# The Occupational Pension Schemes (Miscellaneous Amendments No.2) Regulations 2013

Public consultation on draft regulations
October 2012



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# Introduction

This consultation asks for views on changes to regulations which affect defined benefit workplace pension schemes. The amendments will:

- introduce a limited power for the trustees of schemes which provide bridging pensions to modify their schemes' rules to take account of the impact of changes to State Pension Age (SPA);
- make various minor and technical amendments regarding indexation as a consequence of the switch to using the Consumer Prices Index rather than the Retail Prices Index, and measures in the Pensions Act 2011.

#### About this consultation

#### Who this consultation is aimed at

We welcome comments on the draft regulations from pension scheme trustees, their advisers, and employers who sponsor defined benefit workplace pension schemes.

This consultation document can be found on the DWP website at: <a href="http://www.dwp.gov.uk/consultations/">http://www.dwp.gov.uk/consultations/</a>

#### Purpose of the consultation

The purpose of this consultation is to obtain comments on the proposed changes contained in the draft regulations.

#### Scope of consultation

This consultation applies to England, Wales and Scotland.

#### Duration of the consultation

The consultation period begins on 4 October 2012 and runs until 14 November 2012.

The Government's new Consultation Principles were introduced on 17 July. (The new Principles are at <a href="http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance">http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance</a>.) As the Department has already informally consulted with key stakeholders on the changes relating to bridging pensions and the other amendments are either minor technical changes or consequential on previously agreed changes, we consider it appropriate to undertake a formal consultation on these changes for a six week period.

#### **Impact Assessment**

The proposed changes will have negligible impact on business and the pensions industry. The Regulatory Policy Committee has confirmed a full impact assessment is

not required at this stage because the changes would not impose new regulatory burdens on the pensions industry.

Details of the impact of each change are given in the commentary on the regulations and respondents are invited to provide further evidence.

# How to respond to this consultation

Please send your consultation responses, preferably by email, to:

adelphi.sft@dwp.gsi.gov.uk

or, by post, to:

Caroline Blackett
Occ Pen Schemes (Misc Amdts No. 2) Regs consultation
Private Pensions Policy and Analysis
Department for Work and Pensions
1st floor, Caxton House
6-12 Tothill Street
London
SW1H 9NA

Please ensure your response reaches us by 14 November 2012.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

We have sent this consultation document to a number of people and organisations who have already been involved in this work or who have expressed an interest. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

We will publish the responses to the consultation in the consultations section of the DWP website – <a href="www.dwp.gov.uk/consultations">www.dwp.gov.uk/consultations</a>. The report will summarise the responses and the action that we will take as a result of them.

#### Northern Ireland

Social Security, Child Support and Pensions are devolved matters in Northern Ireland. The Government will continue to work closely with the devolved administration in Northern Ireland to seek to maintain a single system across the United Kingdom.

#### Queries about the content of this document

Please direct any queries about the subject matter of this consultation to the email address given above.

#### How we consult

#### Freedom of information

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

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

To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Central Freedom of Information Team 4<sup>th</sup> Floor Caxton House Tothill Street London SW1H 9NA

#### Freedom-of-information-request@dwp.gsi.gov.uk

The Central FoI team cannot advise on specific consultation exercises, only on Freedom of Information issues. More information about the Freedom of Information Act can be found at <a href="https://www.dwp.gov.uk/freedom-of-information">www.dwp.gov.uk/freedom-of-information</a>

#### The consultation criteria

This consultation is being conducted in line with the new <u>Cabinet Office Consultation</u> <u>Principles</u>. The key principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and

• the principles of the Compact between government and the voluntary and community sector will continue to be respected.

#### 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:

Elias Koufou DWP Consultation Coordinator 2<sup>nd</sup> Floor Caxton House Tothill Street London SW1H 9NA

Phone 020 7449 7439

#### caxtonhouse.legislation@dwp.gsi.gov.uk

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.

