

# Abolition of contracting-out on a defined contribution basis – Government response to consultation on draft consequential legislation

November 2010

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## Introduction

1. The Pensions Act 2007 makes provision for the abolition of contracting-out on a defined contribution (DC) basis. Further provisions in the Pensions Act 2008 permit the removal of all rules on accrued protected rights including the requirement to provide for a survivor's benefit. On 12 March 2010 the then Government confirmed that the abolition date would be 6 April 2012.
2. A consultation document published on 28 July 2010 sought views on the following package of consequential measures in advance of introducing the draft legislation into Parliament:
  - The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential amendments) Regulations 2011;
  - The Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments) Order 2011;
  - The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential amendments No. 2) Regulations 2011; and
  - The Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments No. 2) Order 2011.
3. The consultation period ended on 19 October 2010.
4. Forty seven responses covering a wide range of issues were received. A list of respondents is included at Annex A. We have also had meetings with stakeholders on the issue of transfers from contracted out salary-related schemes to non-contracted out schemes following abolition. This document sets out the main points made by respondents generally and provides the Government response.
5. The Government would like to thank all those who responded to the consultation. We will be making changes, as appropriate, to the draft legislation which will be published early next year when it is laid in Parliament.
6. An electronic copy of this response is available on the Department's website at – <http://www.dwp.gov.uk/consultations/2010/abolition-contracting-out-dc.shtml>
7. A paper copy of this document can be obtained from:

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## Consultation questions

### Question 1

We asked: in considering the draft legislation, are you satisfied that the remaining provisions adequately allow for ‘tidying up’ post abolition – in particular has any legislation been revoked which you consider needs to be retained? Conversely, is there anything that has been retained which you think needs to be revoked?

### Stakeholder view

8. Generally, respondents were content that the draft legislation provided for ‘tidying up’ post abolition. We received a large number of detailed, technical comments. Some respondents sought clarification of the policy intent as to whether it is intended to preserve the status given to transfers of protected rights from Contracted-out Money Purchase (COMP) schemes to Contracted-out Salary Related (COSR) schemes before April 2012. We also received a number of drafting comments in response to the question.

### Government response

9. We are grateful for the consideration respondents gave to this question and have made a number of changes to clarify the draft legislation. Given the technical and varied nature of many responses, we have listed the comments not addressed in the main part of this paper, together with the Government response, at Annex B. We have taken on board the drafting points as appropriate. On the issue of transfers from COMP to COSR before the abolition date, the policy intention is to preserve the status given to transfers of protected rights from COMP to COSR that took place before the abolition date, so such transfers will continue to be treated in the receiving scheme as contracted-out rights under section 9(2B) of the Pension Scheme Act 1993. We will amend the consequential regulations to make it clear that the status of previously transferred protected rights is not changed.

### Question 2

We asked: the draft legislation has sought to remove references to contracted-out mixed benefits schemes as only salary related schemes can continue to be contracted-out after April 2012. Is the removal of these references sufficient for schemes to be aware that any contracting-out certificate issued to a mixed benefit scheme will remain valid only on a salary related basis after April 2012?

### Stakeholder view

10. Most stakeholders thought that it was sufficient to remove references to Contracted-out Mixed Benefit (COMB) schemes and that this would be enough for schemes to realise that COMB certificates would be valid only on a salary related basis after April 2012. Some respondents, however, thought that the information about impacts on COMBs needs to be stated clearly and explicitly in guidance or

other communications that the DWP/HMRC is planning to issue. A few commentators asked whether HMRC will issue a notice to each COMB scheme to confirm their new status and whether certificates for existing COMB schemes will be reissued as COSR certificates with a note to draw this to schemes' attention. One respondent requested that the Pension Schemes Act 1993 should be amended to have an explicit reference to the fact that the contracting-out certificate for a COMB scheme would only remain valid on a COSR basis.

