

**EXPLANATORY MEMORANDUM TO THE  
REGISTER OF OCCUPATIONAL AND PERSONAL PENSION SCHEMES  
REGULATIONS 2005**

**2005 No. 597**

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 The Pensions Act 2004 provides for a new Pensions Regulator to replace the Occupational Pensions Regulatory Authority (Opra) in April 2005. From April, the Secretary of State for Work and Pensions will undertake the Pension Tracing Service, a function currently undertaken by Opra. The Service will continue to provide individuals with a free service for tracing any unclaimed or “lost” occupational and personal pensions.
  - 2.2 The Act compels the Regulator to set up and maintain a register of pension schemes. Opra is currently under a similar duty to hold such a register of schemes in its capacity as Registrar of Occupational and Personal Pension Schemes (Section 6 of the Pensions Schemes Act 1993). To prevent any extra burden on schemes currently registered, that register will be transferred to the new Regulator.
  - 2.3 The Regulations specifically:
    - (i) Extend, where applicable, the Regulations to Northern Ireland;
    - (ii) Prescribe those pension schemes which are registrable;
    - (iii) Prescribe further information which is registrable information;
    - (iv) Make provision for an information service, to be known as the Pension Tracing Service, to assist people to get back in touch with pension schemes of which they may be a member but with which they have lost contact;
    - (v) Entitle the Secretary of State to be provided with information from the register, or to inspect the register, if he considers it necessary to carry on the Pension Tracing Service. It also enables him to disclose certain information from the register in certain circumstances to persons seeking to trace pensions;
  - (v) Revoke the previous set of Regulations which detailed the information that was to be held on the register of pensions.

### **3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

### **4. Legislative Background**

4.1. The Secretary of State for Work and Pensions is empowered to make regulations under the Pensions Act 2004. In this case the Secretary of State for Work and Pensions, is exercising the powers conferred upon him by sections 59(2), 60(2)(h) and (3), 61(1), (2) and (3), 307(1), 315(2)(4) and (5) and 318(1) of the Pensions Act 2004.

4.2 Section 59 of The Pensions Act 2004 provides that the Regulator must set up and maintain a register of pension schemes. Sections 60 to 65 of the Pensions Act 2004 set out additional details on:

- the information to be provided by schemes for the purposes of the register;
- the Regulator's powers to make use of the information, including the provision of reports to the Secretary of State; and
- the duties of trustees and managers in respect of the register.

4.3 The Regulations specifically prescribe those pension schemes which are registrable and further information which is registrable information. They also provide for an information service, to be known as the Pension Tracing Service, to assist people to get back in touch with pension schemes of which they may be a member but with which they have lost contact.

### **5. Extent**

5.1 This instrument applies to England, Wales and Scotland only, with the exception of regulation 2 which also applies to Northern Ireland.

### **6. European Convention on Human Rights**

6.1 Not applicable.

### **7. Policy Background - The Scheme Register**

7.1 In line with the recommendations of the Better Regulation Task Force and the National Audit Office Report, it is essential for the Regulator to be able to collect and hold up-to-date information on schemes to enable it to develop its risk-based approach. There is a requirement on the trustees to inform the Regulator of any changes to the information on the register to ensure the information is up to date. This will enable the Regulator to monitor and contact schemes effectively to assist with protecting members' benefits and limiting calls on the PPF.

- 7.2 The provisions for the scheme register will implement Article 9(1)(a) of the Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (the Occupational Pensions Directive). Attached at Annex A is an extract from the Pensions Act 2004: Memorandum detailing the implementation of the EU Directive on the activities and supervision of Institutions for Occupational Retirement Provision (Directive 2003/41/EC).
- 7.3 It is not proposed that any change is made in the type of schemes required to register, so for example schemes with only one member will continue to be exempt from registration.
- 7.4 Before the Secretary of State makes any regulations by virtue of the Pensions Act 2004, he may be required to consult such persons as he considers appropriate. There is no formal requirement to consult in this case because the regulations will be made within six months of the enabling powers of the Act coming in to force (section 317(2) of the Act). However, to reflect our commitment to openness, there has been a short, informal consultation exercise with The Pensions Regulator Advisory Panel – a list of its membership is attached at Annex B. Annex C summaries the feedback received and the Departments response.