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

We will publish the responses to the consultation by April 2013 in a report on the consultations section of our website <a href="www.dwp.gov.uk/consultations">www.dwp.gov.uk/consultations</a>. The report will summarise the responses and the action that we will take as a result of them.

# Commentary on the draft regulations

# Chapter 1 – transfer rights

#### **Background**

- Chapter IV of the Pension Schemes Act 1993 gives most members of occupational pension schemes rights to transfer preserved benefits – or a cash equivalent thereof – to another scheme, if that scheme is willing to accept the transfer.
- 2. However, an exception to this is found in Regulation 2 of the Occupational Pension Schemes (Transfer Values) Regulations 1996. Members who left specified public service pension schemes (or schemes where benefits are increased by the Pensions (Increase) Act 1971) before 1 January 1986 are specifically excluded, as are members who left other schemes before that date if the scheme fully revalues the preserved rights by the Retail Prices Index (RPI). The rationale behind this lack of retrospection is that the deferred benefits in the schemes were fully protected against inflation and the member did not need to consider moving them in order for the benefits to keep value.
- Preserved benefits for those who left schemes after 1 January 1986 are required to be revalued before being put into payment at Normal Pension Age. However, in this requirement inflation is capped at either 5 per cent or 2.5 per cent.
- 4. In 2010, the Government announced that, when considering increases to State benefits, pension and public service pensions, it would in future use the Consumer Prices Index (CPI) as its preferred index when measuring increases in the general level of prices. It also considered it appropriate to use the same index for the statutory minimum level of increases to private pensions.
- 5. It is therefore possible that some former members of a non-public service scheme, which provides for uncapped revaluation of deferred benefits but had to switch from using RPI to CPI because of a link to the Government's preferred index, have gained the right to request a transfer because they are no longer receiving RPI-based revaluation.
- 6. The Government does not believe that a scheme should face extra and unexpected transfer costs when it is still providing revaluation based on uncapped inflation measured by a standard index.

#### **Proposed amendment**

7. The proposed amendment will change the reference to RPI to a reference to a rise the general level of prices. This is in line with changes to other references to RPI in legislation.

#### Costs and benefits of the amendment

- 8. We believe the savings to schemes by not permitting certain former members to gain new transfer rights will be minimal.
- 9. No figures are available of the number of schemes or members likely to be affected but we believe that the numbers of both will be low. We understand that few private sector schemes offer uncapped revaluation rather than the minimum statutory level. We also understand that the number of members affected will be low: a member would have had to leave the scheme before 1986 with a preserved pension (generally meaning at least five years pensionable service) and have not yet reached Normal Pension Age (therefore mainly being aged between 47 and 59 with less than 18 years membership earned before the age of 34).
- 10. Even if a former scheme member had met the conditions to gain this new right, we believe he/she is unlikely to have exercised it. It is rarely in a person's interest to transfer out of a defined benefit scheme: in fact, the Financial Services Authority state that "the starting point for pension transfer advice is that a transfer will not be in the member's best interests." However, there may be individuals, for example, with a reduced life expectancy, who consider they will draw less benefit from the scheme than the transfer value of their rights and thus would gain from a transfer.

#### **Consultation Question 1**

11. Do respondents agree that the number of schemes and, hence, members affected by this are small? Can any respondents provide an indication of numbers and costs?