11. Respondents also raised the following issues:

- 11.1 how defined benefits schemes contracted-out on DC basis will be affected by the changes to the COMB scheme legislation;
- 11.2 that defined benefit schemes which contract out on DC basis be allowed to continue to do so until the review of the Reference Scheme Test (RST) is completed; and
- 11.3 that consideration be given to providing a 'one off' easement for COMP schemes to become contracted-out on a salary-related basis (as was the case in 1997 under Regulation 76A of Occupational Pensions Scheme(Contracting-out) 1996/1172 which permitted a once only election at 6/4/1997).

**Government response**

- 12 Once DC contracting-out is abolished, all those certificates issued in respect of the money purchase sections of COMB schemes will be treated as cancelled for the purpose of those sections only. However, the salary-related aspect of those schemes will still be effective post April 2012. These requirements will not change post abolition. We do not consider it necessary to re-issue new certificates to replace existing valid certificates, nor to send notices to COMB schemes to inform them of their new status. To do so would incur additional administrative cost to schemes, as well as to Government. As the COMB certificates will still be valid for COSR schemes post abolition, there is no need to amend the legislation.
- 13 DWP and HMRC are working with industry representatives on a communication strategy which aims to ensure that information is targeted at those who need to know. We have set up a communication working group which includes various stakeholders and has been meeting bi-monthly since July 2010. DWP and HMRC have been looking at ways of ensuring employers and schemes get the information they need. A question about contracted-out mixed benefits schemes was included in the on line fact sheet for employers. It is intended that HMRC Employers' Bulletins will have more explicit information about which contracting out certificates will remain valid after April 2012.
- 14 In relation to the issues in paragraph 11, abolition of DC contracting-out will apply to all schemes that are currently contracted out on a DC basis. The contracting-out certificates for such schemes will be cancelled and any contracting-out rebates accrual will cease from 6 April 2012. From that date, only schemes that contract out on a Defined Benefit (DB) basis (by virtue of section 9(2) of the Pension Schemes Act 1993) will be able to contract out. The impact

of abolition on a particular scheme will, therefore, depend on the basis on which it is contracted-out.

- 14.1 Only schemes that are contracted-out on a DB basis (by virtue of section 9(2) of the Pension Schemes Act 1993) will be able to contract out. However, if a scheme is currently contracted-out on a DC basis only but is able to meet the requirements for contracting-out on a DB basis, i.e. it can satisfy the RST, it will be permitted to switch from DC to DB contracting-out and receive the appropriate contracted-out rebate. It will of course need to take the necessary administrative arrangements with HMRC to obtain a new certificate confirming that it will be contracted-out on a DB basis as the DC certificate will be invalid.
- 14.2 We carried out an informal consultation on the requirements of the RST in 2009 in order to consider the burdens placed on contracted-out schemes by the requirements of that test. In view of the responses we received which suggested that changes to the RST alone would be insufficient to encourage DB schemes to remain open, it was decided that the review should progress no further. We do not therefore propose to carry out a further review of the RST at this time.
- 14.3 Government has no plans to make transitional arrangements to facilitate contracting-out on a Defined Benefits basis for schemes that elected to use regulation 76A. These schemes will need to make an assessment of whether they will be able to provide benefits post 6 April 2012 which satisfy the RST (paragraph 11.3 refers).

### **Question 3**

We asked: do you agree that the additional information requirement under Disclosure of Information regulations will not add to the cost that schemes expect to incur as a result of communicating with their members in relation to abolition of defined contribution contracting out?

#### **Stakeholder view**

- 15 Most respondents thought that the additional information requirement would not add to the cost that schemes expect to incur as a result of abolition. Some respondents said that the timescales for communicating the abolition messages to the scheme members were prescriptive and suggested that costs could be reduced if regulations were more flexible for example by allowing scheme providers to issue communications to scheme members any time, or with annual benefit statements.