#### **Policy Background - The Pension Tracing Service**

- 7.5 As well as fulfilling the requirement that the Regulator must hold a register of pension schemes to comply with Article 9, the register will be used to assist members of the public to trace their pension, an existing service which last year provided contact names and addresses in response to over 25,000 requests for information.
- 7.6 The new Pension Tracing Service will form part of the Informed Choice Programme, a range of initiatives aimed at fostering an increased awareness among people of working age (currently between 16 and 60/65) about actively and regularly considering financial planning for retirement. An integral part of this process will be the ability to view the complete financial package expected at retirement - thus the need to trace any lost pensions to make this portfolio complete.
- 7.7 Specific policy objectives in respect of the Pension Tracing Service are to:
- provide individuals with a free, easy-to-use service for tracing ‘lost’ occupational and personal pensions;
  - expand the range of access channels, to allow both contact and responses to be made by means of writing; telephone; e-mail and on-line; and
  - provide a link with the web-based Retirement Planner, to be launched in Spring 2006, which will offer individuals the opportunity to look at all their pension information, from both State and private sources, and thereby help them estimate the income they might want in retirement.

- 7.8 The Pension Tracing Service will contribute towards Departmental Objective III (“*Combat poverty and promote security and independence in retirement for today’s and tomorrow’s pensioners*”) and will specifically contribute towards achieving new PSA Target 7, effective from April 2005:

*“Improve working age individuals’ awareness of their retirement provision such that by 2007-8, 15.4 million individuals are regularly issued with a pension forecast and 60,000 successful pension traces are undertaken a year.”*

## **8. Impact**

- 8.1 An assessment of the impact on business, charities or the voluntary sector of the provisions in these regulations is included in the Regulatory Impact Assessment that accompanied the Pensions Act 2004. A relevant extract is attached at Annex D.

## **9. Contact**

- 9.1. The policy officials responsible for these Regulations are:

### **The Scheme Register**

Berni Mundy

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E-mail: [berni.mundy@dwp.gsi.gov.uk](mailto:berni.mundy@dwp.gsi.gov.uk)

### **The Pension Tracing Service / Informed Choice**

Geoff Warriner / David Boxall

Tel: 0207 712 2427/ 020 7712 2410

E-mail: [geoff.warriner@dwp.gsi.gov.uk](mailto:geoff.warriner@dwp.gsi.gov.uk) / [david.boxall@dwp.gsi.gov.uk](mailto:david.boxall@dwp.gsi.gov.uk)

11 March 2005

**PENSIONS ACT 2004: EXTRACT FROM THE MEMORANDUM  
DETAILING THE IMPLEMENTATION OF THE EU DIRECTIVE ON THE  
ACTIVITIES AND SUPERVISION OF INSTITUTIONS FOR  
OCCUPATIONAL RETIREMENT PROVISION (DIRECTIVE 2003/41/EC).**

**Article 9**

**Purpose**

This Article sets out conditions of operation for pension schemes, including rules relating to registration, calibre of scheme managers, proper rules, involvement of experts, and provision of information.

**Implementation**

*9(1)(a) institutions must be registered*

Section 7 of the Pensions Act 2004 transfers the functions of the existing occupational regulator, Opra, to the new Pensions Regulator. Sections 59 - 62 of the Act outline the provisions for registering occupational and personal pension schemes.

Regulations made under section 60(2)(h) will ensure cross-border activities of an occupational pension scheme are registered. Section 289(1)(c) requires the trustees or managers of a cross-border scheme to supply the Pensions Regulator with the information required by Article 9(1)(a).