# Chapter 2 – indexation of pension credit benefit

#### **Background**

- 12. A pension credit benefit is the part of a pension which has been passed from the member to the member's former spouse as part of the financial settlement following a divorce. It should not be confused with the income-related social security benefit for older people called Pension Credit.
- 13. Courts can grant a pension sharing order for any proportion of the value of the member's pension rights. The pension credit benefit may stay with the original scheme or, frequently, is transferred to another pension arrangement of the former spouse's choice.
- 14. However, the intention is that if the benefits remain in a defined benefit arrangement, those benefits should be subject to a similar statutory minimum indexation requirement to defined benefit pensions in general. The statutory minimum indexation requirement, known as Limited Price Indexation (LPI), is that defined benefit pensions accrued after 6 April 1997, when in payment, must be increased in line with inflation, subject to a cap of either 5 per cent for rights accrued between 6 April 1997 and 5 April 2005 or 2.5 per cent for rights accrued after 6 April 2005). It is modified for pension credit benefit in that the demarcation between 5 per cent and 2.5 per cent is based on when the rights were shared, rather than when they were accrued.
- 15. The current statutory minimum level of indexation in the Pension Sharing (Pension Credit Benefit) regulations for schemes which use their own reference period (rather than the September inflation figure used for the revaluation order) refers specifically to the Retail Prices Index (RPI). The corresponding legislation for main scheme benefits in section 51(4) of the Pensions Act 1995 was changed to 'Consumer Prices Index' (CPI) by the Pensions Act 2011.
- 16. The provisions in Regulation 32(2) for calculating the appropriate minimum indexation level required refer to the annual revaluation order but are not explicit about which of the two levels available for the most recent year is applicable.
- 17. The Government consulted in 2010 on the effects on business of switching from RPI to CPI for pension increases. One concern was that, where schemes chose to continue increasing pensions in line with RPI, they would still be required to track CPI and pay that level if higher than RPI. Provisions were included in the Pensions Act 2011 to prevent this underpin by allowing schemes which had paid, and continued to pay, RPI-based increases to continue doing so, even in any year where they would normally be expected to pay a higher CPI-based increase.

#### **Proposed amendment**

- 18. There are several proposed amendments to Regulation 32 of the Pension Sharing (Pension Credit Benefit) Regulations 2000.
- 19. In the first, new paragraphs (1A)-(1C) are inserted to permit schemes which have paid RPI-based increases to continue to do so without tracking CPI levels as well. New paragraphs (1D) and (1E) insert definitions of 'default percentage', 'consumer prices index' and 'retail prices index' for these amendments. These amendments are intended to introduce similar provisions for pension credit benefits as to those inserted in section 51 of the Pensions Act 1995 for main scheme benefits
- 20. The second amendment to Regulation 32 amends the definition of "appropriate percentage" to make it clear which of the two figures in the revaluation order should be used in which circumstances. The higher percentage is appropriate where the pension was shared prior to 6 April 2005 and the lower percentage for pensions shared after that date.
- 21. Additionally, the current statutory minimum level of indexation in the pension credit benefit regulations for schemes which use their own reference period to calculate pension increases, rather than the September inflation figures, refers specifically to the Retail Prices Index. The proposed amendment to the definition of relevant percentage replaces this with a reference to the Consumer Prices Index, reflecting how the requirement is prescribed for main scheme benefits in section 51 of the Pensions Act 1995.

#### Costs and benefits of the amendment

- 22. There always has been an assumption that pension credit benefit from shared pension rights will continue to be indexed in the same way as the similar type of pension in general. The costs and savings regarding changing the indexation of shared pensions were therefore included in the costs and savings to the pensions industry in the Impact Assessment about the saving to industry from moving from RPI to CPI published July 2011 at http://www.dwp.gov.uk/docs/cpi-private-pensions-consultation-ia-120711.pdf
- 23. The main benefit of the technical amendments will be to aid pension administrators by clarifying the relevant processes and figures.

#### **Consultation Questions 2a and 2b**

- 24. Do the changes make it clear how the minimum statutory indexation requirements should be calculated for pension credit benefit held in defined benefit schemes?
- 25. Do the changes preventing an underpin where a scheme continues to pay RPI-based increases provide the same easement as in section 51 of the Pensions Act 1995?

# Chapter 3 – indexation of pension credit benefit held within a cash balance scheme

#### **Background**

- 26. Cash balance schemes are schemes which provide a lump sum with which the member can purchase an annuity. The difference between a cash balance scheme and a pure money purchase scheme is that the cash balance scheme contains some form of promise or guarantee as to how the lump sum is calculated. This guarantee meant that annuities bought with cash balance benefits needed to provide for Limited Price Indexation (LPI).
- 27. However, the requirement for annuities from cash balance schemes to be indexed was removed from 3 January 2012 by the Pensions Act 2011, as long as those schemes met certain criteria (section 51ZB of the Pensions Act 1995).