#### **Government response**

- 16 We agree that greater flexibility would be helpful for schemes and reduce costs whilst protecting the interests of members. We have retained the proposed requirement that members are informed within 1 month of abolition date that their scheme is no longer contracted-out on DC basis. But we will provide an exemption from this requirement, and the requirement to inform the member within 4 months of the effects of the schemes ceasing to be contracted-out, where

schemes have already informed affected members and provided the required information within the year preceding the abolition date. This allows schemes to choose to communicate these messages at the same time as other regular communications issued to members in the run up to the abolition date – for example in the annual benefit statement or scheme report.

### **Other issues raised by stakeholders in the context of question 3**

#### **17 Other comments made by stakeholders:**

- 17.1 The Disclosure of Information Regulations should be amended to differentiate between “affected member” and “members” in a scheme and that the information requirement should make it clear what ‘statutory’ requirements have been removed;
- 17.2 Pension credit members should be excluded from the requirement of informing them about the change of contracted-out status;
- 17.3 The time limits in the Disclosure of Information Regulations for providing information to the members by occupational and personal pension schemes should be the same;
- 17.4 It is unnecessary to provide information under the regulation 2 of the draft Pensions Act 2007 (Abolition of Contracting-Out for DC)(Consequential Amendments) Regs 2011.
- 17.5 Clarification as to how past protected rights should be recorded in scheme members’ annual statements and on IT systems;
- 17.6 DWP/HMRC should provide standard wording which pension providers could use when communicating abolition related messages to their members.
- 17.7 Post abolition, inherited SERPS pension will continue to be subject to a 50% contracted-out deduction (COD), regardless of whether the member had bought an annuity which provided for the survivor. This would be unfair to those having a COD taken from their additional pension. That information should be clearly communicated to individuals so that, as they near retirement, they can make properly informed pension choices

### **Government response**

#### **18 Our response to these comments:**

- 18.1 We have amended the regulations so that they apply to “affected member” only and cover the instance where the scheme rules might prevent “protected rights” going from the scheme immediately on abolition.
- 18.2 We agree, and pension credit members are now excluded from the information requirement.
- 18.3 We agree, and the legislation is amended to provide for a one month time period to provide information in both occupational and personal pension schemes.
- 18.4 In relation to paragraph 17.4 this amendment is necessary to deal with the minimum contributions that will be paid to the scheme for the tax

year 2011/12 after the abolition date and any further late rebate payments received by the scheme until 6 April 2015.

- 18.5 From 6 April 2012 protected rights will become ordinary rights and should be treated as such from that date. There is no restriction on schemes as to how they describe past protected rights in their correspondence or how they record this information on their IT systems.
- 18.6 The amendments to the Disclosure of Information Regulations set out minimum information requirements which scheme members must receive. Beyond this, DWP and HMRC have agreed with the pensions industry that employers and pension schemes will be responsible for notifying relevant scheme members about the change. As previously mentioned, the DWP has already published online fact sheets for employers and members containing abolition information. Employers and schemes are welcome to adopt this wording, or use these fact sheets. DWP hosts a working group where industry representatives, including the Association of British Insurers and Financial Services Authority, can discuss technical issues such as the wording of communications and share best practice.
- 18.7 The issue of survivor benefits was considered in depth before and during the passage of the Pensions Act 2008. It is not always advantageous for a member to purchase an annuity which provides for a survivor. The abolition of the additional restrictions surrounding protected rights will give members more choice. The Government will work with the financial services and pensions industry to ensure scheme members are given the information they need to make an informed decision.

#### **Question 4**

We asked: as from the abolition date, protected rights (derived from rebated national insurance contributions) will no longer exist. The existing restrictions on the transfer of funds currently comprising protected rights will no longer be in place after 6 April 2012 – is it clear from regulations 5 and 6 that this is the case?

