Department for Work & Pensions

The Pensions Act 2011 (Transitional and Consequential Provisions) Regulations 2014

Public Consultation

October 2013

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Chapter One

Introduction

1. This consultation document sets out the Government's proposals for draft Regulations that provide transitional, supplementary and consequential measures supporting the commencement of section 29 of the Pensions Act 2011 (section 29). A draft of the Pensions Act 2011 (Transitional and Consequential Provisions) Regulations 2014 (the Regulations) is attached.
2. Section 29 clarifies the definition of money purchase benefits following the Supreme Court judgment in *Bridge Trustees v Houldsworth and another (2011)* (*Bridge*).
3. Further information and documents relating to section 29 of the Pensions Act 2011 can be found on the gov.uk website[1] and the legislation.gov.uk website[2].
4. The views and comments received in response to this document will be analysed in order to understand the perspective of those who may be affected by the Regulations.

About this consultation

Who this consultation is aimed at

5. We welcome comments on the proposals in the attached Regulations from:
   - pensions industry bodies and professionals;
   - trustees or scheme managers;
   - pension scheme members and beneficiaries;
   - employers and representative organisations; and
   - any other source.

Purpose of the consultation

6. This consultation seeks views on the Government's proposals for transitional, supplementary and consequential measures in the Regulations for the commencement of section 29. It is proposed that the Regulations are laid in Parliament to come into force on 6 April 2014 (the appointed day).
7. The information the Department has on pension schemes is self-reported and not monitored or confirmed. From the information available we understand that there are approximately 40,000 private sector occupational pension schemes in the UK that contain money purchase benefits. Approximately 2% describe themselves as

[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/182067/pensions-bill-mpb-info.pdf

[2] http://www.legislation.gov.uk/ukpga/2011/19/part/4/enacted

hybrid schemes meaning that they include both money purchase and non-money purchase benefits.

8. Section 29 clarifies the meaning of money purchase benefits, which is a fundamental building block of pensions legislation. The overarching legal framework applies to occupational pension schemes. The Regulations to support section 29 will impact on schemes which include:
    - cash balance benefits[3] treated as money purchase benefits; or
    - pensions derived from money purchase benefits or cash balance benefits that have been treated as money purchase benefits.
9. The Regulations will not impact on schemes that regard themselves as offering only defined benefits.
10. The consultation explains, in chapters four to twenty-one, the Government's proposals and how these are reflected in the Regulations.
11. There are specific questions throughout this document seeking views on the impact of the proposals and how they relate to specific areas of pensions legislation. However respondents may focus on any areas of interest.
12. The consultation stage impact assessment is also attached as part of this consultation and will be revised in light of responses.

Scope of consultation

13. This consultation applies to England, Wales and Scotland apart from the proposals relating to the Financial Assistance Scheme which would also apply to Northern Ireland. Northern Ireland has its own body of pensions law and references to Great Britain legislation are to be taken, where necessary, as including references to the corresponding Northern Ireland legislation. It is anticipated that Northern Ireland will make corresponding Regulations.

Duration of the consultation

14. The consultation period begins on 31 October 2013 and runs until 12 December 2013. Please ensure that your responses reach us by that date as any replies received after this may not be taken into account.

[3] Cash balance benefits are benefits which are subject to some kind of guarantee (such as a guaranteed interest rate or a guaranteed percentage of average salary) and provide a lump sum which is available at normal pension age, which is used either to purchase an annuity from a provider, or to provide a scheme pension.

How to respond to this consultation

15. Please send your consultation responses to:

    Mrs Alison Humberstone OBE
    Pensions Protection and Stewardship Division
    1st Floor (Tray 6), Caxton House
    6-12 Tothill Street
    London
    SW1H 9NA

    Phone number 0207 4495132

    Email: **moneypurchase.2014regsresponses@dwp.gsi.gov.uk**

16. 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 is, and where applicable, how the views of members were assembled. We will acknowledge your response.

Other ways of getting involved

17. To ensure the consultation is as comprehensive as possible we intend to hold stakeholder forums. Anyone wishing to take part in these events please contact Alison Humberstone by 15 November 2013.

    Email: moneypurchase.2014regsevents@dwp.gsi.gov.uk

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

Queries about the content of this document

19. Please direct any queries about the subject matter of this consultation to:

    Mrs Alison Humberstone OBE
    Pensions Protection and Stewardship Division
    1st Floor (Tray 6), Caxton House
    6-12 Tothill Street
    London
    SW1H 9NA

    Email: moneypurchase.2014regsresponses@dwp.gsi.gov.uk

How we consult

Freedom of information

20. 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 or referred to in the published consultation report.

21. 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.

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

    Central Freedom of Information Team
    Caxton House
    6-12 Tothill Street
    London
    SW1H 9NA

    Email: Freedom-of-information-request@dwp.gsi.gov.uk

23. The Central Freedom of Information 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 www.dwp.gov.uk/freedom-of-information

Consultation principles

24. This consultation is being conducted in line with the new Cabinet Office Consultation Principles. 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 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

25. 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
2nd Floor
Caxton House
Tothill Street
London
SW1H 9NA

Phone 020 7449 7439

Email: elias.koufou@dwp.gsi.gov.uk

26. 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.
27. If you have any requirements that we need to meet to enable you to comment, please let us know.
28. We will aim to publish the Government response to the consultation on http://www.dwp.gov.uk/consultations
29. The report will summarise the responses.

Chapter Two

Context

Background to the Supreme Court decision in Bridge Trustees v Houldsworth and another (2011)

30. This part of the consultation document explains the background to the proposed changes in the Regulations.

31. Section 29 of the Pensions Act 2011 was enacted to clarify the meaning of money purchase benefits in pensions law, following the Supreme Court judgment in the *Bridge* case.

32. The judgment found that the following remained money purchase benefits:
    - benefits subject to a guaranteed interest rate; and
    - money purchase benefits which had been converted into a scheme pension.

33. This raised the possibility that a deficit could arise in relation to money purchase benefits. Section 29 inserts a new section 181B into the Pension Schemes Act 1993 to ensure that a benefit is only money purchase when it is calculated solely by reference to the assets, meaning that the assets must always suffice to meet the liabilities.

34. Pensions law protects members of schemes offering benefits that are non-money purchase against the risk that their scheme is not able to meet the pensions promised or guaranteed to a member of the scheme. This includes the statutory requirements for scheme funding, and the backstop of the Pension Protection Fund if sponsoring employers become insolvent and schemes are underfunded.

The *Bridge* Judgment

35. The *Bridge* case concerned the Imperial Home Décor pension scheme, which began winding up in 2003. The trustees of the scheme sought a direction from the courts as they felt it was unclear how they should divide the scheme assets between members.

36. The Supreme Court’s finding that the benefits specified in paragraph 32 above should be treated as money purchase caused uncertainty in relation to the meaning of money purchase benefits.

37. The Government and many pensions industry professionals had always taken the view that the term money purchase benefits should only refer to benefits where there is no risk of a funding deficit, in line with the decision of the Court of Appeal in *Aon Trustees v KPMG* in 2005.

Section 29 of the Pensions Act 2011

38. Immediately following the Supreme Court’s judgment the Government released a

statement[4] making clear its intention to introduce primary legislation to clarify the definition of money purchase benefits to ensure that a deficit could not arise in relation to these benefits. Subsequently, Parliament enacted Part 4 of the Pensions Act 2011, which achieved this purpose.

39. Section 29 reflects the Government's broad policy objective to protect member benefits which is in line with:

    - obligations under article 8 of the European Union's Insolvency Directive (2008/94/EC); and
    - articles 15 – 17 of the Directive on the activities and supervision of institutions for occupational retirement provision (2003/41/EC); and additionally to
    - provide clarity and certainty in the law.

40. The amendments made by section 29 will have effect from 1 January 1997 when commenced in April 2014. This is to ensure that schemes which treated cash balance benefits and pensions derived from money purchase or cash balance benefits as defined benefits have their past actions validated.

Regulations

41. The Government recognises that some schemes may have had a different understanding of money purchase benefits in the past. Therefore the Government will make transitional, supplementary and consequential Regulations to:

    - give schemes time to comply with section 29 and meet the necessary legal and funding requirements attached to non-money purchase benefits;
    - balance protection for members with minimising the impact on schemes by ensuring, in most circumstances, that past decisions do not have to be revisited;
    - ensure other pensions legislation is aligned with section 29.

42. Many of the transitional and supplementary provisions are deregulatory in nature and are intended to provide significant easements for schemes affected by the coming into force of section 29. They will remove the requirement for schemes to revisit decisions made from 1997 to the date of the Department's statement on July 2011.

43. They also provide clarity and certainty as to how the regulatory requirements in both primary and secondary legislation apply to occupational pension schemes over a transitional period. The measures also modify the effect of existing legislation on schemes newly subject to the protection regime and provide for consequential changes.

44. The Regulations and the consulation document refer to periods on or before 27 July 2011 and on or after 28 July 2011. As will be clear from the Regulations, the intention is that some provisions apply on or from 28 July 2011 - that is the day after the day that the Supreme Court handed down judgment in *Bridge* as well as the Government's announcement: or on or before 27 July 2011, covering the period up to and including the day of the judgment and the announcement.

[4] https://www.gov.uk/government/news/occupational-pension-schemes-definition-of-money-purchase-benefits

Question 1

Is there a more cost-effective way of implementing the transitional, supplementary and consequential provisions that support the commencement of section 29?