#### **Proposed amendment**

28. The proposed change, inserting new paragraphs (1F)-(1G) into regulation 32 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 will bring annuities bought with cash balance schemes derived from a pension credit into line with the requirement for annuities bought with cash balance schemes generally.

#### Costs and benefits of the amendment

- 29. To amend the regulations to reflect the provisions in the Pensions Act 2011 will allow pension credit members to have the same choices regarding the type of pension income from a cash balance scheme as ordinary scheme members.
- 30. There will be no cost or savings to schemes since the starting rate of an indexed annuity is lower than a flat rate annuity to reflect the indexation. This is reflected in the Impact Assessment for the Pensions Act 2011 at http://www.dwp.gov.uk/docs/pensions-bill-2011-ia-annexf.pdf

#### **Consultation Question 3**

31. Does the proposed amendment give the same easement to a pension credit benefit held within a cash balance scheme regarding the requirement for annuities to provide for LPI?

### Chapter 4 – bridging pensions

#### **Background**

- 32. Some defined benefit schemes pay members who retire before State Pension Age (SPA) a higher pension at the outset, which is then reduced at SPA to take account of the payment of State Pension. The aim is to allow the member to receive a similar overall income in retirement, regardless of when State Pension becomes payable.
- 33. These arrangements are often referred to as "bridging" pensions, although they are also described by a variety of other terms, including step-up pensions, claw-back pensions and State Pension offsets. They can either be: part of a scheme's basic design, automatically paid to people retiring before SPA; or an option offered at retirement (in which case the higher amount payable at the outset will be offset by a lower amount after age 60/65, so that the overall estimated cost to the scheme will be the same, whichever option is chosen).
- 34. Tax legislation generally prevents pensions in payment being reduced during a member's lifetime, but Schedule 28 (Part 1) to the Finance Act 2004 provides an exception for bridging pensions. Higher pensions can be reduced between the ages of 60 and 65, as long as the reduction does not exceed a limit which is designed to ensure that the reduction is based on the expected State Pension.
- 35. The Pensions Act 2011 accelerated the timetable both for equalisation of SPA for men and women at age 65, and extending it beyond age 65. Equalisation at age 65 will now be completed by November 2018, and people reaching age 65 after 6 December 2018 will now have to wait longer for their State Pension.
- 36. At Budget 2012 the Government announced that legislation would be introduced in the Finance Bill 2013 to amend the tax legislation affecting bridging pensions in order to reflect the changes to SPA. A power will also be created to allow for regulations to be made changing the tax rules on bridging pensions to fit with any further changes to State Pension rules. These changes will include the removal of the upper age limit of 65 which currently applies to bridging pensions.

#### **Proposed amendment**

37. The impact of higher SPA on an individual scheme will depend on the precise terms of its rules. If a scheme's rules provide for pensions to be reduced at SPA the scheme will have to pay the higher pension for a longer period, increasing the costs of funding members' pensions. But if the rules specify that bridging pensions will be paid up to age 60 or 65, the higher payments will cease at that age, so that members will suffer a temporary reduction in overall retirement income in the extended period before State Pension becomes payable.

- 38. The possibility of a change to SPA may not have been considered when some schemes offering bridging pensions were established, and trustees will now need to consider whether (and if so how) their scheme's rules should be adjusted to take account of this. The procedure for changing a pension scheme's rules will generally be set out in the rules themselves, but the rules of some schemes may not allow their terms to be amended easily in these circumstances, or even at all. The trustees would then be unable to modify the scheme even if they consider this necessary in order to take account of later SPA. Draft regulation 4 therefore amends the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 to introduce a limited power enabling trustees to modify their scheme by resolution, if they wish to do so, (notwithstanding any constraints in the scheme's rules) in order to take account of the changes to SPA.
- 39. The proposed power is intended to allow trustees to modify the terms of any bridging pension offered to people who have not yet retired, but there will be no obligation on them to do so, and this will therefore be a matter for individual trustees to consider in the light of the circumstances of their individual scheme. It is also intended to be limited, so that trustees will only be able to use it to make changes which they consider to be necessary or desirable to take account of the changes to SPA and to the Finance Act 2004 (for example to allow bridging pensions to be reduced at SPA, instead of age 65). It is not intended that the power should allow trustees to make wider or more general changes.

