

 <b>Regulatory Policy Committee</b>	<b>Opinion</b>	
<b>Impact Assessment (IA)</b>	The Pensions Act 2011 (Transitional and Consequential Provisions)	
<b>Lead Department/Agency</b>	Department for Work and Pensions	
<b>Stage</b>	Consultation	
<b>IA Number</b>	DWP0041	
<b>Origin</b>	Domestic	
<b>Expected date of implementation (and SNR number)</b>	April 2014 (SNR7)	
<b>Date submitted to RPC</b>	26/07/2013	
<b>RPC Opinion date and reference</b>	29/08/2013	RPC13-DWP-1856
<b>Overall Assessment</b>	<b>AMBER</b>	
<p><b>RPC comments</b></p> <p>The IA is fit for purpose. However, to allow consultees to make a more informed contribution to the consultation, the IA should provide greater clarity on the relationship of the proposed measure with the “<i>enactment impact assessment</i>”. In addition, the One-in, Two-out (OITO) status of the proposal will need to be clear at final stage and with supporting evidence to allow validation of Equivalent Annual Net Cost to Business.</p>		
<p><b>Background (extracts from IA)</b></p> <p><b>What is the problem under consideration? Why is government intervention necessary?</b></p> <p>Regulations will be made under sections 30, 31 and 33 of the Pensions Act 2011 to provide for transitional and consequential measures, and modify existing pensions legislation to take into account the commencement of s.29 of that Act. S.29 restores and clarifies the definition of Money Purchase (MP) benefits, which is key to pensions legislation, and will have retrospective effect to 1997. This was in response to a Supreme Court judgement in July 2011 which cast some doubt on the meaning. The regulations will ease the practical positions for those schemes which may have acted on the basis of a different understanding of MP benefits, and to help them with the regime for non-MP benefits.</p> <p><b>What are the policy objectives and the intended effects?</b></p> <ol style="list-style-type: none"> <li>1. Protection for members. The Government is committed to protecting pension scheme member benefits and is obliged to so under European law.</li> <li>2. Minimising the burden on industry by providing clarity and certainty in the law, Section 29 provides clarity following the uncertainty caused by the court judgement and the Government will make transitional provision to ease affected schemes into compliance with s.29.</li> <li>3. Consistency with Departmental and Governmental priorities clarifying section 29 to 33 of PA2011 fulfils the Government earlier commitments and ensures clarity and consistency in the existing legal framework.</li> </ol>		

**Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options**

*Costs and benefits.* The IA provides a summary of the potential impacts of the proposed measure, supplemented by qualitative arguments in support of the associated costs and benefits but no monetised estimates have been provided. We note, however, that “...the consultation document is intended to elicit information that may allow the Department to quantify the number of schemes affected and to monetise the benefits”. The IA will need to provide robust monetisation at final stage to allow validation of the Equivalent Annual Net Cost to business or, if this is not possible, to demonstrate why benefits cannot be monetised and provide a robust qualitative assessment of impacts.

*Burden on industry.* The IA says “This impact assessment does not cover section 29 of the Pensions Act 2011 as these were dealt with in the enactment impact assessment which did not identify any impact on business”. However, the IA also states that an objective of the proposed changes is to minimise the burden on industry and provide clarity and certainty in the law. This appears to be inconsistent with the statement that the original proposal did not impact on business. In order to allow consultees to make a more informed contribution to the consultation, the IA should provide greater clarity on the relationship of the proposed measure with the “enactment impact assessment”.

**Comments on the robustness of the Small & Micro Business Assessment (SMBA)**

The measure is deregulatory in nature. Therefore the SMBA is not applicable.

**Comments on the robustness of the OITO assessment.**

As indicated above, the IA does not provide any monetised estimates of costs and benefits; it is expected that the outcome of the consultation will facilitate monetised estimates or strengthened the qualitative arguments supporting lack of monetisation. Therefore, although the proposed measure is viewed by the Department as deregulatory in nature, it is presently scored in the IA as in scope of OITO but with Zero Net Cost. The OITO status of the proposal will need to be clear at final stage, with supporting evidence to allow validation of the Equivalent Annual Net Cost to Business.

**Signed**



**Michael Gibbons, Chairman**