dwp.gsi.gov.uk

The consultation criteria

The consultation is being conducted in line with the [Government Code of Practice on Consultation](#) and its seven consultation criteria:

- **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.

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- **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.

Commentary on the draft Pensions (Institute and Faculty of Actuaries – Amendment) Regulations 2012

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

Regulation 1 – This is a general regulation about citation, commencement and application. It gives the title of the regulations and specifies the date they are proposed to come into force. Two of the amendments are to Northern Ireland Regulations (regulations 8 and 13) so this regulation applies those amendments in Northern Ireland.

Regulation 2 – amends regulation 12(5) (b) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (transfer of member's accrued rights without consent).

Regulation 3 amends regulation 4(1) (b) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (qualifications and experience or approval required for appointment as the auditor or actuary).

Regulation 4 amends regulation 1(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (interpretation).

Regulation 5 amends regulation 2(6) (interpretation) of, and paragraph 2 of the certificate in Schedule 1 (form of actuary's certificate) to, the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996.

Regulation 6 amends regulation 1(2) of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (interpretation).

Regulation 7 amends regulation 4 of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998 (market level indicator).

Regulation 8 amends regulation 4 of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998 (market level indicator).

Regulation 9 amends regulation 10(8) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (transfer of a person's pension credit rights without consent).

Regulation 10 amends regulation 10 of the Pension Protection Fund (Valuation) Regulations 2005 (prescribed qualifications for the purposes of section 143 and section 179 of the Act).

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Regulation 11 amends regulation 2 of the Pensions Regulator (Freezing Orders and Consequential Amendments) Regulations 2005 (meaning of “the actuary”).

Regulation 12 amends regulation 1(2) of the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006 (interpretation).

Regulation 13 amends regulation 6 of the Pension Protection Fund (Valuation of the Assets and Liabilities of the Pension Protection Fund) Regulations 2006 (the appointed actuary).

Regulation 14 amends regulation 4 of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 (qualifications or experience required for a person providing an actuarial equivalence statement).

Regulation 15 amends regulation 6(b) of the Occupational Pension Schemes (Payments to Employer) Regulations 2006 (prescribed persons for the purposes of section 37(3)(a) of the Pensions Act 1995).

Regulation 16 amends regulation 5 of the Pension Protection Fund (Closed Schemes) Regulations 2007 (prescribed qualifications for the purposes of section 156).

Impact assessment

The draft Pensions (Institute and Faculty of Actuaries – Amendment) Regulations 2012 only replaces references in pension regulations (to the Institute of Actuaries and to the Faculty of Actuaries in Scotland with references to the Institute and Faculty of Actuaries), but impose no associated administrative costs on business, charities and the voluntary sector. A full Impact Assessment is not necessary for this legislation.

Annex A – List of those consulted

Given the specific nature of these regulations and their limited interest, we plan to consult only with the merged body for a six week period. (Comments are also welcomed from the wider public.)

1. The Institute and Faculty of Actuaries

Annex B – The draft Pensions (Institute and Faculty of Actuaries – Amendment) Regulations 2012

STATUTORY INSTRUMENTS

2012 No. [consultation draft]

PENSIONS

The Pensions (Institute and Faculty of Actuaries – Amendment) Regulations 2012

Made - - - -

Laid before Parliament

Coming into force - - - - *6th April 2012*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

- sections 19(4)(c), 73(4)(b), 97(1), 101AF(1), 101D(4)(b), 181(1) and 182(2) and (3) of, and paragraph 5(3C)(c) of Schedule 2 to, the Pension Schemes Act 1993(1),
- section 177(2) of, and paragraph 5(3C)(c) and (4A) of Schedule 1 to, the Pension Schemes (Northern Ireland) Act 1993(2) and now vested in the Secretary of State(3),
- sections 37(3)(a), 47(5)(b), 67C(7)(a)(ii), 75(5), 124(1) and 174(2) and (3) of the Pensions Act 1995(4), and
- sections 23(10), 143(11)(a)(ii)(a), 156(6), 179(2), 315(2) and (5) and 318(1) of, and paragraph 22(4)(a) of Schedule 5 to, the Pensions Act 2004(5).

In accordance with section 185(1) of the Pension Schemes Act 1993(6), section 120(1) of the Pensions Act 1995 and section 317(1) of the Pensions Act 2004, the Secretary of State has consulted with such persons as the Secretary of State considers appropriate.

(1) 1993 c.48. [amendments] Section 181(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(2) 1993 c.49. Paragraph 5(3C) of Schedule 1 was inserted by Article 138(2)(b) of S.I. 1995/3213 (N.I. 22) and amended by paragraph 77(5)(c) of Schedule 1 to S.I. 1999/671. Paragraph 5(4A) was added by paragraph 77(5)(d) of Schedule 1 to S.I. 1999/671 and is cited for the meaning it gives to “prescribed” and “regulations”.

(3) See paragraph 5(4A) of Schedule 1 to the Pension Schemes (Northern Ireland) Act 1993.

(4) 1995 c.26. [amendments] Section 124(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(5) 2004 c.35. [amendments] Section 318(1) is cited for the meaning it gives to “prescribed” and “regulations”.

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

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Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pensions (Institute and Faculty of Actuaries – Amendment) Regulations 2012.

(2) They come into force on 6th April 2012.

(3) Subject to paragraphs (4) and (5), these Regulations extend to England and Wales and Scotland.

