Department
for Work &
Pensions

Pension Schemes Act 2015

Impact Assessment

Summary of Impacts

March 2015

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Related Impact Assessments

These are published alongside this Summary of Impacts on www.legislation.gov.uk

Impact Assessment - Defined Ambition Pension Schemes

Impact Assessment - Amendments to Pension Schemes Bill (private sector defined benefit transfers)

Impact Assessment - Increase of maximum pension credit benefit age

Introduction

The Pension Schemes Act 2015 contains measures to:

- Introduce new definitions into the current legislative framework - establishing three, mutually exclusive scheme categories based on the type of promise to members during the accumulation phase of saving about the benefits that will be payable at retirement;
- Define collective benefits for the first time in pensions legislation, in order to enable the development of pension schemes which provide collective benefits, and take regulation-making powers in order to create a robust regulatory framework under which such schemes can safely operate;
- Make consequential amendments to the existing legislation so it relates correctly to the new categories – including in relation to revaluation of accrued benefits, and preservation rights for members leaving a scheme before normal pension age, as well as other amendments;
- Underpin the implementation of the new guidance service, which will ensure that everyone able to take advantage of new, more flexible access to their pensions savings can get free and impartial guidance on their options as they approach retirement;
- Amend existing pensions legislation to ensure that the new pensions flexibilities, announced in the 2014 Budget, operate as intended when they come into force in April 2015;
- Fulfil a DWP commitment to the Red Tape Challenge, by removing a regulatory requirement deemed unnecessary;
- Give schemes greater flexibility over setting the age that a pension shared on divorce (a pension credit benefit) must first be put into payment.

Further detail on particular provisions can be found below and in the explanatory notes for the Pension Schemes Act 2015.

The Government recognises a responsibility to consider the impact, in terms of costs and benefits, of new regulatory proposals. It also has a statutory duty to consider whether new regulatory proposals have impacts on individuals that differ by the protected characteristics of race, disability and gender.

This note summarises the Impact Assessment for the provisions contained in the Act which have significant costs to the Exchequer and/or impact on business or civil society organisations. An Impact Assessment for general pensions reform to enable shared risk schemes (Defined Ambition schemes) is published alongside this Summary of Impacts on www.legislation.gov.uk. An Impact Assessment for private sector Defined Benefit (DB) transfers is published alongside this Summary of Impacts on www.legislation.gov.uk, which also covers the impacts of an amendment consequential to the wider pension flexibilities announced at Budget 2014. The Impact Assessment for an increase of the maximum pension credit benefit age is published alongside this Summary of Impacts on www.legislation.gov.uk.

Other measures in the Act are not considered to cause significant cost to the Exchequer or have an impact on business or civil society organisations. For these measures, no Impact Assessment has been conducted.

Background

- In November 2013, the Government published a consultation paper, *Reshaping workplace pensions for future generations*, which outlined broad proposals for encouraging greater risk sharing in private pension arrangements in the UK. The paper set out the possibility of legislating to allow for new types of pension arrangements based on the extent of risk that is borne by scheme members.
- Responses that were received during the consultation period were then considered in the Government response paper published in June 2014, which set out proposals for going forward. Those proposals form the basis for the introduction of the pension scheme definitions set out in Part 1 of the Pension Schemes Act 2015, and the enabling of collective benefits as set out in Part 2. Consequential, and other, changes to existing pensions legislation are addressed in Part 3.
- The 2014 Budget announced reforms to workplace pensions, giving savers greater flexibility in how they access their defined contributions pensions pots. The Government published a consultation on 19 March 2014 entitled 'Freedom and Choice in Pensions', which invited interested parties to comment, over a 12 week period, on the policy and implementation issues surrounding the pensions reforms announced at Budget. The Government published its response to this consultation on 21 July 2014, which confirmed that transfers out of funded public sector and private sector Defined Benefit schemes would continue to be permitted. Many of these new reforms required changes to tax legislation which are not within the scope of this Pension Schemes Act 2015, but are set out in the Taxation of Pensions Act 2014 which was introduced on 14 October 2014[1]. The Pension Schemes Act does contain a number of measures concerning the new guidance service, amendments to existing transfer rights for those with rights in public service and private sector pension schemes, as well as changes to pensions legislation as a consequence of the Taxation of Pensions Act.