*9(1)(b) institutions must be effectively run by persons of good repute with professional qualifications or must employ such advisers*

Existing provisions in Sections 3 – 6 of the Pensions Act 1995 (as amended by sections 33 and 34 of the Pensions Act 2004) provide the Regulator with the power to prohibit or suspend a person from being a trustee of an occupational pension scheme if the Regulator is of the opinion the person is not ‘fit and proper’ to act as such. The Regulator may appoint an alternative person as a trustee. Section 45 of the Pensions Act 2004 requires the Regulator to keep a register of all persons who are prohibited from being trustees. Section 47 of the Pensions Act 1995 requires trustees to appoint a range of professional advisers to all occupational pension schemes. This includes an auditor, actuary, fund manager and legal advisor. Section 13 of the Pensions Act 2004 enables the Regulator to issue improvement notices requiring advisers to be appointed where trustees have not complied with section 47 of the 1995 Act. In addition, sections 247-249 require trustees to have appropriate knowledge and understanding of to carry out their functions; and section 35(3) of the Pensions Act 1995 requires trustees to obtain and consider proper advice on certain investment decisions.

*9(1)(c) the institution must have implemented properly constituted rules*

Section 252(3) requires occupational pension schemes to have implemented properly constituted rules before the trustees or managers of the scheme may accept any funding payment to the scheme. The Pensions Regulator can issue a Code of Practice

providing practical guidance in respect of compliance with any requirements imposed (section 90 of the Pensions Act 2004). In cases where the Regulator is of the opinion that someone has not complied with the pensions legislation, it may issue an improvement notice requiring the perpetrator to act to remedy or prevent a recurrence of the contravention (section 13). Regulations made under section 113 of the Pensions Schemes Act 1993 enable members to be informed of these rules.

*9(1)(d) technical provisions must be computed and certified by an actuary or equivalent*

As described above, pension schemes are required to appoint professional advisers. Section 47 of the Pensions Act 1995 also makes provision for sanctions to be taken against trustees or managers for failure to appoint statutory advisers. Section 13 of the Pensions Act 2004 enables the Regulator to issue improvement notices to schemes in breach of the legislation, instructing them to rectify the situation. These could, for instance, require advisers to be appointed where there had been a failure to do so.

Section 224 of the Pensions Act 2004 requires a scheme's trustees or managers to obtain valuations by the scheme actuary which include the calculation of the scheme's technical provisions. Section 225 of the Pensions Act 2004 requires the scheme actuary to certify that the technical provisions have been calculated according to the actuarial methods set out in regulations. This section also specifies that when an actuarial valuation is carried out, the calculation of the technical provisions must be certified by the actuary.

*9(1)(e) sponsoring undertaking must be committed to regular financing where it guarantees the payment of benefits*

Section 227 of the Act requires schemes to prepare a schedule of contributions which sets out the contributions which must be paid to a scheme. This enables the scheme's benefits to be paid. Pension scheme trustees and sponsoring employers will be required to have a scheme funding objective (section 222), a schedule of contributions to fund the pension commitments (section 227) and put in place a recovery plan to correct any funding deficits (section 226). Section 228 requires trustees to notify the Regulator where contributions have not been paid and members' interests are at risk and can be sued to enforce the failure to make payments. Section 17 enables the Regulator to recover any unpaid contributions from the employer.

*9(1)(f) Members must be sufficiently informed of conditions of the scheme*

Amendments to the disclosure regulations, made under section 113 of the Pensions Schemes Act 1993, will ensure that the UK has adequately transposed all the requirements of Article 9(1)(f). Regulations made under section 41 of the Pensions Act 1995 may also supplement these. In particular, risk information will be covered by a requirement to disclose the annual funding statement to all members (see commentary below on Article 11(4)(d) second paragraph). This funding statement will show the position were the scheme to wind up with funding at the current level, together with reference to the protection provided by the Pension Protection Fund.

*Art 9(2):* No action required; the UK will not exercise this option.

*Art 9(3):* The UK will not place any additional conditions of operation on occupational pension schemes as a result of this directive.

*Art 9(4):* No action required; no such restrictions exist.

*Art 9(5):* Implemented by provisions in sections 287(2) and 288 of the Pensions Act 2004.

**Responsibility**

Secretary of State through Pensions Act 2004 and subsequent regulations.

