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consultation response

**Response to the Department for Work and Pensions
Consultation document: The Occupational Pension
Schemes (Contracting-out) (amendment) Regulations
2009**

November 2008

Maureen Rafferty
Department for Work and Pensions
3rd Floor
Adelphi
1-11 John Adam Street
London WC2N 6HT

28 October 2008

Dear Ms Rafferty

**THE OCCUPATIONAL PENSION SCHEMES (CONTRACTING-OUT) (AMENDMENT)
REGULATIONS 2009**

Thank you for the opportunity to respond to the Consultation Document on the above regulations that come into force on 6th April 2009. We would like to make the following points.

1. The main obstacle to simplifying GMPs lies in understanding what, if anything, is required in relation to gender equalisation. The DWP proposal ignores this. Without a resolution of this issue, few scheme trustees will be prepared to convert GMPs.
2. The DWP Consultation sets out a method for abolishing GMP. However, the requirement to pay a spouse's benefit in circumstances where a spouse's GMP would have been paid requires recording and administering a "son of GMP" amount for the purposes of administering the spouses' pensions, unless the scheme's rules governing eligibility for spouses' pensions happen to match the GMP requirements (which many don't). This would not result in achieving simplification in future administration. All that is achieved is that the result of applying this conversion method is no longer called a GMP. So the question remains as to what is achieved by the new method.

It is not clear what DWP objectives are in imposing this "son of GMP" requirement in the converting scheme when it would not apply following a transfer out of the scheme.

3. Similarly, DWP sets out a method for abolishing GMP. However, the requirement not to cut the amount of a pension in payment means that it will not be possible to convert GMPs for pensioners except by creating a "son of GMP" tranche of pension not subject to increases. So again simplification in future administration is not achieved, other than the nominal change described above – i.e. the result is no longer called a GMP.

It is not clear why it is acceptable to cut an initial amount of a pension that will come into payment in future for someone who is currently a deferred pensioner, if it is not acceptable to cut the amount of pension currently in payment for a pensioner.

Faculty of Actuaries
Maclaurin House
18 Dublin Street
Edinburgh EH1 3PP
Tel: +44 (0)131 240 1300
Fax: +44 (0)131 240 1313
e-mail: faculty@actuaries.org.uk
www.actuaries.org.uk

Institute of Actuaries
Staple Inn Hall
High Holborn
London WC1V 7QJ
Tel: +44 (0)20 7632 2100
Fax: +44 (0)20 7632 2111
e-mail: institute@actuaries.org.uk
www.actuaries.org.uk

Institute of Actuaries
Napier House
4 Worcester Street
Oxford OX1 2AW
Tel: +44 (0)1865 268200
Fax: +44 (0)1865 268211
e-mail: institute@actuaries.org.uk
www.actuaries.org.uk

4. The DWP proposal is to give tPR the power to require reversion to the original benefits if tPR is not content with the methodology followed in a particular case. This means that any converting scheme will have to keep records of benefits before as well as after conversion, which will increase rather than reduce administration. Again this will not achieve simplification.

5. Equivalence of benefits with different levels of pension increases is sensitive to the assumptions used, e.g. mortality assumptions. For example, using prudent longevity rather than using best estimate longevity will produce a lower post-conversion pension, with scheme increases equivalent to a given pre-conversion non-increasing GMP. More fundamentally, the assumption as to future inflation will materially affect the post-conversion pension. There is a wide range of plausible assumptions depending for example on what inflation risk premium (if any) is assumed if inflation is derived from market yields on fixed and inflation linked gilts. We assume that BAS and/or tPR will be asked to give guidance on the terms of reference for the assumptions to be used to assess equivalence if this is not to be included in the legislation.

6. It is not clear from the draft regulations whether the conversion can be carried out retrospectively as at a conversion date some time before the conversion is implemented and communicated.

If instead the conversion is to be calculated as at a date after the calculation is carried out (so that it can be communicated to the affected members in advance of the as at date) there will need to be scope for the assumptions to be determined in advance of the conversion date, even though market yields etc. at the conversion date will not be known when the assumptions have to be decided by the trustees. (In contrast, cash equivalents are always calculated after the guarantee date, and therefore once market yields at the guarantee date are known.)

7. The draft reads as if it requires the actuary to certify each conversion calculation after it is performed. This does not fit with the actuary supplying calculation instructions for the trustees/administrator to use each time a member's GMP is to be converted at the date of transfer. This would fit more naturally with the actuary certifying that calculations that follow the instructions meet the requirements (as was the approach commonly adopted for cash equivalents prior to 30 September).

8. Since the actuary does not determine the assumptions, it is not appropriate for the actuary to certify without qualification that the post-conversion benefits are actuarially equivalent to the pre-conversion benefits. The actuary can only certify that the benefits are equivalent on the basis of the assumptions the trustees told him/her to use.

9. If following transfer the offset from SERPS in respect of the converted GMP is set as equal to the GMP with full revaluation in all cases, irrespective of the GMP revaluation rate before conversion, then for some members the value of the offset will be far below, whilst for others it will be far above, the value of the GMP immediately before conversion, which should be equal to the value of the benefits granted post-conversion in lieu of the GMP. This means some members will

lose out significantly. In particular, for members with GMPs which were subject to limited revaluation pre-conversion, the offset from SERPS will be far more than the member would expect to receive post-conversion in lieu of the converted GMP.

We have not commented on whether the proposal is successful in requiring a half rate pension for spouses, as well as requiring the pension to be paid in specified circumstances. We think this is covered by 24D in the primary legislation. Indeed this may go further than anticipated, by requiring in the specified circumstances a half rate spouse's pension in respect of the whole pension in respect of 78 to 97 service (88 to 97 for widowers), not just the bit in respect of converted GMP.

Response to the questions follow:

1. See letter above
2. See sections 7 and 8 relating to certification requirements
3. Yes, the regulations need to be much clearer that post- and pre-conversion benefits must be actuarially equivalent on a specified conversion date
4. Proposals do not achieve simplification - see letter
5. No comment
6. No comment

We hope the above will be helpful to you. Please contact Martin Hewitt, Pensions Practice Manager on 0207 632 2185 or via martin.hewitt@actuaries.org.uk if you require any further information.

Yours sincerely

Robert Hails

Chairman, Consultations Group, Pensions Practice Executive Committee

Faculty of Actuaries
Maclaurin House
18 Dublin Street
Edinburgh EH1 3PP
Tel: +44 (0)131 240 1300
Fax: +44 (0)131 240 1313
e-mail: faculty@actuaries.org.uk
www.actuaries.org.uk

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