#### **Stakeholder view**

- 19 A large number of responses were received concerning the restriction preventing the transfer of contracted-out DB rights, post-abolition, to non-contracted-out schemes. Respondents put forward various arguments in favour of allowing such transfers, while recognising that there could be some potential problems unless there were appropriate legislative safeguards. They considered that a restriction would limit pension portability and flexibility. For example, it would prevent freedom of movement between different pension arrangements. It would remove flexibility for individuals to choose an annuity in retirement or take their pension before pension age. It would, moreover, restrict individuals who want different ill-health and death benefits or who want to aggregate a number of different pension rights. Some respondents considered that it would create an artificial market for transfers to DC arrangements in the run up to 2012, causing people to make inappropriate decisions.



20 Some stakeholders acknowledged that such transfers would not be right for everyone and were concerned that it could lead to a situation where some spouses and partners may, unknowingly, relinquish rights to survivor benefits when their partner transfers to a non-contacted out arrangement.

### **Government response**

21 We have listened to stakeholders' views and consider that restricting transfers to the contracted-out environment beyond the abolition date would be inconsistent in policy and run counter to our overall pension simplification agenda. It would restrict the choice and flexibility that members currently have as to how they manage their pension provision. We also acknowledge the potential risk of creating an artificial transfer market up to 2012. We have decided, therefore, to allow transfers from DB contracted-out schemes to non-contracted-out schemes post abolition. The legislation has been amended accordingly. We have introduced safeguards to ensure that members are aware of the implications of transferring, in particular that there will no longer be a requirement to provide for survivor benefit after transferring.

### **Question 5**

We asked: whether you consider that the draft statutory instruments will end contracting-out on a defined contribution basis, whilst still allowing for any rebate payments/recoveries to be made after 6 April 2012.

### **Stakeholder view**

22 Responses indicated that the proposed draft regulations would allow for abolition and introduce a workable solution to the issue of late payments. However, some respondents raised detailed issues relating to rebate payments and recoveries:

22.1 what mechanism there would be for dealing with age-related rebates during the 3 year transitional period following abolition, whether the payment de minimis would also apply to recoveries, what the de minimis level would be, and also whether there would be an end date for recoveries;

22.2 whether schemes would be required to keep tracking protected rights during the transitional period;

22.3 how the Contracted-out Deduction would be applied post abolition, where a member dies before or after retirement.

### **Government response**

23 Our response to the above issues:

22.1. HMRC will retain the current automated payment and recovery process for a three year transitional period following abolition. Our assumption is that the level of late rebate adjustments will drop dramatically after the transitional period ends. A de minimis will be applied to both recoveries as well as payments and HMRC will keep the level of post abolition rebate adjustments under review to see whether a final cut off date could be introduced. A decision on the level of de minimis that HMRC

will apply will be communicated to providers using the normal communication channels.

22.2. Post-abolition any rules that previously applied to protected rights will be redundant including tracking of past protected rights. There will be no requirement for providers to advise HMRC of transfers from 6 April 2012. During the transitional period HMRC will be asking pension providers who return rebate payments to HMRC – because they no longer hold the pension pot – to provide details of the transfer if this information is known. Providing this information will be on a voluntary basis only.

22.3. In relation to the application of the Contracted-out Deduction, if the member dies on or after 6 April 2012, a fifty percent contracted out deduction will apply to the survivor's additional pension, regardless of whether the member died before or after retirement. The Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987 are amended to provide for this.

### **Other issues raised by stakeholders in the context of question 5**

24 Other comments from stakeholders were:

24.1 How to apply the new rules to death claims outstanding at the abolition date.

24.2 How abolition will affect the treatment of existing protected rights benefits in the event of bankruptcy.

24.3 After the transitional period, individuals who receive rebate adjustment payments should be required to pay them into their pension scheme.