#### Costs and benefits of the amendment

- 40. The new power will allow trustees to modify their scheme if they wish to do so, (notwithstanding any constraints in the scheme's rules) in order to take account of the changes to SPA. The regulations will not, however, impose any obligations or requirements as regards what they decide. As such the amendment will not impose any direct costs on business.
- 41. It is assumed that any modification to scheme rules which are made by the trustees under the new power would be actuarially neutral, so that if a member's bridging pension was to be paid for a longer period, the cost would be offset by paying the member's pension at a lower level. As the proposed power could potentially be used to increase funding costs, however, it will, as a safeguard, be subject to the agreement of the sponsoring employer.

#### **Consultation Question 4**

42. Is the new power sufficient to allow trustees of schemes providing bridging pensions to modify their scheme to take account of changes to SPA, without allowing them to make wider or more general changes?

# Draft regulations

#### STATUTORY INSTRUMENTS

#### 2013 No.

#### **PENSIONS**

The Occupational Pension Schemes (Miscellaneous Amendments No.2) Regulations 2013

Made - - - - \*\*\*

Laid before Parliament \*\*\*

Coming into force 6th April 2013

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 93(1)(a), 181, 182(2) and (3), 183(1) and 185 of the Pension Schemes Act 1993(1), section 40(1) and 83(11) of the Welfare Reform and Pensions Act 1999(2) and section 68(2)(e) and 120(1) of the Pensions Act 1995(3).

In accordance with section 185(1) of the Pension Schemes Act 1993(<sup>4</sup>), section 120(1) of the Pensions Act 1995 and section 83(11) of the Welfare Reform and Pensions Act 1999, the Secretary of State has consulted with such persons as the Secretary of State considers appropriate.

#### **Citation and Commencement**

**1.** These Regulations may be cited as the Occupational Pension Schemes (Miscellaneous Amendments No.2) Regulations 2013 and shall come into force on 6th April 2013.

#### Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996

**2.** In regulation 2(b) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(<sup>5</sup>) for "the rate of inflation as measured by the retail price index" substitute "a rate that in the opinion of the Secretary of State maintains the value of pension or other benefits by reference to the rise in the general level of prices in Great Britain".

<sup>(1) 1993</sup> c.48. Section 93(1)(a) was substituted by section 152(2) Pensions Act 1995 (c.26).

<sup>(2) 1999</sup> c.30. Section 40(1) was amended by section 19(10) Pensions Act 2011 (c.19) and section 280(2) Pensions Act 2004 (c.35).

<sup>(&</sup>lt;sup>3</sup>) 1995 c.26.

<sup>(4)</sup> Section 185(1) was amended by paragraph 46 of Schedule 3, and paragraph 80(a) of Schedule 5, to the Pensions Act 1995.

<sup>(&</sup>lt;sup>5</sup>) S.I. 1996/1847.

#### Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000

- 3.—(1) The Pension Sharing (Pension Credit Benefit) Regulations 2000(6) are amended as follows.
- (2) In regulation 32 after paragraph (1), insert—
  - "(1A) A relevant pension which falls to be increased by the appropriate percentage under paragraph (1)(a)(i) shall not be increased by the appropriate percentage if, under the rules of the scheme, it is for the time being being increased, and since the relevant time has always been increased, at intervals of not more than twelve months by at least—
    - (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
    - (b) if lower, the default percentage for that period.
    - (1B) In paragraph (1A) "the relevant time" means—
      - (a) the beginning of 2011 or, if later, the time when the relevant pension became a pension in payment, or
      - (b) if the relevant pension was transferred to the scheme from another occupational pension scheme as a pension in payment after the beginning of 2011, the time of the transfer.
  - (1C) If the relevant pension was transferred to the scheme as mentioned in paragraph (1B)(b), paragraph (1A) does not apply to the relevant pension unless, immediately before the transfer, paragraph (1A) (read with this paragraph if relevant) applied to the relevant pension by reference to the scheme from which it was transferred.
  - (1D) In this regulation the default percentage for a period is the percentage for that period which corresponds to—
    - (a) 5 per cent. in a case where—
      - (i) the relevant pension is in payment before 6th April 2005; or
      - (ii) the relevant pension is not in payment before 6th April 2005 but the entitlement to the relevant pension arose before that day; and
    - (b) 2.5 per cent. in a case where the entitlement to the relevant pension arises on or after 6th April 2005.
    - (1E) For the purposes of this regulation—