Chapter Three

Types of benefits that may be affected by the clarified definition of money purchase benefits in section 29 of the Pensions Act 2011

45. The Department anticipates that most schemes affected by the definition in section 29 will be hybrid schemes. Therefore schemes providing benefits treated as money purchase where those benefits have any of the following features may be affected:
    - a guarantee in the accumulation phase, including, for example a promise of an amount linked to salary, or a guaranteed interest rate;
    - a pension in payment by the scheme derived from money purchase benefits or cash balance benefits unless this is backed by a matching insurance policy.
46. Trustees or managers of schemes providing benefits with either of these features which have been treated as money purchase benefits will need to check whether or not the benefits fall within the definition of money purchase benefits in section 29.

Questions on schemes with benefits that will be affected by section 29

47. The Department is keen to hear about any schemes that currently contain benefits that they treat as money purchase but that will, on the coming into force of section 29 become non-money purchase. As mentioned at paragraph 7 the information the Department currently hold on occupational pension schemes is self reported. We are not aware of any schemes where on the commencement of section 29 their benefits will move entirely from money purchase to non-money purchase. Our assumption is that schemes that contain a mixture of benefits (hybrid schemes) will mainly be affected.

Could you please consider and give detail on the following questions:

Question 2

Is your scheme split into sections that contain separately money purchase and non-money purchase benefits?

Question 3

Is the scheme split into sections for other reasons?

Question 4

Is there a cross-subsidy between the different sections of the scheme?

Question 5

What is the membership size of the scheme?

Question 6

How many members are there in each section of the scheme?

48. It has been suggested by some stakeholders that these Regulations could be brought into force in two stages separated by a 12 month period. The first stage of Regulations would affect the pension protection measures. This would include policy areas such as scheme funding and the Pension Protection Fund. The second stage would affect the remaining policy areas that relate to benefits in accumulation, deferral or payment. Stakeholders have suggested that this two stage approach would make it easier for schemes to make the necessary changes.
49. We believe that making this distinction would be extremely difficult, if it is possible at all, because of the interlinked nature of the Regulations. Since section 29 will come into force across all policy areas simultaneously, we do not believe it would be appropriate to delay the supporting Regulations in some of those areas but not others. It is not clear to us that this would provide any significant financial or administrative benefits as schemes would have to reconsider their benefit classifications twice. Furthermore, many of the transitional provisions, such as those covering revaluation and indexation in relation to past periods, will provide easements for schemes.

Question 7

Do you believe that splitting the Regulations into two stages would be helpful to schemes and if so why would it be helpful?

Question 8

If so, which Regulations should we delay until the second stage?

Wider Pensions Landscape

50. The transitional and consequential measures in the Regulations aim to ease affected schemes into the existing regulatory framework within the wider pensions landscape.
51. We have considered how the clarified definition of money purchase benefits will impact on the concept of risk sharing in Defined Ambition pensions that the Department has been exploring with the pensions industry over the last year. This will be examined in a further consultation paper that the Department will publish later this year.

Pensions Act 2011 (Transitional and Consequential Provisions) Regulations 2014

52. In view of the technical nature of this consultation and for ease of reference the chapters of this document follow the order of subjects as they appear in the draft Regulations. A reference to the corresponding part of the Regulations can be found in the chapter heading. Within each chapter there are references to specific Regulations by number to facilitate comparison between the policy description and related draft regulation.

53. We would appreciate any comments on the policies in chapters four to twenty-one and associated regulations in Parts 1 to 16 of the Regulations accompanying this consultation document. This is especially where they might present difficulties we have not identified. We would also like to hear your views on whether there is a more cost effective way of implementing the transitional, supplementary and consequential provisions that support the coming into force of section 29.

Could you please consider and give detail on the following questions:

Question 9

Do the proposed changes in the Regulations give rise to particular difficulties that you can identify?

Question 10

What are these difficulties and why do the proposals give rise to them?

Question 11

How do you think these difficulties could be addressed?

Chapter Four

Part 1: Citation, commencement and interpretation

54. Regulations 1 to 3 are general provisions which apply throughout the Regulations. The remaining regulations *cover* particular areas of pension law, although may also have application in other areas.
55. Regulation 1 brings the Regulations into force from 6 April 2014 and provides definitions of the words and terms used in them.
56. Regulation 2 provides the definition of cash balance benefits which is the same as the existing definition in section 51ZB of the Pensions Act 1995.
57. Regulation 3 disapplies both Part 4 of the Pensions Act 2011 and the Regulations in relation to the Imperial Home Décor pension scheme, which was considered by the Supreme Court in *Bridge*. The Government has taken the view that Parliament should not interfere with the decision of the Court in relation to this particular scheme.

Chapter Five

Part 2: Winding-up

Schemes that have begun winding up on or before 27 July 2011 will not have to revisit past decisions. Schemes that began to wind up after 27 July 2011 and completed winding up by the coming into force of section 29 will not have to revisit past decisions. This will not apply if members' entitlement under a scheme have not been met in full, or the former trustees take the view that further assets may be obtained by reopening the employer debt calculation.

58. Pension schemes complete wind up when all assets and liabilities are discharged or transferred. Winding up may be triggered by the sponsoring employer's insolvency, but schemes can be wound up for other reasons.
59. If the scheme assets are insufficient to fund all benefits then the scheme must wind up in accordance with section 73 of the Pensions Act 1995 (section 73). This sets out the priority order for discharging the scheme's liabilities in regard to members' entitlement to non-money purchase benefits.
60. Until the *Bridge* judgment, it was not possible for a money purchase scheme to become underfunded except where there was fraud or error.
61. The proposed approach in the Regulations is two-fold. Firstly, to validate past winding up decisions on or before 27 July 2011 where schemes' benefits are affected by section 29 and secondly, to transition schemes in wind-up after 27 July 2011.
62. Transitional arrangements will protect schemes which began winding up on or before 27 July 2011, or in some circumstances, began to wind up after that date but which have completed winding up on a basis inconsistent with Part 4 of the 2011 Act. The aim is to ensure that schemes do not face disproportionate burdens through having to revisit decisions made before the coming into force of section 29, whilst providing protection for members.
63. Regulations 4 and 6 make transitional provisions to validate winding up decisions made by trustees or managers of schemes which were considered to be entirely money purchase, where the winding up of the scheme began before 28 July 2011. Regulations 5 and 7 do the same for schemes that are winding up or have wound up in accordance with section 73, but the schemes provide benefits which are affected by section 29. The Regulations are intended to align with the law in force at the time that the wind up began, which is to say before or after 6 April 2005. This is the date on which the Pension Protection Fund commenced operations and the priority order for schemes winding up changed.
64. Regulation 8 applies to schemes which were considered to be entirely money purchase that began to wind up after 27 July 2011 and completed winding up before the appointed day. Regulation 9 applies to schemes which have begun to wind up in accordance with section 73 after 27 July 2011 but provide benefits which were affected by section 29, and have completed winding up before the appointed day. Subject to conditions, schemes will not be required to unpick the winding up of the scheme. The conditions are that the liabilities of the scheme

must have been met in full, or the trustees must consider whether further assets could be obtained by imposing a debt on the employer. If neither of the conditions is satisfied, a discharge of the scheme's liabilities under the scheme rules has no effect and the trustees must settle all liabilities of the scheme in full, or wind up the scheme in accordance with section 73.

65. Regulation 10 applies where schemes have entered a Pension Protection Fund assessment period before the coming into force of section 29, and at the end of the assessment have wound up, or are continuing to wind up outside of the Pension Protection Fund. In this situation, subject to a direction by the Board of the Pension Protection Fund, the trustees or managers may treat the benefits as money purchase.

66. Regulation 11 describes arrangements that apply to schemes where:
    - the scheme entered an assessment period before the commencement of section 29;
    - after which the scheme was authorised by the Board of the Pension Protection Fund to continue as closed; and
    - the scheme had a further assessment period, which ended with it winding up.

67. In these specific circumstances the trustees or managers must treat the section 29 benefits as money purchase in wind-up if they have previously determined that the benefits should be treated as such, or if the Board of the Pension Protection Fund has made a direction to that effect.

68. We would be particularly interested to hear from single or multi-employer schemes that have begun winding up since 27 July 2011 and will have almost completed winding up by the coming into force of section 29.

Question 12

Will the proposed wind-up Regulations cause any difficulties?

Question 13

At what stage would you consider a wind-up to be almost at the point of being completed?

Question 14

How can it be objectively determined that a wind-up has been completed?

Chapter Six

Part 3: Deficiencies in assets - employer debt

Trustees will not have to revisit employer debt events occurring on or before 27 July 2011. They will be required to re-open employer debt events occurring in the period after 27 July 2011 and the coming into force of section 29, unless particular conditions are met.