24.4 Where a pension scheme member with a spouse/civil partner has already received their lump sum under a serious ill-health claim before 6 April 2012 and the contracted-out pension scheme is still holding the other half for the benefit of the spouse or civil partner, can firms immediately pay the contracted-out benefits set aside for the spouse or civil partner to the pension scheme member? Or will the requirement continue to be applied, where half the contracted-out benefits must be set aside to provide the spouse or civil partner with an annuity after the death of the member.

24.5 Protected rights are built into the scheme rules so the removal of references to protected rights in legislation will not remove the obligation on schemes to give effect to protected rights unless a statutory override is provided to the trustees to amend the scheme rules.

24.6 Will schemes have to track GMP & 9(2B) rights where a pension scheme member has transferred their Defined Benefits (DB) pension to a contracted-out DC pension scheme before abolition, just in case member decide to transfer back these from Defined Contribution (DC) scheme into a DB contracted-out pension scheme after abolition?

## **Government response**

25 Our response to the issues above:

- 25.1 Survivors of those members who died before the abolition date will be entitled to a survivor's pension under the 'old' rules. This is the case because of the effect of the general savings provisions in section 16 of the Interpretation Act 1978.
- 25.2 In line with the policy intention that all protected rights that have been give effect to before the abolition date should retain their current status, section 310 of the Insolvency Act 1986 will now remain unchanged, but the definition of "protected rights" in subsection (9) will be amended to make clear "protected rights" are only those rights as defined by section 10 PSA 1993 as it had effect prior to the abolition date.
- 25.3 It is not practical to legislate that these payments be paid to schemes. Any rebate that becomes due after the transitional period would be paid direct to the individual. HMRC will advise them to pay that amount into their pension fund
- 25.4 After the abolition date, there will no longer be a requirement to provide for a survivor's pension on the member's death, and any funds held as "protected rights" become ordinary money purchase benefits. In this situation it is the policy intention that where a member has received an ill health lump sum under regulation 6, the remainder of the former protected rights fund could be paid to the member, if the scheme rules permit, in accordance with the relevant tax legislation.
- 25.5 The Government is not introducing a "statutory override" in relation to the subsisting rights provisions in the Pensions Act 1995, as that would not form part of the consequential amendments required by abolition. However, DWP will look into this issue during 2011 to consider whether a statutory override is appropriate.
- 25.6 If a member subsequently wishes to transfer his benefits back into a DB scheme, they will not be treated as contracted-out rights in that scheme. Ongoing tracking of former section 9(2) rights in this situation is therefore not required.

## **General comments from stakeholders**

26 Other general comments received from stakeholders were:

- 26.1 Will the protected rights reconciliation service provided by HMRC be removed as part of DC abolition?
- 26.2 Will Northern Ireland specific legislation also be amended?
- 26.3 Will there be a separate exercise to amend references to protected rights in the various public sector schemes governed by regulations (e.g. teachers & police schemes)?"
- 26.4 A number of issues relating to the tax implications of these regulations were also raised.
- 26.5 What impact will these changes have on existing regulations regarding pension sharing on divorce, specifically around members of defined benefit pension schemes and the transfer of the pension debit to a defined contribution scheme?

26.6 Will rebates paid to individuals post transitional period include tax relief?

26.7 Can you clarify the requirement for the stakeholder scheme to wind up when it loses its contracting out certificate?

### **Government response**

27 Our response to the above issues:

27.1 The member reconciliation service for contracted-out schemes is an operational matter for HMRC and not an issue for the regulations. While there is no legal obligation to offer reconciliation, the position beyond April 2012 is being reviewed by HMRC - the outcome of that review will be made known using NISPI normal communication channels.

27.2 Northern Ireland will be making corresponding legislation to pick up any changes to Northern Ireland specific legislation.

27.3 The necessary changes to primary legislation governing public sector schemes will be made by The Pension Act 2008(Abolition of Protected Rights) (Consequential Amendments No.2) Order 2011. Where changes are required to secondary legislation governing a public sector scheme, that will be the responsibility of the sponsoring government department for that scheme.