"retail prices index" means—

- (a) the general index of retail prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board;

"consumer prices index" means—

- (a) the general index of consumer prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board.
- (1F) This regulation does not apply to a relevant pension provided to give effect to eligible pension credit rights of a member under a qualifying occupational pension scheme which—
  - (a) is a cash balance benefit, and
  - (b) first comes into payment on or after the day on which regulation 3 of the Occupational Pension Schemes (Miscellaneous Amendments No.2) Regulations 2013 comes into force.
- (1G) In these regulations "cash balance benefit" has the same meaning as in section 51ZB of the 1995 Act."
- (3) In regulation 32(2) (increase of relevant pension)—
  - (a) for the definition of "appropriate percentage", substitute—
- (<sup>6</sup>) S.I. 2000/1054.

"appropriate percentage" in a case where entitlement to the relevant pension arose before 6th April 2005 means the higher revaluation percentage and in a case where entitlement to the relevant pension arose on or after 6th April 2005 means the lower revaluation percentage, in both cases for the latest revaluation period specified in the order under paragraph 2 of Schedule 3 to the 1993 Act (revaluation of accrued pension benefits) which is in force at the time of the increase (expressions used in this definition having the same meaning as in that paragraph);"

(b) for the definition of "relevant percentage", substitute—

""relevant percentage" means—

- (a) the percentage increase in the consumer prices index for the reference period, being the period determined, in relation to each periodic increase, under the rules, or
- (b) if lower, the default percentage for that period."

#### Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006

- **4.**—(1) The Occupational Pension Schemes (Modification of Schemes) Regulations 2006(<sup>7</sup>) are amended as follows.
  - (2) After regulation 8, insert—
    - "(8A).— Modification of Schemes: reduction in the rate of pension
    - (1) The trustees of a scheme which, as at the relevant date, provides for a reduction in the rate of pension, taking effect upon a member attaining a specified age not less than 60 and not more than 65, may by resolution modify the scheme so as to provide that the reduction in the rate of pension shall instead take effect on the day a member becomes entitled to state retirement pension.
    - (2) The trustees of a scheme which, as at the relevant date, provides for a reduction in the rate of pension, taking effect upon the member attaining the age of entitlement to state retirement pension, may by resolution modify the scheme so as to provide that the reduction in the rate of pension shall instead take effect upon a member attaining the age at which they would have become entitled to state retirement pension had they been born on 5th May 1950.
      - (3) A modification under paragraphs 1 or 2 shall not be made unless—
        - (a) The employer in relation to the scheme consents; or
        - (b) In the case of a scheme where there is more than one employer—
          - (i) a person nominated by the employers, or otherwise in accordance with the scheme rules, to act as the employers' representative (the "nominee") consents; or
          - (ii) where there is no such nominee, all of the employers in relation to the scheme consent other than any employer who has waived his right to give such consent.
      - (4) For the purposes of this regulation "relevant date" shall mean 5th May 2010."

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

- **5.** In regulation 8(1) (Listed changes: occupational pension schemes) of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006(<sup>8</sup>) after sub-paragraph (h) insert—
  - "(i) to make any change in accordance with regulation 8A of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006."

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

(8) S.I. 2006/349.

<sup>(&</sup>lt;sup>7</sup>) S.I. 2006/759.

Date

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

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