(4) This regulation, in so far as it relates to regulation 8, and regulation 8 extends to Northern Ireland.

(5) This regulation, in so far as it relates to regulation 13, and regulation 13 extends to England and Wales, Scotland and Northern Ireland.

Amendments to refer to the Institute and Faculty of Actuaries

2. In regulation 12(5)(b) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (transfer of member's accrued rights without consent)(**7**), for "Institute of Actuaries, a Fellow of the Faculty of Actuaries," substitute "Institute and Faculty of Actuaries(**8**)".

3. In regulation 4(1)(b) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (qualifications and experience or approval required for appointment as the auditor or actuary)(**9**), for paragraphs (i) and (ii) substitute—

“(i) Fellowship of the Institute and Faculty of Actuaries; or”.

4. In the definition of "actuary" in regulation 1(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (interpretation)(**10**), for sub-paragraphs (i) and (ii) of paragraph (b) substitute—

“(i) a Fellow of the Institute and Faculty of Actuaries; or”.

5. In the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996(**11**) in—

(a) regulation 2(6) (interpretation), and

(b) paragraph 2 of the certificate in Schedule 1 (form of actuary's certificate),

for "prepared and published by the Institute of Actuaries and the Faculty of Actuaries" substitute "published by the Institute and Faculty of Actuaries".

6. In regulation 1(2) of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (interpretation)(**12**), omit the definition of "actuary".

7. In regulation 4 of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998 (market level indicator)(**13**), for "Faculty of Actuaries and Institute of Actuaries" in both places it occurs substitute "Institute and Faculty of Actuaries".

8. In regulation 4 of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998 (market level indicator)(**14**), for "Faculty of Actuaries and Institute of Actuaries" in both places it occurs substitute "Institute and Faculty of Actuaries".

(7) S.I. 1991/167. Regulation 12(5) was substituted by S.I. 1999/2543.

(8) The Institute and Faculty of Actuaries can be contacted at Staple Inn Hall, High Holborn, London WC1V 7QJ and at www.actuaries.org.uk.

(9) S.I. 1996/1715.

(10) S.I. 1996/1847. The definition of "actuary" was inserted by S.I. 2008/1050.

(11) S.I. 1996/3128.

(12) S.I. 1997/784.

(13) S.I. 1998/1397. Relevant amendments were made to regulation 4 by S.I. 1999/3069.

(14) S.R. 1998 No. 208. Relevant amendments were made to regulation 4 by S.I. 1999/3069.

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9. In regulation 10(8) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (transfer of a person’s pension credit rights without consent)(**15**), for “Institute of Actuaries, a Fellow of the Faculty of Actuaries,” substitute “Institute and Faculty of Actuaries”.

10. In regulation 10 of the Pension Protection Fund (Valuation) Regulations 2005 (prescribed qualifications for the purposes of section 143 and section 179 of the Act)(**16**), for the words after “prescribed qualifications is” substitute “a Fellow of the Institute and Faculty of Actuaries.”

11. In regulation 2 of the Pensions Regulator (Freezing Orders and Consequential Amendments) Regulations 2005 (meaning of “the actuary”)(**17**)—

(a) for “qualifications” substitute “qualification”, and

(b) for the words from “are” to the end substitute “is Fellowship of the Institute and Faculty of Actuaries.”.

12. In the definition of “actuary” in regulation 1(2) of the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006 (interpretation)(**18**), for sub-paragraphs (i) and (ii) of paragraph (b) substitute—

“(i) a Fellow of the Institute and Faculty of Actuaries; or”.

13. In regulation 6 of the Pension Protection Fund (Valuation of the Assets and Liabilities of the Pension Protection Fund) Regulations 2006 (the appointed actuary)(**19**), for the words from “prescribed qualifications” to the end substitute “prescribed qualification to act as the appointed actuary is Fellowship of the Institute and Faculty of Actuaries.”.

14. In regulation 4 of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 (qualifications or experience required for a person providing an actuarial equivalence statement)(**20**), for the words after “or experience is a” substitute “Fellow of the Institute and Faculty of Actuaries.”.

15. In regulation 6(b) of the Occupational Pension Schemes (Payments to Employer) Regulations 2006 (prescribed persons for the purposes of section 37(3)(a) of the 1995 Act)(**21**), for the words after “of that section” substitute “a Fellow of the Institute and Faculty of Actuaries.”.

16. In regulation 5 of the Pension Protection Fund (Closed Schemes) Regulations 2007 (prescribed qualifications for the purposes of section 156)(**22**), for the words after “prescribed qualifications is” substitute “a Fellow of the Institute and Faculty of Actuaries.”.

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

Date

Name
Minister of State,
Department for Work and Pensions

(15) S.I. 2000/1054.

(16) S.I. 2005/672.

(17) S.I. 2005/686.

(18) S.I. 2006/33. The definition of “actuary” was inserted by S.I. 2008/1050.

(19) S.I. 2006/597.

(20) S.I. 2006/759.

(21) S.I. 2006/802.

(22) S.I. 2007/865.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend 14 Statutory Instruments and one Northern Ireland Statutory Rule about occupational pension schemes, the Pension Protection Fund, the Pensions Regulator and pension sharing. They replace all references to the Institute of Actuaries and to the Faculty of Actuaries with references to the Institute and Faculty of Actuaries, which is the new body formed by the merger of the Institute of Actuaries and the Faculty of Actuaries.

A full impact assessment has not been published for this instrument as it has no impact on the costs of the private sector and civil society organisations.