Categories of Pension Scheme

- Part 1 of the Pension Schemes Act 2015 contains provisions to change the legislative framework relating to private pension schemes, establishing three mutually exclusive categories of scheme based on the type of promise during the accumulation phase about the benefits that will be payable to members at retirement. The changes seek to address the existing polarity between schemes which are commonly termed 'Defined Contribution' and those which are commonly termed 'Defined Benefit'. In the former, the scheme member has no certainty and bears all the risks of investment performance, inflation and longevity; in the latter, the situation is reversed so that employers bear all the risks on the behalf of scheme members. This legislation thus makes a clearer middle ground with potential for innovation in scheme design to encourage greater risk-sharing between parties.

Collective Benefits

- Part 2 of the Act defines the concept of collective benefits. A scheme's benefits may be thought of as 'collective' in nature if risks are pooled across the membership with the value

[1] The Taxation of Pensions Act http://services.parliament.uk/bills/2014-15/taxationofpensions.html

of pension benefits being determined in accordance with the investment returns on the collective fund, any redistribution between the membership and any other relevant actuarial factors. When a member retires, they do not have to select an individual retirement income product; rather, an income can be paid from the asset pool. There are examples of collective schemes in the Netherlands and Denmark (i.e. schemes which are set up on the basis of providing collective benefits to members), where evidence suggests they can, when governed appropriately, encourage a greater degree of stability in pension outcomes than individual Defined Contribution schemes.

- Part 3 of the Act also makes provision related to the funding of pension benefits and contains a number of measures relating to the tracking of contributions in collective schemes, the setting of targets in relation to benefits, and valuation and reporting requirements for collective benefits, all of which are designed to provide transparency and to protect members.

General Changes to Pensions Legislation

- Part 3, in the main, addresses the implications to existing legislation of the introduction of the scheme categories in Part 1 (above). It makes consequential amendments to provisions dealing with the revaluation of accrued benefits within a pension scheme, and preservation of benefits when a member exits a scheme before retirement. It inserts a new regulation-making power which may provide that trustees and managers can only obtain third party promises which meet certain requirements, as well as provision to specifically exclude collective benefits and Regulatory Own Fund schemes from the indexation requirements of the Pensions Act1995, and a power to exempt prescribed schemes from those indexation requirements. It also makes changes to subsisting rights legislation to ensure that existing member protection against detrimental amendments to rights in a scheme apply correctly under the new categories.

Pension Guidance

- The Pension Schemes Act 2015 contains a number of provisions to underpin the implementation of the guidance service (Pension Wise), which will ensure that everyone is able to take advantage of new, more flexible access to their pensions savings and can get free and impartial guidance on their options as they approach retirement.
- The Chancellor announced in October 2014 the Treasury's delivery partners for the guidance service: the Pensions Advisory Service will be responsible for providing guidance on the telephone and Citizens Advice (England and Wales, Scotland and Northern Ireland) will be responsible for provision of face to face guidance across the UK. These channels will be complemented by online guidance, available on gov.uk, which is being developed by the Treasury, drawing on expertise from the Government Digital Service and the Money Advice Service.
- Provisions in the Pension Schemes Act place a duty on the Treasury to ensure provision of pensions guidance and provide powers to incur expenditure to deliver the service, including making grants to delivery partners, to confer functions and designations on delivery partners and create a new criminal offence to prevent impersonation of the guidance service. They also provide for a levy on regulated financial services firms to fund the service.

- The Pension Schemes Act provides the legislative framework for the Financial Conduct Authority's (FCA) standards regime with which delivery partners must comply – this includes the FCA's powers to supervise compliance and make recommendations to guidance providers and places a duty on the FCA to require contract-based schemes to signpost their members to the guidance service.