69. Section 29 of the 2011 Act has effect from 1 January 1997 and will validate all employer debt decisions made where schemes have treated cash balance benefits, or scheme pensions derived from cash balance benefits or money purchase benefits, as non-money purchase benefits and therefore, as subject to employer debt requirements in section 75 of the 1995 Act. We anticipate that most schemes will fall into this category and will not be required to do anything once section 29 is commenced.
70. The Regulations provide transitional protection for schemes where an employer debt event has occurred on or before 27 July 2011 and the benefits of the scheme were treated as money purchase. If no transitional provision is made, these schemes would be required to recalculate all employer debt due since 6 April 1997.
71. The Department’s view is that this would involve considerable additional administrative costs and therefore would be disproportionate. Regulation 13 modifies the effect of section 29 for hybrid schemes where a relevant debt event occurred on or after 6 April 1997 and before 28 July 2011. It validates employer debt calculations made during that period. Regulation 14 does the same for schemes where the trustees treated a scheme as entirely money purchase on or before 27 July 2011.
72. In theory, some employer debt calculations occurring after 27 July 2011 might have treated affected benefits as money purchase. It is our view that trustees or managers of these schemes should have been aware of the Department’s intention to legislate following the announcement on 27 July 2011 and therefore should not have acted on the basis that affected benefits would continue to be money purchase.
73. Regulation 16 applies to schemes that have experienced an employer debt event between 27 July 2011 and the appointed day. In this situation, the trustees or scheme manager must have calculated the debt on the section 29 basis. The following exceptions to the requirement to recalculate the debt apply:
    - the scheme has entered a regulated apportionment arrangement or approved withdrawal arrangement; or
    - the trustees or scheme managers are satisfied that recalculating would make members less likely to receive their full benefit entitlement; or
    - the trustees or scheme managers are satisfied that the recovery of the debt could not be made without disproportionate cost.
74. If the section 75 debt is to be recalculated, the trustees will need to direct an actuary to issue a fresh certification under the Occupational Pension Schemes

(Employer Debt) Regulations 2005 that includes the assets and liabilities in respect of affected benefits.

75. Regulation 18 provides transitional provision for multi-employer schemes with scheme apportionment arrangements, withdrawal arrangements or flexible apportionment arrangements, entered into on or following 28 July 2011 and the commencement of section 29. If these have included benefits affected by section 29, the trustees must consider whether the funding test or alternative requirements if appropriate will continue to be met in light of the additional non-money purchase liabilities.

76. If the funding test is not met, any additional liabilities will be allocated in proportionate amounts between the remaining employers and guarantors where applicable, unless the parties choose to enter into a new agreement. If the additional liabilities are not able to be secured or payment made in respect of them or a new arrangement reached within a reasonable time, an employer debt will have been triggered at the date the original arrangement was entered into or came into force.

77. Regulation 17 provides that section 29 does not affect the validity of specified arrangements entered into by multi-employer schemes before 28 July 2011, where the trustees or managers have treated benefits affected by section 29 as money purchase.

78. Transitional arrangements will apply to schemes that have undertaken a regulated apportionment arrangement or an approved withdrawal arrangement with the Pensions Regulator. This will ensure that these arrangements do not have to be revisited. This is because the Regulator should have already ensured a fair debt determination. This is described in regulation 19.

Question 15

Will the proposals in the Regulations cause problems for schemes that are considering revisiting debt events following the coming into force of section 29?

Question 16

If so, what alternative would you suggest that will mitigate problems and also address risks to employers and scheme members remaining in the scheme following a debt event?

Question 17

What impact will the requirement for the actuary to issue a fresh valuation certificate have on schemes and employers?

Question 18

Are there alternative ways to deal with this issue?

Question 19

Do you think the proposals in the Regulations for a multi-employer scheme with a scheme apportionment arrangement, withdrawal arrangement or flexible apportionment arrangement would cause particular difficulties for the following?

- the Pension Protection Fund if the scheme has entered a Pension Protection Fund assessment period after 27 July 2011;
- members;
- employers; or
- trustees and scheme managers.

Chapter Seven

Part 4: Revaluation, indexation and preservation of benefits

Revaluation

No past revaluations will have to be revisited where cash balance benefits have been revalued by the application of notional interest. Going forward, cash balance benefits can be revalued in line with revaluation of active members' benefits.

79. The revaluation provisions are principally found in sections 83 to 86 of the Pension Schemes Act 1993. Schemes are required to revalue many deferred benefits relative to inflation for members who have left the scheme prior to normal pension age.

80. For non-money purchase benefits, this is generally done by reference to the annual revaluation order or in accordance with the scheme rules, if these are more generous. However, if the trustees or managers think it appropriate, they can use either of the following:

    - average salary method – the earnings on which average salary benefits are calculated are to be revalued for deferred members in the way they would have been had the member remained in the same pensionable service; or
    - flat rate method – flat rate benefits for deferred members are to be revalued on the same basis as that used to revalue the benefits of active members[5].

81. In the case of money purchase benefits, the member must receive any investment income growth on the preserved fund that he would have received if he had still been an active member.

82. With the coming into force of section 29, there may be schemes which have put into payment benefits which have been revalued in a way which is incompatible with the new definition. This could occur where a scheme has provided cash balance benefits which have been treated as money purchase benefits. We are concerned that schemes could face administrative costs if they were obliged to revisit calculations made prior to the appointed day.

83. The Government also appreciates that the detail of the final salary, average salary and money purchase methods of revaluation do not apply neatly to many cash balance schemes.

84. So, to assist schemes providing cash balance pensions, regulation 20 extends the flat rate revaluation method to include cash balance schemes. This will allow revaluation of cash balance benefits accrued in relation to future pensionable service to be based on the principle that active and deferred members should be treated in the same way. This will give trustees and scheme managers a further

[5] This could include no revaluation for deferred members if the benefits of active members are not revalued under the rules of that particular scheme.

alternative to the default final salary (Revaluation Order) method that should be clear and easy to administer.

85. Where cash balance benefits attributable to pensionable service before the appointed day have been treated at that time as if they were money purchase benefits, trustees may revalue those benefits by the application of notional interest or investment growth. Regulation 21 modifies the definition of the money purchase revaluation method, for transitional purposes only, to include the application of notional interest for cash balance benefits which have accrued before section 29 is commenced.

86. This will allow schemes to avoid the need for trustees and scheme managers to undertake complex and costly reviews of benefits already in payment and protect members' accrued benefits. The requirements in section 72 of the Pension Schemes Act 1993 (no discrimination between long and short service members) should have ensured that the notional investment growth is applied fairly to both deferred and active members' benefits.

Question 20

Do you agree that schemes should not have to revisit benefits already in payment?

Question 21

If schemes did have to revisit benefits already in payment, what are the likely costs and practical issues involved?

Question 22

Do you see any risk that the value of benefits accrued in relation to past periods of service will be adversely affected?

Question 23

Do you see any problems with this approach that only applies the new method to future accruals?

Indexation

Schemes will not need to revise existing indexation provision for pensions already in payment, including where the pension is un-indexed.

87. Indexation is the process by which a pension in payment is increased each year to take into account the effect of inflation. The indexation requirements are principally contained in sections 51 to 54 the Pensions Act 1995 and the Occupational Pension Schemes (Indexation) Regulations 1996.

88. Broadly, schemes are required to increase most non-money purchase benefits accrued after 1997 by a minimum of Limited Price Indexation[6]. Money purchase

[6] Limited Price Indexation requires that, once in payment, pensions accrued between 1997 and 2005 must be increased by inflation capped at 5 per cent per annum. For pensions accrued 2005 onwards, the figure is inflation capped at 2.5 per cent per annum.

benefits have not been subject to indexation requirements since 2005. Pensions resulting from cash balance benefits have not been required to provide for Limited Price Indexation if they came into payment on or after 3 January 2012[7].

89. The effect of the coming into force of section 29 on affected benefits would not be clear in the absence of consequential modifications of the indexation requirements. In some circumstances it would impose an indexation requirement on incomes already in payment, the terms of which would have been agreed between the member and the scheme or annuity provider. To add indexation to such benefits would mean revisiting and unpicking that decision at additional cost.

90. Existing legislation[8] means that the statutory minimum indexation requirements do not apply to most pensions derived from money purchase benefits or, where the pension came into payment after 3 January 2012, to most pensions derived from cash balance benefits. However, indexation may still be required under scheme rules.

91. Regulation 22 introduces transitional arrangements to ensure that there is no impact on the indexation rate of any existing pensions in payment. This means that where a pension which first comes into payment before the appointed day is derived from cash balance benefits without providing for indexation, the pension may continue to be paid at a flat rate after the commencement of section 29.

Question 24

Do you know of any cash balance type schemes which did not provide for indexation on annuities/scheme pensions put into payment prior to January 2012?

Question 25

If so, how many schemes and members are involved?

Question 26

Will the arrangements made for these schemes cover all methods of indexation used by these schemes?

Question 27

Do you agree that schemes should not have to revisit benefits already in payment?

Question 28

If schemes did have to do so, what are the likely costs and practical issues involved?

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[7] Subject to conditions in relation to contracted out benefits.

[8] See section 51ZB of the Pensions Act 1995, as amended by section 21 of the Pensions Act 2011.

Preservation

We are repealing two existing regulations which no longer serve any purpose.

92. The preservation requirements are principally found in sections 71 to 76 of the Pension Schemes Act 1993 and the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (the Preservation Regulations) and ensure a level of benefit protection to a member of an occupational pension scheme who has accrued benefit but leaves before the normal pension age of that scheme.
93. The coming into force of section 29 will create technical inconsistencies between section 74 of the Pension Schemes Act 1993 and the Preservation Regulations by suggesting that a benefit which meets certain criteria could still be a money purchase benefit, whereas section 29 means it should be a non-money purchase benefit. This will compound confusion and uncertainty which the Government understands already exists among trustees and scheme managers around regulation 14A of the Preservation Regulations.
94. Regulation 23 will repeal regulations 14 and 14A of the Preservation Regulations on the coming into force of section 29 and replace them with a revised regulation confirming that the uniform accrual requirements in section 74(6) of the Pension Schemes Act 1993 do not apply to money purchase benefits. Section 74(1), as now, will apply to all money purchase schemes - achieving the same result as now without requiring complex actuarial calculations for no purpose.
95. Regulation 23 also makes a consequential technical change to regulation 10 of the Preservation Regulations that will clarify the options available to trustees.