27.4 Matters involving tax legislation have been referred to HMRC who will take action as appropriate.

27.5 In view of the introduction of new transfer arrangements, there will be no adverse effects on how pension sharing operates – it can continue as now.

27.6 Entitlement to tax relief is generated by the payment of a rebate into the individual's registered pension scheme. If, as will occur after 2015, rebates are paid directly to the individual no tax relief will be due and so the payment will only relate to the NI rebate.

27.7 Section 1(10) of the Welfare Reform and Pensions Act 1999, which requires all stakeholder schemes to be contracted-out, is to be repealed from the abolition date by paragraph 37(b) of Schedule 4 to the Pensions Act 2007 (consequential amendments to section 15). This means that when the scheme ceases to be contracted-out as a result of section 15 of the Pension Act 2007, there will no longer be a requirement under the Welfare Reform and Pensions Act 1999 for the scheme to wind up.

### **Thanks**

28 The Government would again like to thank everyone who took the time to comment on this consultation.

## Annex A – Respondents to the consultation

Association of British Insurers

Association of Consulting Actuaries

AEGON

AJ Bell

Aon Hewitt

Association of Pension Lawyers

Association of Member-directed Pension Schemes

AVIVA

Barnett Waddingham LLP

BDO

Buck Consultants

Burges Salmon

Confederation of British Industry

Eversheds

Fidelity

Hargreaves Landsdown

HMRC

Hymans Robertson LLP

ILAG

Individual (Steve Parsons)

Individual (Norman Cook)

Individual (Iain Henshall)

Individual (Stephen Orme)

Jaguar Land Rover

JLT

Legal & General

LSE Vat group

LV

Mattioli-Woods plc

Mercer

Government response

NAPF

Partnership

Pension Management Institute

Sacker & Partners LLP

Scottish Widows

Skandia

Society of Pension Consultants

Standard life

T.H. March

Tesco

The law Society of Scotland

Towers Watson

Travers Smith LLP

UNISON

Windsor Actuarial Consultants

Zurich Group

Zurich Scheme provider

## Annex B – Government’s response to technical comments raised in the context of Question 1

Stakeholder view	Government response
<p>1. The Personal Pension Schemes (Disclosure of Information) Regulations 1987: Reg 1(2) Definition of “contracted-out employment” and Sch 2 para 2A(3)(b)(iii) should be revoked.</p>	<p>These provisions are to be revoked.</p>
<p>2. The Occupational Pension Schemes (Contracting-out)(Payment and Recovery of Remaining Balances) Regulations 2000: the whole SI should be revoked.</p>	<p>These regulations are made under sections 41 and 42A of the Pension Schemes Act 1993 and are needed after the abolition date.</p>
<p>3. Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987: Reg 2(5)(e) &amp; 11(5)(c) the wording be amended to include the insertion of ‘in terms of pensions legislations’ immediately preceding the wording ‘ordinary scheme rights’</p>	<p>We agree and will alter the wording of the wording covering the statement required to be made by schemes to describe the effect of abolition to cover the instance where the scheme rules might prevent “protected rights” going from the scheme immediately on abolition.</p>
<p>4. Article 17(2) [of the same draft Order] Having considered the wording contained within (1A) and 17(2)(c), 17(2)(c) should be amended to delete paragraph (3) rather than amend it.</p>	<p>Although there may appear to be some overlap, we consider that para (3) is needed. The purpose of keeping paras (2) - (9) is to keep the old rules where the person has given effect to their protected rights immediately before abolition.</p>
<p>5. There is to be a statement that members are to be informed that “as a result of no longer being a member of a contracted-out scheme, the member will build up entitlement to an additional state pension from that date.” Regulations 2(7)(c) and 8(4)(c) of the draft Pensions Act 2007 (Abolition etc.)(Consequential Amendments) Regulations 2011. This would not automatically be the case, depending on earnings and possibly being contracted out on the salary related basis going forward.</p>	<p>We will amend the wording to remove “will” and replace with “may” to make it clear that that the member is not automatically entitled to state AP from the abolition date.</p>