Transfers out of funded Defined Benefit schemes

- The additional flexibility for those with Defined Contribution pension pot from April 2015 has the potential to increase the attractiveness of transferring from Defined Benefit to Defined Contribution pension schemes. Therefore Part 4 of the Pension Schemes Act 2015 introduces additional safeguards for pension scheme members transferring their safeguarded benefits, including Defined Benefits, to a scheme offering the new flexibilities, to mitigate the risks associated with any increased withdrawals from these schemes. Individuals in funded private and funded public sector Defined Benefit schemes who wish to transfer out to take appropriate independent advice from an FCA authorised adviser, to ensure they are aware of the implications of such a decision.
- The Pensions Regulator is currently consulting on new draft guidance to pension scheme trustees to clarify the powers available to them in light of the pension flexibilities, to maintain the stability of their scheme, including their ability to delay a transfer or reduce a members' cash equivalent transfer value to reflect the schemes funding position. Additionally, a further safeguard, akin to that in the private sector for reducing Cash Equivalent Transfer Values, is introduced in the Act for Ministers in respect of funded, defined benefit, public service pension schemes. Specifically, in circumstances where there is a risk of tax-payer funds being needed to support a pension scheme, Ministers can require the reduction of transfer values. The final Guidance will be available in April 2015.
- Part 4 also creates a new definition of 'flexible benefits' (money purchase benefits, cash balance benefits and other benefits calculated by reference to an amount available for the provision of benefits to (or in respect of) a scheme member) which describes which benefits the new flexibilities will apply to. It also extends the current transfer rights for scheme members with 'flexible benefits' giving them a statutory right to transfer up to and beyond their schemes normal retirement age, and amends existing statutory transfer rights so that they apply at benefit categories, rather than at scheme level. In addition Part 4 sets out the treatment of drawdown and lump sums stemming from the changes from the changes introduced by the Taxation of Pensions Act 2014 in relation to scheme wind-up or entry into Pension Protection assessment period.

Other measures in the Pension Schemes Act

Part 5 contains provisions which include:

- allowing the Secretary of State to make payments into the Remploy occupational pension scheme directly, rather than through the payments he makes to Remploy;
- enabling the Lord Chancellor to establish a pension scheme for eligible fee-paid judges in the United Kingdom and Northern Ireland, as required by case law;
- making a small amendment to the Public Service Pensions Act 2013, to ensure that the pension schemes relating to the Security Service and Secret Intelligence Service are not

caught within that Act's definition of "existing scheme" and so forced to close on 1 April 2015;

- extending to Scotland section 38A of the Pension Schemes Act 1993 that was inserted by the Marriage (Same Sex Couples) Act 2013 as it only currently applies to England and Wales; and
- allowing for an increase of the maximum pension credit benefit age when a pension is shared on divorce.

Summary of impacts

Defined Ambition

- Changes in the legislation concerning private pensions may incur some small upfront costs for existing pension schemes, due to the need to assess what category of pension scheme they will fall within under the new definitions. However, the overall effect of this legislation will be to enable innovation with relevant consumer protections – as such, it is expected that there will be zero net regulatory costs in the long term.
- A full copy of the Impact Assessment conducted for changes to pension legislation to encourage shared risk (Defined Ambition) schemes is published alongside this Summary of Impacts on www.legislation.gov.uk.

Private Sector Defined Benefit transfers

- Changes in the legislation to introduce new safeguards will incur costs to employers operating schemes offering safeguarded benefits, and pension scheme members. They consist of the on-going administrative cost of verifying whether scheme members have received professional financial advice before initiating a transfer; and the costs of the appropriate independent advice itself, where this doesn't occur already.
- Benefits will occur for FCA authorised advisers who are positively impacted to the same extent that those paying for financial advice are negatively affected. There will also be non-monetised benefits to individuals who receive advice who would not have done previously as they will be better informed about the choices available to them and implications of a transfer.
- A full copy of the Impact Assessment conducted for private sector Defined Benefits to Defined Contribution transfers is published alongside this Summary of Impacts on www.legislation.gov.uk.
- The Impact Assessment also accounts for the provisions in the Pension Schemes Act to allow trustees or managers of pension schemes to change their scheme rules. This will allow the pensions flexibility policy to be implemented as intended but is not anticipated to result in direct costs or benefits.

Pension sharing on divorce

- This is a measure regarding the payment of a pension share arising from pension sharing

on divorce (a pension credit benefit). Prior to the commencement of this measure in the Pension Schemes Act 2015, the normal age from which a pension scheme can start to pay a pension credit must be between age 60 and 65. The Act includes a provision which permits schemes to alter their scheme rules to set the age above 65 if the scheme has a normal pension age for ordinary members which is above 65.

- The measure to allow an increase of the maximum pension credit benefit age is classed as deregulatory with a zero net cost on business. The impact assessment for this measure is published alongside this Summary of Impacts on www.legislation.gov.uk.

As noted above, full discussion of the measures in the Pension Schemes Act is provided in the explanatory notes which accompany the Act.