Chapter Eight

Part 5: Transfers

The Regulations will allow cash balance transfer values to be calculated at the current value of the fund and be subject to adjustment if the scheme is underfunded. Similar provisions will also apply to the calculation of cash transfer sums for members who leave cash balance schemes with less than two years pensionable service. Schemes will not have to revisit previous transfers.

96. Transfer provisions in existing legislation permit a deferred member of a pension scheme to transfer the value of their pension to another scheme or an insurance provider in the accumulation phase subject to certain conditions. The transfer requirements are principally found in sections 93 to 101 of the Pension Schemes Act 1993 and the Occupational Pension Schemes (Transfer Values) Regulations 1996 (the Transfer Values Regulations).

97. For money purchase benefits the transfer amount is the current cash value of the fund. For calculating the value of non-money purchase benefits, schemes take account of the projected preserved benefits that would be payable at the scheme’s normal pension age, and the value of the fund needed to provide those benefits. For all non-money purchase benefits, the transfer value may be reduced to reflect any deficit within the overall fund.

98. A deferred scheme member who is more than a year away from the scheme’s normal pension age has the right to request a transfer if another scheme is prepared to accept the pension rights. A member of a money purchase scheme (that is a scheme that contains only money purchase benefits) has the right to transfer the cash equivalent of his benefits. However, the legislation (section 93A of the Pensions Scheme Act 1993) requires the trustees of a salary related scheme to provide a written statement of entitlement of the amount which is the cash equivalent of the pension rights, and this amount is guaranteed for three months. The Pensions Regulator can impose penalties on schemes which do not meet the legislative requirements.

99. Going forward, regulation 27 makes amendments to the Transfer Values Regulations that will enable the transfer value of non-money purchase benefits which are cash balance benefits to be calculated at the current value of the fund, including any notional interest, guarantees, bonuses or discretionary payments but subject to an adjustment if the scheme is underfunded. This will make it easier for schemes to calculate the transfer values of these benefits and explain it to members.

100. The amendments aim to make it clear that the transfer value of money purchase benefits cannot be reduced to reflect scheme underfunding, but that transfer values for non-money purchase benefits, which can become underfunded, may be reduced proportionately to scheme underfunding in that category of benefits. To do anything different might mean that a member’s transfer value could be determined to be higher than the underlying assets. This would impact detrimentally on the scheme’s stability. Therefore this measure is beneficial to schemes.

101. The changes introduced by regulation 27 will have only prospective effect for the purposes of transfers. The Government acknowledges that revisiting past decisions on transfers would be complex and difficult from a practical perspective. However, there may be cash balance schemes where the trustees have dealt with transfer requests as though the scheme was a money purchase scheme. To avoid the need for schemes to revisit completed transfers when section 29 comes into force, and to assist trustees who would otherwise find they had not met the requirement to provide a statement of entitlement, regulations 25 and 26 introduce transitional provisions to cover schemes and their trustees where cash balance benefits have been treated as money purchase benefits.

Part 6: Early leavers: cash transfer sums and contribution refunds

102. A further provision relating to transfers is found in section 101AA to 101AI of the Pension Schemes Act 1993. Occupational pension scheme members who leave after more than three months but less than two years have the option of either a cash refund of their contributions or a transfer of the value of the pension. Transitional provisions in regulation 29 will apply for cash balance schemes which treated benefits as money purchase benefits when calculating transfer values. This will avoid those schemes having to revisit previous transfers. Going forward, regulation 30 will give similar clarity as to how cash balance benefits should be valued for the purpose of cash transfer sums.

103. The Department would like to hear how schemes that have cash balance type benefits have been calculating transfer values.

Question 29

Do you agree that schemes should not have to revisit transfers which have already taken place?

Question 30

If schemes did have to do so, can you give any indication of the costs and practical issues involved?

Chapter Nine

Part 7: Scheme surpluses

Payment of surplus funds to employers

Section 29 has effect from 1 January 1997 to ensure that scheme assets and therefore members are protected. However payments to employers after 27 July 2011 which were made on a basis incompatible with section 29, but where the scheme was not, in reality, underfunded at the relevant time will not attract sanctions.

104. Section 37 of the Pensions Act 1995 (the 1995 Act) and the Occupational Pension Schemes (Payments to Employer) Regulations 2006 (Payments to Employer Regulations) deal with scheme surpluses. This allows payments of surplus funds from an occupational pension scheme to be made to an employer, providing that the conditions in the 1995 Act and in the Payments to Employer Regulations are met.

105. Regulation 32 modifies the effect of section 29 so that trustees and scheme managers who have treated benefits affected by section 29 as money purchase will not be subject to section 37 of the Pensions Act 1995 and the associated regulations in respect of any decisions made before 28 July 2011.

106. The rationale for this is to ensure that scheme assets and the interests of members are protected. The conditions for withdrawing surpluses from a scheme are stricter for non-money purchase schemes than those for a money purchase scheme. Retrospection to 27 July 2011 in respect of the benefits in question avoids the theoretical possibility that assets could be withdrawn from a scheme prior to the commencement of section 29 at the expense of members of the scheme.

107. Regulation 33 ensures that where a scheme affected by the clarified definition has made a payment to an employer after 27 July 2011 and before the coming into force of section 29 it will not be required to revisit payments to the employer where there is a surplus in scheme funds. This is because there is no detriment to members and therefore the trustees or managers of the scheme are protected.

108. Regulation 34 prevents a valuation made on the basis that affected benefits are money purchase benefits being used to support any future payment to employers in the period beyond 27 July 2011. If the trustees or managers of the scheme want to make a payment of surplus funds to the employer, they must obtain a new actuarial valuation of assets and liabilities.

109. In addition, regulation 35 makes a consequential amendment to the definition of money purchase benefits in the Payments to Employer Regulations so that it replicates the definition in section 181 of the Pension Schemes Act 1993, as amended by section 29.

Chapter Ten

Part 8: Scheme administration

110. Section 47 of the Pensions Act 1995 requires occupational pension schemes to appoint an actuary. However, money purchase schemes are exempted from this requirement by regulation 3(2) (a) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996.

111. When section 29 comes into force any scheme which had been considered to be money purchase and will now be treated as non-money purchase, could be in breach of the requirement in section 47, without transitional protection.

112. Regulation 36 therefore provides that these schemes will be treated as if they were money purchase schemes, in relation to periods before the appointed day. Schemes will also not be required to appoint an actuary until three months after the coming into force of these Regulations.

Chapter Eleven

Part 9: Pension Protection Fund

Schemes that are already eligible for the Pension Protection Fund and paying the pension protection levy will not need to revisit past valuations.

Schemes that become eligible will need to submit their first valuation by 31 March 2015 and will pay levy from 2015/16. The Regulations make amendments to clarify the provisions governing payment of compensation in respect of benefits expressed as a pot of money rather than an income stream.

113. The Pension Protection Fund was set up to protect members of non-money purchase and hybrid occupational pension schemes where the sponsoring employer has become insolvent on or after 6 April 2005.

114. If there are insufficient assets in the pension scheme to cover Pension Protection Fund levels of compensation and scheme rescue is not possible the Board of the Pension Protection Fund (the Board) will assume responsibility for the scheme. Members receive compensation in place of their pension.

115. The Pension Protection Fund is funded in part by a mandatory pension protection levy on eligible schemes that is calculated to take account of the risk the scheme presents and its liabilities. The operational costs of running the Pension Protection Fund are met through an administration levy that is calculated and payable based on the number of members in an eligible pension scheme.

116. When section 29 comes into force some pension schemes that were previously treated as money purchase and as such not eligible for the Pension Protection Fund may become non-money purchase and, if there were no transitional protection for trustees, become retrospectively eligible for the Fund.

117. Schemes that are already eligible for the Pension Protection Fund may offer some benefits that have been treated as money purchase benefits in the past but under section 29 are non-money purchase. Rights under the scheme to these benefits will therefore be replaced with a statutory right to Pension Protection Fund compensation.

Eligibility, Valuations and Levy

118. Regulation 38 provides for an occupational scheme that becomes eligible on the commencement of section 29 for the Pension Protection Fund to be treated as not eligible for any period before 1 April 2015. This will allow time for the trustees and managers of any such scheme falling within this category to make arrangements to comply with the requirements of the Pension Protection Fund. It will also mean that the scheme will not become liable for levy payments and members will not qualify for compensation before 1 April 2015. The Government is not aware of any scheme in this position where the employer has suffered an insolvency event and therefore takes the view that this provision will not cause detriment to scheme members.

119. Regulation 39 specifies that valuations to determine the assets and protected liabilities of schemes that have entered a Pension Protection Fund assessment

period prior to the coming into force date of section 29 will remain valid and will not need to be revisited, where the Board is satisfied that the scheme is affected by section 29. These valuations are used by the Board to determine whether it should assume responsibility for a scheme.

120. Regulation 40 requires a scheme that becomes eligible from 1 April 2015 to submit an actuarial valuation under section 179 of the Pensions Act 2004 by 31 March 2015. This valuation will be used to determine scheme underfunding which forms part of the calculation of the pension protection levy for the 2015/16 levy year. Subsequent valuations will be required at a minimum of three-yearly intervals.