<p>6. It is not clear why most of the provisions of the Personal and Occupational Pension Schemes (Protected Rights) regulations 1996/1537 will be revoked but regulation 1 (containing all the definitions) and revocations provisions will remain. Is there a reason.</p>	<p>The provisions of these regulations are revoked almost entirely by the Pensions Act 2007 and Pensions Act 2008 consequential amendment powers, but these powers do not extend to removing the revocation provisions.</p>
<p>7. In Regulation 3 [of the draft Pensions Act 2007 (Abolition etc.)(Consequential Amendments) Regulations 2011], amendments [should include?] to reg 9(6)(a) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 refers to conditions in section 181 (1) of the Act – need to ensure that amendments to s.181(1) are adequate to allow ex-protected rights benefits to be bought out post abolition.</p>	<p>Regulation 9(6)(a) which refers to protected rights, as defined by section 181(1) PSA, is omitted by article 6 of the draft Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011.</p>
<p>8. Regulation 14 [of the Pensions Act 2007 (Abolition etc.)(Consequential Amendments) Regulations 2011] amends the Stakeholder Pension Scheme Regulations 2000, should reg 3(7) be omitted? In reg 13(4) there is reference to the Personal and Occupational Pension Schemes (protected Rights) Regulations, which is revoked by this draft – should this reference to this be removed?</p>	<p>Article 20 of the draft Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011 omits regulation 3(7) and amends regulations 13(4)(a) and (b).</p>
<p>9. The Pensions Act 2008(Abolition of Protected Rights)(Consequential Amendments) Order 2011:in reg 2(5)(f) should paragraph 12 also be omitted?</p>	<p>Para 12 is being omitted in Part 3 of the PA 2007 Regs (from 6 April 2015) (reg 17(2)(b) of those regs)</p>
<p>10. The Pensions Act 2008(Abolition of Protected Rights)(Consequential Amendments No.2) Order 2011: reg 5 amends the PSA 1993, should s.28 not be omitted from 6/4/2015?</p>	<p>Section 28 is repealed by s.15 PA 2007 (see para 11 of Sch 4 to that Act) from the abolition date.</p>



<p>11. Regulation 8(2) of the draft Pensions Act 2007 (Abolition of Contracting-Out for DC)(Consequential Amendments) Regs 2011 amends the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 from 6/4/2012; should 2(b) also refer to omitting (7A)(a)?</p>	<p>We are revoking the whole of paragraph (7A), not just (b).</p>
<p>12. Regulation 5(20) of The Pensions Act 2007 (Abolition of contracting out for defined contribution pension schemes) (Consequential Amendments No 2) regulations 2011 amends Section 170 of the Pensions Schemes Act 1993 - could DWP clarify whether Section 170 has been repealed.</p>	<p>Section 170 Pensions Schemes Act 1993 has been substituted by para 131 of Schedule 7 to the Social Security Act 1998, but this has only been brought into force (5 July 1999) for certain purposes. For those purposes not mentioned in the commencement order, the substitution is not yet in force and the original provision (as amended) is the applicable law. That is the reason why it appears that we are amending section 170 twice in the draft Pensions Act 2008 (Abolition of Protected Rights)(Consequential Amendments) Order 2011 – see articles 5(19) and 5(20). These two articles amend the 2 different ‘versions’ of section 170 which are in force for different purposes but it is not repealed.</p>
<p>13. Regulation 9(2) of the Pensions Act 2008 (Abolition of Protected Rights)(Consequential Amendments No.2) Order 2011 amends some wording in Pension Schemes Act 1993 that is not exactly replicated in the existing legislation - could you clarify.</p>	<p>Article 9(2) of the draft Pensions Act 2008 (Abolition of Protected Rights)(Consequential Amendments No.2) Order 2011 amends section 20(3) of Pensions Scheme Act 1993 with effect from 6 April 2015. Section 20(3) will have already been amended from 6 April 2012 by article 5(2) of the same Order. There is a missing footnote for article 9(2) to explain this.</p>