121. Existing schemes that include benefits that were treated as money purchase but do not meet the section 29 definition may be required by regulation 41 to provide additional information to the Board or to the Pensions Regulator. This information may be used to determine how a scheme's funding position has changed and whether an out of cycle valuation under section 179 of the Pensions Act 2004 will be required by the Pension Protection Fund.

122. Regulation 42 provides transitional protection for existing schemes that include benefits that were treated as money purchase but do not meet the section 29 definition. This means that schemes will not be required to revisit valuations that were undertaken before the coming into force date, and that the Pension Protection Fund will not revisit levy bills prior to and including the 2014/15 levy year.

123. Regulation 43 specifies that schemes that become eligible for the Pension Protection Fund from 1 April 2015 will be liable to pay pension protection and administration levies from this date. In keeping with operational practice for all schemes liable to pay such levies, schemes have a period of 28 days from the invoice date to pay the levy.

124. Regulation 44 allows the Board the discretion to request an out of cycle section 179 valuation from any scheme that they believe will have a significant increase in the level of underfunding. This measure has been included to ensure that individual levy bills accurately represent the risk a scheme poses and are fair to all levy payers.

125. Regulation 45 provides transitional protection for a waiver of the fraud compensation levy due from any scheme prior to the coming into force date. In the case of any scheme that is not money purchase under section 29 but in which all the benefits that were provided (other than death benefits) were money purchase benefits prior to coming into force, the waiver will apply as if the scheme had been money purchase at the time.

Discharge of pensions and benefits

126. Where the Board has assumed responsibility for a pension scheme or the scheme has entered into an assessment period before the coming into force of section 29, regulations 46 to 51 provide transitional measures in relation to liabilities that prior to this date were considered to be money purchase to be treated as such.

127. Regulation 46 covers the circumstance where a scheme goes into an assessment period and a member's pensionable service has ended before the coming into force date. Regulation 46 allows the Board to discharge the cash

equivalent value of benefits as if they were money purchase. This will apply only where the accrued cash balance benefits had always been treated as money purchase.

128. Where a scheme has been through an assessment period, but has not transferred into the Pension Protection Fund because its assets exceeded the amount needed to pay benefits at the Pension Protection Fund compensation level, it can be permitted to continue as a closed scheme. Regulation 47 allows the trustees and managers of any such closed scheme that entered an assessment period prior to the coming into force of section 29 discretion in how benefits previously considered money purchase are treated. This discretion does not apply where the Board of the Pension Protection Fund has made a determination or direction as to how such benefits must be treated.

129. Regulation 48 covers the position where either the Board of the Pension Protection Fund or the scheme trustees or managers have discharged benefits which were either cash balance benefits or a pension derived from money purchase or cash balance benefits before the coming into force of section 29. The regulation provides that the discharge of those benefits is to be regarded as having been made in accordance with the rules on discharging money purchase benefits.

130. Regulation 49 provides that where a scheme goes into a Pension Protection Fund assessment period before the coming into force of section 29 and the liabilities of the scheme include liabilities for affected benefits, the Board of the Pension Protection Fund can determine that those liabilities are to be discharged as money purchase benefits. The Board must be satisfied that the benefits have to have been treated as money purchase in the period before 28 July 2011 and that it is reasonable to discharge them as such.

131. Where a scheme enters an assessment period before the coming into force of section 29, the trustees or managers may continue to treat cash balance benefits and pensions derived from money purchase or cash balance benefits as money purchase. It may be that they have been directed to treat these benefits as money purchase by the Board of the Pension Protection Fund.

132. It is possible that after exiting the assessment period, the scheme continues as a closed scheme and, at a later date, goes into another assessment period. In this situation, regulation 50 allows those benefits to continue to be treated as money purchase in this second assessment period if they were treated as such in the first. Also, the Board of the Pension Protection Fund can discharge these benefits as money purchase benefits.

133. Regulation 51 provides that, in most circumstances, where the Board of the Pension Protection Fund is satisfied that a member has rights to a transfer payment, calculated on the value of the benefits accrued, or to a cash payment, calculated on the amount of contributions made, the Board may determine that those benefits are to be discharged as money purchase benefits.

134. Some schemes offer members the option of making money purchase additional voluntary contributions alongside their defined benefit pension and on retirement to use these contributions to take a pension from the scheme funds rather than buying a pension from an external provider. In the past such internal annuities have been treated as money purchase benefits. If the scheme entered the Pension Protection Fund the member would receive compensation for the salary

related pension scheme and an external annuity purchased by the scheme in place of the internal annuity they were receiving from scheme funds.

135. Regulation 52 provides transitional protection for scheme members who are already in receipt of an internal annuity from additional voluntary contributions to be treated as money purchase benefits if the scheme enters an assessment period after section 29 comes into force. It also provides for scheme members who use money purchase additional voluntary contributions to purchase an annuity within twelve months of the coming into force of section 29 to be treated in the same way. This will allow the trustees or managers of schemes to notify members about these changes.

136. These arrangements will allow the trustees or managers of the scheme to discharge them from scheme funds should the scheme enter a Pension Protection Fund assessment period. They will allow these benefits to be treated as money purchase for the purposes of section 73 of the Pensions Act 1995, if the scheme winds up outside the Pension Protection Fund. This means that the member will continue to receive the full amount of their annuity, without it being potentially reduced in line with Pension Protection Fund compensation rules.

137. This approach recognises that scheme members may have taken out internal annuities using their additional voluntary contributions on the understanding that they were money purchase benefits and that these annuities may have been treated as money purchase benefits if the scheme entered the Pension Protection Fund.

138. This approach allows time for members who are currently making additional voluntary contributions to be made aware that if they choose an internal annuity in the future, their benefit will be not be treated as money purchase from that point for pension protection purposes and that the compensation they would receive in place of the their internal annuity and their scheme pension could be less than the combined total of these two elements.

139. Regulation 53 amends the Pension Protection Fund (Entry Rules) Regulations 2005 eligibility criteria to provide for any scheme that becomes newly eligible for the Pension Protection Fund as a result of section 29. A scheme, whose trustees and managers have entered into a compromise agreement prior to 28 July 2011 and which becomes money purchase, will not be excluded from eligibility for the Pension Protection Fund on account of this action.

140. Regulation 56 also provides for the period of time that the Board of the Pension Protection Fund must be satisfied that a scheme remains an eligible scheme in the case of a newly eligible scheme to match that of a newly established scheme.

Compensation

141. At present the Pensions Act 2004, on how the Board of the Pension Protection Fund pays pension compensation, is mainly based on the scheme having promised the member an income in retirement.

142. Where the scheme has offered a guarantee on a lump sum to the member, for example using a guaranteed minimum investment return, there is no income stream. On retirement the member would normally take the lump sum and convert it into an income stream either on the open market, or through a mechanism provided by the scheme itself.

143. There is a provision in Pension Protection Fund (Compensation) Regulations 2005 for cash balance schemes that enables the Pension Protection Fund to convert a promised lump sum into an income. When section 29 comes into force a wider provision will be needed for other types of schemes that promise a lump sum so that the Pension Protection Fund can calculate compensation.

144. Regulation 54 sets out the process by which a non-money purchase lump sum is converted into an income stream, to which compensation provisions can then be applied. Actuarial factors are applied to the lump sum to turn it into an income. This will then be regarded as the protected pension rate, to which compensation arrangements can be applied.

145. Regulation 54 also provides that where the member’s pension is not being indexed, once they receive pension compensation from the Pension Protection Fund in place of their pension this too will not be indexed.

146. Regulation 55 extends the list of matters which are reviewable under Schedule 9 to the Pensions Act 2004 to include determinations made by the Board of the Pension Protection Fund under transitional arrangements for the discharge of cash balance benefits, money purchase pensions and internal annuities from additional voluntary contributions. Regulation 56 amends the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005 to reflect these changes.

Question 31

Do you consider the transitional arrangements for valuations and levies will work in practice for any scheme that is newly eligible or for existing schemes that include benefits that can no longer be considered money purchase?

Question 32

Do you know of any schemes where money purchase contributions have been made other than from additional voluntary contributions to increase pension entitlement and paid from scheme funds on retirement?

Question 33

Will the draft Regulations for the conversion of a lump sum work in the case of all relevant benefits?

Question 34

Do you know of any schemes which would have been considered money purchase before the coming into force of section 29 and which will not be money purchase after, where the employer had suffered an insolvency event before the commencement of section 29?

Chapter Twelve

Part 10: Scheme funding

The Regulations modify the effect of section 29 on schemes which have treated non-money purchase benefits as money purchase before the commencement of section 29. Schemes will not have to undertake or revisit scheme funding valuations in relation to past periods.

147. The trustees or managers of occupational pension schemes which provide non-money purchase benefits are required by Part 3 of the Pensions Act 2004 to obtain actuarial valuations at least every three years. There is no requirement to produce an actuarial valuation for money purchase schemes.

148. If an actuarial valuation shows a funding deficit the trustees or scheme managers must prepare a recovery plan setting out how this will be addressed, and send a copy to the Pensions Regulator.

149. Schemes that will be affected by the commencement of section 29 will become subject to Part 3 of the Pensions Act 2004 (Part 3) and the Occupational Pension Schemes (Scheme Funding) Regulations 2005 with effect from the coming into force but transitional arrangements will allow time for valuations to be carried out.

150. Trustees of some schemes providing affected benefits may be required to obtain an actuarial valuation for the first time.

151. Regulation 59 requires such schemes to obtain an initial actuarial valuation within 15 months of the effective date of the valuation, which must be within 12 months of the commencement of section 29. This will place any such scheme in the same position as a newly established scheme at the commencement of section 29.

152. Regulation 57 disapplies Part 3 for periods before the coming into force where a scheme providing affected benefits has been treated as a money purchase scheme.

153. Regulation 58 ensures that schemes which have undertaken Part 3 valuations, but which have excluded the assets and liabilities related to affected benefits as if they were money purchase benefits, do not have to revisit past valuations.

154. Regulations 59 to 62 make further transitional provisions for schemes previously considered not subject to Part 3.

155. Regulation 63 applies to schemes which were subject to Part 3 before the coming into force and ensures that schemes can continue with the existing valuation cycle and do not have to revisit past valuations in relation to periods before the appointed day.

156. This approach gives schemes a reasonable time to comply with scheme funding requirements and ensures that past decisions do not have to be revisited.

Question 35

What, if any, transitional measures do you think are required for schemes that began to wind up on or after 28 July 2011 and are still winding up on the appointed day in terms of scheme funding?

Question 36

Are there problems with the requirement for the scheme actuary to provide an estimate as to the solvency of the scheme under regulation 18 of the Occupational Pension Schemes (Scheme Funding Regulations) 2005?

Schedules of payment

157. All schemes should continue to have in place processes to collect payment/contributions to fund their schemes. Money purchase schemes have a duty under section 87 of the Pensions Act 1995 to maintain a schedule of contributions.

158. Where any of these schemes become subject to the scheme funding requirements in Part 3 of the Pensions Act 2004 on the commencement of section 29, the proposal is for the schedule of payments to continue in force with full effect until the trustees or managers prepare the scheme's first schedule of contributions under section 227 of the 2004 Act.

159. The transitional provisions for scheme funding in Part 10 of the Regulations require a scheme to prepare the first schedule of contributions within 15 months of the effective date, which must be a date that is not more than one year after the commencement of section 29.

160. Scheme trustees and scheme managers of occupational pension schemes offering money purchase benefits must prepare and maintain a schedule of payments. This must list the rate of contributions from the main contributors (employer and employees) and their date of payment.

161. Pension schemes offering non-money purchase benefits must prepare and maintain a schedule of contributions which (because there is a promise to non-money purchase benefits) has to be actuarially certified.

162. When section 29 comes into force some schemes that had previously classified themselves as entirely money purchase will no longer have to prepare a schedule of payments, but will have to prepare a schedule of contributions. The Department anticipates that there will be no administrative difficulties for schemes moving from a schedule of payments to a schedule of contributions. The only difference is that the new schedule of contributions has to be certified by an actuary as meeting the schemes funding requirements.

Question 37

Have you experienced administrative difficulties in moving from schedule of payments to a schedule of contributions?

Chapter Thirteen

Part 11: Financial Assistance Scheme

Qualifying schemes will not be required to unpick past decisions following the commencement of section 29.

163. The Financial Assistance Scheme generally helps members of defined benefit schemes where the scheme wound up underfunded between certain specified dates because of employer insolvency or, where the employer is still solvent, because at the start of scheme wind-up there was no statutory requirement for the employer to meet the full buy-out cost, or where a compromise agreement exists.

164. The Financial Assistance Scheme was not designed to encompass money purchase benefits. As a result, money purchase liabilities in Financial Assistance Scheme schemes are expected to be discharged externally in the normal manner using associated assets.

165. Some Financial Assistance Scheme schemes did provide benefits that could be affected by section 29. Mainly these are money purchase accruals, usually additional voluntary contributions, which have been internally annuitised rather than discharged externally. The Pension Protection Fund, which administers the Financial Assistance Scheme, estimates that between 2% and 3% of members in qualifying schemes with undischarged money purchase liabilities have such internal annuities in payment to their pensioner members.

166. The Department is only aware of one qualifying scheme with undischarged liabilities, the Imperial Home Décor Pension Scheme which provided more complicated arrangements. This is the scheme that sought clarification from the courts and was the focus of the Bridge judgment. The proposed treatment of the Imperial Home Décor scheme is described in chapter twenty-one.

167. Although the Government's view is that money purchase benefits are those which cannot develop a funding deficit, it is understood that a small number of qualifying schemes used an interpretation of money purchase benefits compatible with that arrived at in the Supreme Court judgment.

168. For some schemes this has meant that they have been unable to finalise their allocation of assets against liabilities until the Government informed them of its intentions regarding the implementation of section 29 in respect of the Financial Assistance Scheme.

169. The Government, in line with arrangements in other parts of the Regulations, has chosen to avoid unpicking previous decisions in relation to asset allocations and payments. This treatment recognises that only a small number of schemes are affected, that most are far advanced in wind up (or wound up already) and only have limited assets available. Our intended approach means:

- wound up qualifying schemes which applied a Pensions Act 2011 approach will have this endorsed by the commencement of section 29;
- wound up schemes which acted in line with the Supreme Court's interpretation of money purchase benefits will be protected and not

expected to unpick their calculations.

170. Schemes which have yet to discharge their money purchase liabilities and have applied the Supreme Court's interpretation will also not be expected to unpick their calculations. These benefits will be discharged externally as money purchase benefits and this is endorsed in these Regulations.

171. Regulation 64 provides that a scheme which treated all its benefits as money purchase is not a qualifying scheme for the purposes of the Financial Assistance Scheme as a consequence of the clarified definition in section 29. This is consistent with the Government's approach of not requiring schemes to revisit past actions. We are not aware of any schemes which have been treated as entirely money purchase where the employer has suffered an insolvency event, leaving the scheme underfunded, before the appointed day.

172. For qualifying schemes which provided defined benefit and other benefits, regulation 66 endorses the treatment of the other benefits as money purchase or non-money purchase. It provides that neither the section 29 definition nor any provisions in these Regulations will affect actions which have been taken or will be taken in respect of benefits which the trustee or scheme manager had considered to be money purchase benefits, but which, under the section 29 definition would be classified as non-money purchase benefits.

173. Regulation 66 therefore validates the discharge of benefits which were considered to be money purchase benefits and the actions arising from and connected to this, such as actuarial valuations and the subsequent calculation of assistance for members. Again, the purpose of the regulation is to avoid the unpicking of past actions.

Chapter Fourteen

Part 12: Equality

The Regulations will allow schemes to apply differing actuarial factors for men and women when converting benefits to a rate of scheme pension.

174. Equal treatment in relation to pensions is included in the Equality Act 2010 (Sex Equality Rule) (Exceptions) Regulations 2010, which are made using the power in paragraph 5(2) of schedule 7 to the Equality Act 2010. These Regulations contain permitted exceptions to the Sex Equality Rule in that Act. Regulation 4 of those Regulations allows the use of actuarial factors which differ for men and women in relation to the calculation of employers' contributions in certain circumstances and the provision of certain benefits.

175. Regulation 67 consequentially amends the Equality Act 2010 (Sex Equality Rule) (Exceptions) Regulations 2010 and also adds pensions paid by the scheme which derive from money purchase benefits or cash balance benefits to the list of benefits for which different actuarial factors for men and women can be applied. It will ensure that schemes providing these benefits can continue to apply differing actuarial factors when converting benefits to a rate of scheme pension.

Chapter Fifteen

Part 13: Pension sharing (on divorce)

Schemes already in the process of valuing pension rights or implementing a pension sharing order will not have to unpick their process.

176. Pension sharing on divorce legislation is mainly contained in the Welfare Reform and Pensions Act 1999 and associated Regulations.

177. The value of pension rights are included as part of the couple's assets on divorce, or dissolution of a civil partnership, for the purpose of calculating a financial settlement. Options include either sharing the value of the pension or offsetting the value. If pension sharing is chosen, the pension rights are valued a second time, immediately before the pension sharing order is implemented.

178. Money purchase and non-money purchase pensions are valued in different ways. If a scheme valued the rights by the money purchase method but then, after the commencement of section 29, had to value the rights by the non-money purchase method, this would be complex and confusing.

179. Regulation 68 permits a scheme which is already in the process of valuing pensions rights, or implementing a pension sharing order, when section 29 comes into force to continue using the same valuation method.

180. This provision will benefit schemes which are in the process of valuing pension rights in respect of a member's divorce. These schemes will not be required to undertake a costly revision of valuations that are already in progress.

Question 38

If schemes did have to revisit past valuations can you give any indication of the costs and practical issues involved?

Chapter Sixteen

Part 14: Cross-border schemes

The Regulations provide that authorisations granted to cross-border schemes that could be invalidated by section 29 will remain valid for a year, during which time affected schemes may reapply for authorisation.

181. Sections 287 to 295 of the Pensions Act 2004, as modified by the Occupational Pension Schemes (Scheme Funding) Regulations 2005 and the Occupational Pension Schemes (Cross-border Activities) Regulations 2005 make provisions in relation to UK occupational pension schemes receiving contributions from a European employer.

182. The provisions set out requirements in respect of schemes applying for the authorisation to accept these contributions, and for the information which is to be supplied in support of an application. The information required from non-money purchase schemes is greater than that for money purchase schemes.

183. The coming into force of section 29 will mean that some schemes operating as having purely money purchase benefits could be classified as having some non-money purchase benefits. Regulation 69 describes which cross-border schemes will be subject to the transitional provisions. The information requirement for schemes in this position will alter as a result of section 29 as they will have previously only provided information appropriate for a money purchase scheme.