<p>14. Regulation 20 of the draft Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011 amends regulation 3 of the relevant Stakeholder regulations (SI2000/1403) to remove the requirement for Stakeholder schemes to accept a transfer of protected rights. It would be helpful to have clarification that this also removes the requirement for a stakeholder scheme to wind-up, when it ceases to hold a contracting out certificate.</p>	<p>Section 1(10) of the Welfare Reform and Pensions Act 1999, which requires all stakeholder schemes to be contracted-out, is to be repealed from the abolition date by paragraph 37(b) of Schedule 4 to the Pensions Act 2007 (consequential amendments to section 15). This means that when the scheme ceases to be contracted-out as a result of section 15 of the Pension Act 2007, there will no longer be a requirement under the Welfare Reform and Pensions Act 1999 for the scheme to wind up.</p>
<p>15. In relation to amendments to the Occupational Pension Schemes (contracting-out) regulations 1996/1172:</p> <ul style="list-style-type: none"> <li>a. is the definition of "age-related payment" still required?</li> <li>b. should 16(1)(d) also be omitted?</li> <li>c. should 46(3) be omitted?</li> </ul>	<ul style="list-style-type: none"> <li>a. Yes, as late rebates will be paid for several years to come.</li> <li>b. and c. These regulations are omitted, see articles 8 (5) and (10)(a) of the draft Pensions Act 2008 (Abolition of Protected Rights)(Consequential Amendments) Order 2011.</li> </ul>
<p>16. It could be argued that because no specific "contracted-out" benefits will exist post abolition, that s.37(3) PSA 1993 would not apply to former COMPS but in our view this is not obvious from reading s.37(3). We wonder whether you should amend s.37(1) to specify that this only applies to a "salary-related contracted-out scheme"?</p>	<p>We agree that it is not clear whether s.37 could apply to former COMPs after the abolition date. We will therefore amend section 37 in the draft Pensions Act 2007 (Abolition etc.)(Consequential Amendments No.2) Regulations 2011 to make clear that s.37 only applies to COSR schemes.</p>

<p>17. The amendment to s.50 PSA 1993 does not make it clear that it will not apply to former COMPs who ceased to contract-out before the abolition date for some reason unconnected with s15(1). We wonder whether you should change the amendment to s.50 (1) to make clear that it only applies to salary-related contracted-out schemes.</p>	<p>We will further amend the proposed amendments to make clear that s.50(1) will only apply to COSR schemes from the abolition date.</p>
<p>18. As above, the wording of the amendment to s.52 does not exclude supervision of former COMPs who ceased to contract out before the abolition date as a result of other reasons. We wonder whether you should change the wording of the amendment to make clear that it applies only to salary-related contracted-out schemes</p>	<p>We will further amend the proposed amendments to make clear that s.52 will only apply to COSR schemes from the abolition date.</p>
<p>19. Increases to a person's state retirement pension under s.150(10A) SSAA will come to an end after the abolition date. This is because, with effect from 6 4 2012, NISPI will not be processing any notifications that would give rise to entitlements to such increases so none can be created. As a result we wonder whether you need to repeal this provision for members of former DC contracted-out schemes who are not in receipt of a deferred pension on the abolition date.</p>	<p>We agree with this. From the abolition date it will no longer be possible for HMRC to know whether a member has started to receive a deferred pension derived from a former protected rights fund. Therefore no increases dues as a result of s.150(10A) SSAA can be calculated. The proposed s.150(10A) amendments will be expanded to ensure that s.150(10A) will not apply in cases where the member has not started to receive payment of his deferred pension before the abolition date.</p>