184. In order to ensure that affected schemes do not fail to meet legislative requirements, regulation 69 allows the existing authorisation to remain valid for a period of one year from the date that the Regulations and section 29 come into force, or until a fresh application for authorisation has been granted or refused. During this one year period any affected schemes will be required to reapply for authorisation of their re-classified benefits.

185. These schemes will then be required to provide an actuarial valuation within a year of the date of the further application. This overall timescale of up to two years to reapply and comply with the legislative requirements is the same as that for a newly established cross-border scheme.

186. We envisage that the proposals in Part 10 of the Regulations on scheme funding will be subject to the existing modifications for cross-border schemes in the Occupational Pension Schemes (Scheme Funding) Regulations 2005.

Question 39

Will these proposed changes give rise to any difficulties for your scheme in terms of the clarity of the requirements in the legislation?

Question 40

Are specific transitional measures required for schemes affected by section 29 in respect of the existing modifications for cross-boarder schemes in the Occupational Pensions Schemes (Scheme Funding) regulations 2005?

Chapter Seventeen

Part 15: Disclosure

Disclosure requirements will be amended to ensure that they apply appropriately to cash balance benefits.

187. The trustees or managers of occupational pension schemes are required to give information to their members at various points throughout the member's pension lifecycle. Until April 2014 the disclosure requirements for occupational pension schemes are principally found in the Occupational Pension Schemes (Disclosure of Information) Regulations 1996. From April 2014 the 1996 Regulations will be revoked and replaced by The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

188. Some of the disclosure requirements differ with regard to the information that must be sent to members with money purchase benefits and those with non-money purchase benefits. This is to ensure that the member receives the most appropriate information for them.

189. Some information only needs to be sent to members with non-money purchase benefits (including cash balance schemes), such as a summary of funding statement; parts of the annual report; an estimate of the amount of the member's future benefits after a scheme is wound up; and benefit statements on request. Other information only needs to be sent to members with money purchase benefits, such as annual benefits statements (including a statutory money purchase illustration) and information about the options for purchasing a retirement income.

190. With the coming into force of section 29, some schemes currently operating as providing purely money purchase benefits could be classified as providing some non-money purchase benefits. This means that these schemes may need to provide information to members where they have not previously done so in relation to the non-money purchase benefit information mentioned above.

191. To provide transitional protection for these schemes up to the appointed day, regulation 70 modifies the 1996 Disclosure Regulations so that any affected schemes are not required to give this information before the appointed day and will not be subject to civil penalties if this information is not provided.

192. Going forward regulation 71 amends the Disclosure Regulations, which are intended to come into force in April 2014. These Regulations are expected to be made, and laid by 31 October 2013. Some amendments are thought necessary specifically to confirm the position of cash balance benefits in relevant areas. This is to ensure members with these benefits receive the most appropriate information to take account of the fact that there is a guarantee element to the benefits in accrual, the rate of the pension will not be clear until the member reaches decumulation and need to purchase an annuity or other form of retirement income. Another amendment is to propose the reduction of information required for members with money purchase benefits after a scheme winds up. This reflects the position that money purchase benefits cannot be reduced to reflect scheme underfunding.

Question 41

Do you agree that schemes should not have to revisit actions taken in respect of disclosure requirements and that the transitional provision captures all relevant areas?

Question 42

If you are a trustee or manager of a scheme with cash balance benefits do you agree with the proposed amendments to the disclosure regulations and would this mean you need to revisit your disclosure requirements?

Question 43

If so, can you give an indication of the costs and practical issues involved?

Question 44

We would be particularly interested to hear about the benefit information you have been issuing to scheme members and whether this is provided automatically to the member on a regular basis?

Question 45

What are your views on the suggested proposal for a pension illustration?

Question 46

Can you suggest an alternative to ensure the member receives this information?

Question 47

What types of information have you been issuing to scheme members who are approaching retirement?

Chapter Eighteen

Part 16: Underpin and top-up benefits

Schemes which contain underpin arrangements or top-up arrangements will be able to discharge these arrangements on a consistent basis. Trustees will not have to unpick arrangements where they have already wound up or transferred assets to the Pension Protection Fund.

193. One design element of many pension schemes is to offer an underpin benefit where the scheme rules provide for the member to receive money purchase benefits only if their value exceeds the value of other non-money purchase benefits. For example, a scheme may offer a benefit that accrues on a money purchase basis, subject to a guarantee that the member will receive not less than a Guaranteed Minimum Pension, having contracted out on that basis.

194. The treatment of underpin arrangements is set out in section 73 of the Pensions Act 1995, as modified by regulation 13 of Occupational Pension Schemes (Winding Up) Regulations 1996 for schemes which commence winding up before 6 April 2005, and in section 73(1) and (10) for schemes that wind up on or after that date.

195. The policy underlying the formulation of the legislation is that each member's benefit should be tested at the assessment date to determine whether it is wholly money purchase or wholly defined benefit. This test should compare the money purchase value of each member's rights with the full value of their defined benefit rights:

- where the money purchase value exceeds the full value of the defined benefit, the member is regarded as being a money purchase member of the scheme and the whole money purchase value should be discharged; or
- if the value of the defined benefit exceeds the money purchase value, the member is regarded as a defined benefit member. The assets and liabilities relating to the member's benefits then remain in the scheme and the member's rights are processed through the Pension Protection Fund as for any other defined benefit.

196. In dealing with schemes progressing through the Pension Protection Fund it has become apparent that some scheme rules are unclear about whether the underpin arrangement should be treated as a single benefit (either money purchase or defined benefit) or two separate benefits (a money purchase benefit with a defined benefit top-up). Trustees and advisors have also called for this issue to be addressed under the legislation implementing section 29. Regulation 74 is intended to assist trustees and advisers with regards to the treatment of underpins.

197. The underlying rationale for the discharge of money purchase benefits prior to a scheme's entry to the Pension Protection Fund is that in such arrangements the member bears the investment risk. In underpin and top-up arrangements the investment risk borne by the members is mitigated in similar ways. The Government believes that such arrangements should therefore be treated consistently as an underpin benefit. Regulation 74 is intended to provide that

consistency.

198. The treatment of underpin benefits for Financial Assistance Scheme qualifying schemes is set out in guidance and it is the Government's view that this guidance accords with the approach set out in this consultation. We will consider whether it is necessary to update the guidance to deal with top-up arrangements for the purpose of clarity and consistency.

199. The amendment will enable trustees and the Pension Protection Fund to process such arrangements through the assessment period and either discharge them as money purchase benefits if the money purchase amount exceeds the defined benefit value, or to treat the whole benefit as a single defined benefit if the money purchase amount is less than the defined minimum.

200. The amendment has effect from 6 April 2005, the date from which section 73 of the Pensions Act 1995 applies. However, in line with other provisions, the Government does not wish to unnecessarily unpick the treatment of underpin or top-up arrangements for schemes that have wound up or already transferred assets to the Pension Protection Fund. Consequently this retrospection, set out in regulation 75, is limited to exclude such arrangements.

201. The Government is aware that there are circumstances where the money purchase value is less than the full value of the defined benefit amount but may exceed the amount the member will receive in Pension Protection Fund compensation. The Government believes that once their nature is determined as either money purchase or defined benefit the usual treatment under either route should be followed. This is consistent with the pension compensation provisions in Schedule 7 of the Pensions Act 2004 that, in broad terms, provide for the amount of a member's pension compensation entitlement to be calculated by reference to his entitlement under the scheme's admissible rules as at the assessment date.

202. Nevertheless, the Government has sympathy with members who may believe they have lost some of their money purchase pot if it would have secured more valuable benefits than Pension Protection Fund levels of compensation and would be interested to hear of any alternative approaches which maintain the requirement to classify the benefits in question as either wholly money purchase or not.

203. When considering alternatives approaches it would be helpful if respondents specified how their proposal meets the following requirements:

- consistency with the Government's policy that underpin or top-up arrangements are a single benefit that is either wholly money purchase or wholly defined benefit;
- does not undermine the general approach that Pension Protection Fund compensation is determined by reference to a member's entitlement under the scheme's admissible rules as at the assessment date;
- does not increase the risk of moral hazard and maintains the Government's policy that schemes should not take account of the Pension Protection Fund when delivering scheme benefits; and
- will not unfairly disadvantage other members in the scheme if a scheme winds up outside of the Pension Protection Fund.

Question 48

Are there any alternative approaches to the treatment of members whose money purchase amount exceeds compensation levels?

Chapter Nineteen

Scheme modification

204. There are no transitional or consequential amendments required to legislation dealing with scheme modification. The following paragraphs set out the Department's considerations as to why schemes are unlikely to experience difficulties if no supporting legislation is made.

205. The statutory requirements which govern changes to accrued rights or entitlements are in section 67 of the Pensions Act 2004. Stakeholders have suggested that there may be schemes which have inadvertently changed their benefits from non-money purchase to money purchase, for example by removing a guarantee from a cash balance scheme. As such they may not have secured member consent as required by the scheme modification rules.

206. We are not aware of any schemes that fit this criterion, and our stakeholders have not been able to name any. We would, however, like to know if any such schemes exist, and what precisely the consequences of the retrospective effect of section 29 would be for them.

Question 49

What action by the Government do you believe is necessary in respect of this issue?

Chapter Twenty

Automatic Enrolment

207. There are no transitional or consequential amendments required to legislation dealing with Automatic Enrolment. The following paragraphs set out the Department's considerations as to why schemes are unlikely to experience difficulties if no supporting legislation is made.

208. The Government began to phase in Automatic Enrolment from October 2012. It requires all employers to enrol eligible workers into a workplace pension scheme if they are not already in one. The largest employers are starting first, followed by medium and then small employers. It will be fully rolled out by 2018.

209. Employers will have to enrol any employee who:

- is not already in a suitable workplace pension scheme;
- is at least 22 years old, but under state pension age;
- earns more than £9,440 a year (tax year 2013/14); and
- works in the UK.

210. We do not envisage that these Regulations will have an impact on any employers, schemes or scheme members affected by Automatic Enrolment.

Question 50

Do you think that the commencement of section 29 will impact on Automatic Enrolment requirements in a way not covered by the Regulations?

Question 51

If so, what changes do you think need to be considered in the Regulations to address that impact?

Chapter Twenty-one

Treatment of the Imperial Home Décor Scheme

211. Regulation 3 of the Regulations provides that no part of Part 4 of the 2011 Act or the Regulations applies to or in relation to the Imperial Home Décor Scheme.

212. As mentioned in paragraph 166 the trustees of the Imperial Home Décor scheme, Bridge Trustees Ltd sought direction from the courts on behalf of the Imperial Home Décor scheme on the interpretation given to the statutory definition of money purchase benefits. The Supreme Court ruled that particular arrangements within the scheme are money purchase.

213. Regulation 3 preserves the judgment of the Supreme Court for the trustees of the Imperial Home Décor scheme.

Chapter Twenty-two

Stakeholder engagement

214. The Government believes the best response to a diverse and dynamic landscape is to be open with its stakeholders. Working with stakeholders is critical to the delivery of the Department for Work and Pensions' objectives as well as those of the Government as a whole.

215. The Government has therefore discussed its proposals for legislative changes necessary to make transitional and consequential provisions to support the coming into force of section 29 with a wide number of pensions professionals and representative bodies.

216. The Association of Pension Lawyers, The National Association of Pension Funds and the Association of British Insurers have all worked closely with the Government to scope the legislation changes required to support the enactment of section 29.

217. In August 2012, the Department commissioned an Industry Working Group to support the development of transitional arrangements.

218. The Industry Working Group was independent of the Department and chaired by Bob Scott (representing the Association of Consulting Actuaries). The purpose of the Group was to provide focus and operational clarity, to ensure that the developing policy worked operationally, whilst delivering the clarity of definition to money purchase benefits that the Government sought.

219. The Department has also held discussions with the industry, the Pensions Regulator and the Pension Protection Fund to try to identify the number of schemes which may be affected by these changes. To date we have not been able to clarify the numbers of schemes affected by the enactment of section 29. This consultation seeks to elicit further information.

220. The Department is grateful for the time and support of all these stakeholders. Whilst accepting there may continue to be differences of opinion on some aspects of the policy approach and regulations, the Department hopes to continue to work with them on this issue and other matters as they arise.

221. The Department will be a hosting a number of stakeholder events in November 2013 as part of our overall approach to consultation.

Chapter Twenty-three

Consultation questions

The Regulations

Question 1

Is there a more cost-effective way of implementing the transitional, supplementary and consequential provisions that support the coming into force of section 29?

Scheme Types

The Department is keen to hear about any schemes that currently contain benefits that they treat as money purchase but that will, on the coming into force of section 29 become non-money purchase. As mentioned at paragraph 7 the information the Department currently hold on occupational pension schemes is self reported. We are not aware of any schemes where on the commencement of section 29 their benefits will move entirely from money purchase to non-money purchase. Our assumption is that schemes that contain a mixture of benefits (hybrid schemes) will mainly be affected.

Question 2

Is your scheme split into sections that contain separately money purchase and non-money purchase benefits?

Question 3

Is the scheme split into sections for other reasons?

Question 4

Is there a cross-subsidy between the different sections of the scheme?

Question 5

What is the membership size of the scheme?

Question 6

How many members are there in each section of the scheme?

Implementation

It has been suggested by some stakeholders that these Regulations could be brought into force in two stages separated by a 12 month period.

Question 7

Do you believe that splitting the Regulations into two stages would be helpful to schemes and if so why it would be helpful?

Question 8

If so, which Regulations should we delay until the second stage?

General Question

We would appreciate any comments on the policies in chapters four to twenty-two and associated regulations in Parts 1 to 16 of the Statutory Instrument accompanying this consultation document. Especially where they might present difficulties we have not identified. We would also like to hear your views on whether there is a more cost effective way of implementing the transitional, supplementary and consequential provisions that support the coming into force of section 29

Could you please consider and give detail on the following questions

Question 9

Do the proposed changes in the Regulations give rise to particular difficulties that you can identify?

Question 10

What are these difficulties and why do the proposals give rise to them?

Question 11

How do you think these difficulties could be addressed?

Winding-up

We would be particularly interested to hear from single or multi-employer schemes that have begun winding up since 27 July 2011 and will have almost completed winding up by the coming into force of section 29.

Question 12

Will the proposed wind-up Regulations cause any difficulties?

Question 13

At what stage would you consider a wind-up to be almost at the point of being completed?

Question 14

How can it be objectively determined that a wind-up has been completed?

Deficiencies in assets – employer debt

Question 15

Will the proposals in the Regulations cause problems for schemes that are considering revisiting debt events following the coming into force of section 29?

Question 16

If so, what alternative would you suggest that addresses risks to employers and scheme members remaining in the scheme following a debt event?

Question 17

What impact will the requirement for the actuary to issue a fresh valuation certificate have on schemes and employers?

Question 18

Are there alternative ways to deal with this issue?

Question 19

Do you think the proposals in the Regulations for a multi-employer scheme with a scheme apportionment arrangement, withdrawal arrangement or flexible apportionment arrangement would cause particular difficulties for the following?

- Members;
- Employers;
- trustees and scheme managers; or
- the Pension Protection Fund if the scheme has entered a Pension Protection Fund assessment period after 27 July 2011.

Revaluation

Question 20

Do you agree that schemes should not have to revisit benefits already in payment?

Question 21

If schemes did have to, can you give any indication of the costs and practical issues involved?

Question 22

Do you see any risk that the value of benefits accrued in relation to past periods of service will be adversely affected?

Question 23

Do you see any problems with this approach that only applies the new method to future accruals?

Indexation

Question 24

Do you know of any cash balance type schemes which did not provide for indexation on annuities/scheme pensions put into payment prior to January 2012?

Question 25

If so, how many schemes and members are involved?

Question 26

Will the arrangements made for these schemes cover all methods of indexation used by these schemes?

Question 27

Do you agree that schemes should not have to revisit benefits already in payment?

Question 28

If schemes did have to do so, can you give any indication of the costs and practical issues involved?

Transfers

The Department would like to hear how schemes that have cash balance type benefits have been calculating transfer values.

Question 29

Do you agree that schemes should not have to revisit transfers which have already taken place?

Question 30

If schemes did have to do so, can you give any indication of the costs and practical issues involved?

The Pension Protection Fund

Question 31

Do you consider the transitional arrangements for valuations and levies will work in practice for any scheme that is newly eligible or for existing schemes that include benefits that can no longer be considered money purchase?

Question 32

Do you know of any schemes where money purchase contributions have been made other than from additional voluntary contributions to increase pension entitlement and paid from scheme funds on retirement?

Question 33

Will the draft Regulations for the conversion of a lump sum work in the case of all relevant benefits?

Question 34

Do you know of any schemes which would have been considered money purchase before the coming into force of section 29 and which will not be money purchase after, where the employer had suffered an insolvency event before the commencement of section 29?

Scheme Funding

Question 35

What, if any, transitional measures do you think are required for schemes that began to wind up on or after 28 July 2011 and are still winding up on the appointed day?

Question 36

Are there problems with the requirement for the scheme actuary to provide an estimate as to the solvency of the scheme under regulation 18 of the Occupational Pension Schemes (Scheme Funding Regulations) 2005?

Question 37

Have you experienced administrative difficulties in moving from schedule of payments to a schedule of contributions?

Pension Sharing on Divorce

Question 38

If schemes did have to revisit past valuations can you give any indication of the costs and practical issues involved?

Cross-Border Schemes

Question 39

Will these proposed changes give rise to any difficulties for your scheme in terms of the clarity of the requirements in the legislation?

Question 40

Are specific transitional measures required for schemes affected by section 29 in respect of the existing modifications for cross-boarder schemes in the Occupational Pensions Schemes (Scheme Funding) regulations 2005?

Disclosure

Question 41

Do you agree that schemes should not have to revisit actions taken in respect of disclosure requirements and that the transitional provision captures all relevant areas?

Question 42

If you are a scheme with cash balance benefits do you agree with the proposed amendments to the disclosure regulations and would this mean you need to revisit your disclosure requirements?

Question 43

If so, can you give an indication of the costs and practical issues involved?

Question 44

We would be particularly interested to hear about the benefit information you have been issuing to scheme members and whether this is provided automatically to the member on a regular basis?

Question 45

What are your views on the suggested proposal for a pension illustration?

Question 46

Can you suggest an alternative to ensure the member receives this information?

Question 47

What types of information have you have been issuing to scheme members who are approaching retirement?

Underpin and top-up benefits

Question 48

Are there any alternative approaches to the treatment of members whose money purchase amount exceeds compensation levels?

Scheme Modifications

Question 49

What action by the Government do you believe is necessary in respect of this issue?

Automatic Enrolment

Question 50

Do you think that the commencement of section 29 will impact on Automatic Enrolment requirements in a way not covered by the regulations?

Question 51

If so, what changes do you think need to be considered in the regulations to address that impact?