**THE PENSIONS REGULATOR ADVISORY PANEL MEMBERSHIP**

<b>Name</b>	<b>Organisation</b>	<b>Role</b>
<b>Brian Holden</b>	OPDU	Trustee perspective
<b>Paul Greenwood</b>	WM Mercer	Actuarial perspective (covers FIA angle)
<b>Adrian Boulding</b>	Legal & General	Provider perspective (ABI)
<b>Ron Amy</b>	Aon Consulting	General
<b>Claire Whyley</b>	National Consumer Council	Consumer perspective
<b>Clare Boyle</b>	FSA	
<b>Peter Dickinson (or nominee) Jeff Highfield</b>	Smith & Williamson  Gissings & Co	PRAG
<b>David Yeandle</b>	Engineers Employers Federation	
<b>Ed Humpherson</b>	NAO	
<b>Les Warner</b>	Inland Revenue	
<b>Laurie Edmans</b>	ABI	
<b>David Astley</b>	NAPF	
<b>Tim Cox</b>	APL	
<b>Brian Marks</b>	OPA was COPAS	
<b>Michelle Lewis</b>	TUC	
<b>Fay Goddard</b>	AIFA	IFA perspective
<b>Des Hamilton</b>	OPAS	
<b>Penni Coppen</b>	KPMG	
<b>Robert Birmingham</b>	SPC (President)	
<b>Sue Howlett (or nominee)</b>	PMI (secretary)	
<b>Nicholas Hillman</b>	ABI	



**CONSULTATION ON: THE REGISTER OF OCCUPATIONAL AND PERSONAL PENSION SCHEMES REGULATIONS 2005**

Start date: 20th December 2004

End date: 14th January 2005

Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
1.	Helen Miles APL	Regulation 2(1)(a)(i) – not clear how to view a group personal pension scheme here. From the use of the PSA 93 definition of “personal pension scheme” it would appear that GPPs are intended to be within the definition of registrable schemes but it would be clearer if Reg 2(1) said: “A scheme which is of a description prescribed for the purpose of section 59(2) of the Act... is a scheme (which for this purpose shall include a group of personal pension scheme which relate to employment with the same employer or group of employers) -...”	N	A GPP fits within the definition of personal pension scheme and from Sept 05 when the new definitions come into force if the scheme falls within personal pension scheme definition it cannot be occupational.
2.	Helen Miles APL	Regulation 2(1)(a)(ii) – should a scheme which insures a spouses or dependents pensions on death not be registrable? – it is entirely possible that it may need to be traced by a prospective beneficiary who could well be faced with practical difficulties in obtaining details from the	N	If members’ benefit is payable on death only – this will not be a registrable scheme. If the member is entitled to pension (and on death this entitles his dependent to a pension) this will be registered in any event.

Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
		(deceased) member.		
3.	Helen Miles APL	Regulation 2(1)(b)(iii) – why not also those schemes which have registered under FA '04, but no longer are?	Y	Regs amended so that any scheme that has been registered with IR continues to be on the register. Such schemes will continue to be levied until they fall outside the definition of pension scheme.
4.	Helen Miles APL	Regulation 2(2) – What will be the position of a scheme which was approved but does not become registered? TPR/the Tracing Service will not otherwise be able to help members of schemes which have (for good or ill) fallen outside of the Revenue's registration regime.	N	All approved schemes are deemed to become registered under Schedule 36 of the Finance Act 2004.
5.	Helen Miles APL	Regulation 3(b) – is there any intention to link this information to the production of audited accounts (where the scheme is required to have these), for consistency of information and assurance of its quality?	N	A personal pension scheme may do this if it so wishes – leave to scheme discretion as many do not have audited accounts.
6.	Helen Miles APL	Regulation 4(3)(a) and (b) – is there to be any verification (and if so, who is do it) of the status of those applying for information? If not, why impose any restrictions on who may apply? In Regulation 4(4), there is a requirement for sufficient information in the application so as to allow the Secretary of State to identify the status of the applicant as per the restriction in Regulation 4(3).	N	Form will be self certifying so if give false or misleading information can be utilised. Verification needed to prevent abusing database for marketing purposes.

Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
7.	Ian Neale Aries Pension & Insurance System Ltd	<p>I foresee a possible problem with respect to Reg 2(b)(iii), as this covers what are currently known as retirement annuity contracts (often also called s.226 contracts); and “section 32” buy-out contracts.</p> <p>My understanding is that the Inland Revenue’s interpretation of FA 04 *probably* will require each existing contact to be registered as an individual scheme. In that case, they will be exempt from being registrable schemes by virtue of Reg 2 (1)(a)(i). However, I understand the Inland Revenue is still wrestling with the serious administrative issues created by RACs in particular. I understand IR might yet decide that each provider should ‘incorporate’ all their RACs or s.32s into a single ‘master scheme’ and register that under s.153. If IR did that, I think it is certainly questionable whether these scheme types are covered by the occupational/personal dichotomy, as defined in PSA 93 s.1. Perhaps your department has better information than I do about the Inland Revenue’s intentions – we await publication of draft guidance from IR SPSS.</p>	N	<p>Contacted Inland Revenue – they confirmed that putting all RACs in one master policy is one option, although not the favoured option. Less likely to do it if problem for DWP. If it happens consequentials will have to be made to exempt them from registrable schemes. Small risk that is unlikely to happen, if it did it can be dealt with in consequentials.</p>
8.	Ian Neale Aries Pension & Insurance System Ltd	Reg 4 (7) cites paragraph (5); this reference should be to paragraph (6).	Y	Regs amended accordingly

Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
9.	Nicholas Hillman ABI	Apart from the nature of the employer's business, this is pretty well business as usual. In regulation 2, it is not clear why sub-section (2) appears for exiting schemes (which might become registrable on or after 6/4/05 but approved before that date). They will not be registered under section 153, but are deemed to be registered under paragraph 1 of schedule 36. It would better to keep regulation 2(1)(b)(i) and (ii) in force on and after 6/4/06. We do not want a reference to deemed registration as it may result in a need to register group policies used for winding up purposes via the 3 <sup>rd</sup> party rights procedure (which would duplication as data would have been submitted on the scheme wind up).	N	Schedule 36 is sufficient – regs strengthened to remove any ambiguity.
10.	Nicholas Hillman ABI	In new regulation 2, we do not understand why the existing exclusion of the certain overseas schemes has been dropped. The existing regulations; if it was intended that it should be dropped, we would have thought this should be September 2005 (the effective date of the EU Pensions Directive) rather than 6 April 2005.	N	Technically correct but the risk of any non UK schemes wanting to be on the register for 6 months is minute and not worth complicating the regulations for this event. Regulator would have no jurisdiction in any event.
11.	Nicholas Hillman ABI	In paragraph (a)(ii) of the new regulation 2, there is reference to the exclusion of schemes that provide benefits solely on a member's death. The revised definition of 'pension schemes'	Y	Regs amended accordingly

Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
		being introduced by Pension Act 2004 will make the exclusion of such schemes unnecessary from September 2005, as they will then no longer be regarded as occupational or personal pension schemes.		
12.	Nicholas Hillman ABI	New regulation 1(3) has a definition of 'deferred members' and 'pensioner member'. In this definition "Pensions Act 1995" should read "Pensions Act 1995".	Y	Regs amended accordingly
<b>Comments received after deadline</b>				
13.	Peter Sayers Entergria	<p>Section 61(1) of the Pensions Act 2004 covers the inspection or provision of copies/extracts of the register to "prescribed persons" in "prescribed circumstances".</p> <p>The draft regulations essentially only permit information to be provided to scheme members and then only in connection with the Pension Tracing Service - and is limited to the information required by the applicant to contact the scheme concerned. See draft regulations 4(4) and 5(2).</p> <p>By way of contrast, the existing 1997 regulations - SI 1997/371 - currently require the Registrar to supply, on request, a copy of an extract from the register to, for example, (a) any person who is -</p>	Y	Email response sent to this comment advising DWP agree the suggested approach. The regulations are drafted in a way to hopefully weed out all but applications for personal information. If a trustee decides to act on behalf of an individual to request a pension trace, then that trustee will be fulfilling a role already incorporated in the draft regs. If, on the other hand, a trustee wants general access to the register, they should not expect that they can pursue this option through the Pension Tracing Service; they can approach The Pensions Regulator who can then consider their application within the regulations, the Data Protection Act and any other legal requirements.

Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
		<p>or may be - entitled to benefit under the scheme and (b) the trustees. Details are in regulation 6 of that SI.</p> <p>However, the new draft regulations will completely revoke SI 1997/371.</p> <p>So, seems that trustees and scheme members will cease to have an automatic right to access to the information on the register from 6 April 2005.</p> <p>Is this the intention?</p>		
14.	Liz Cole ICAEW	<p>Believe the Registry should include all schemes which have had more than one member. At drafted, if numbers fall to one it appears that the scheme does not have to register – and this is inconsistent with our view that schemes should continue to have an audit until all the assets have been disposed of. We believe that only schemes that have only ever had one member need not register – everything else should be caught.</p>	Y	All schemes that have ever had IR registration will be kept on the register. Regs amended accordingly.
15.	Vera McCann DSD Stormont Estate	<p>First page, footnote (c)</p> <p>Is it necessary to cite section 84(1) of the Welfare Reform and Pensions Act 1999 as it</p>	N	Sol drafting point – Sol advised necessary

Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
		merely gives effect to Schedule 12, Part 1 of which makes the amendment?		
16.	Vera McCann DSD Stormont Estate	<p>First page, footnote (c)</p> <p>Is it necessary to cite paragraph 43 of Part 1 of Schedule 12 to the Welfare Reform and Pensions Act 1999 as it merely gives effect to the Pensions Act 1995 subject to the amendments to follow.</p> <p>Is paragraph 61(3) a relevant amendment – it inserts definitions of “pension credit”, “pension credit member” and “pension credit rights”?</p>	N	Sol drafting point – Sol advised necessary
17.	Vera McCann DSD Stormont Estate	<p>First page, footnote (c)</p> <p>Is it necessary to cite section 56 of the Child Support, Pensions and Social Security Act 2000 as it merely gives effect to Schedule 5, Part 1 of which makes the amendment.</p>	N	Sol drafting point – Sol advised necessary
18.	Vera McCann DSD Stormont Estate	<p>First page, footnote (c)</p> <p>Is there a need to include “Active member” is defined in section 318(1) of the Act; that definition therefore also applies to these Regulations.” when “active member” is already defined in section 124(1) of the Pensions Act</p>	N	Sol drafting point – Sol advised necessary

Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
		1995? If a definition is required, would it be more appropriate to include it in regulation 1(3)(b) of these Regulations?		
19.	Vera McCann DSD Stormont Estate	<p>Page 2, footnote (a)</p> <p>The amending instrument for the Pension Schemes Act (PSA) is shown as S.I. 1999/1820 which is the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999. Is this correct?</p> <p>As far as I can see, the only amendment to section 1 of the PSA is to “personal pension scheme” and is made by paragraph 3(1)(a) of Schedule 2 to the Welfare Reform and Pensions (WRAP) Act 1999 (c. 30).</p> <p>If you include the amending instrument for the PSA then the corresponding one for the Pension Schemes (NI) Act would also need to be included. This is paragraph 2(1)(a) of the WRAP Order (S.I. 1999/3147 (N.I. 11).</p>	N	Sol drafting point – Sol advised necessary
20.	Vera McCann DSD Stormont Estate	<p>Page 2, footnote (d)</p> <p>I haven't checked all the references in this</p>	N / Y	<p>Mirrors primary wording.</p> <p>Roman numerals being replaced.</p>



Number	Responder Name	Comments	Accepted (Yes / No)	Policy View
		footnote but base the following comments on footnote (e) (on sections 590 and 591 of the Income and Corporation Taxes Act 1988), page 4 of S.I.2002/836. In lines 2 and 5 should “is” be “was”? Should commas instead of semi-colons be used throughout? In line 6, should “107(3) and (4)” read “107(2) to (4)”?. Should roman numerals be used after the word “Part” in each place where it occurs?		107 changed
21.	Vera McCann DSD Stormont Estate	Page 4, regulation 4(4)(b) Should “the” be inserted between “in” and “opinion”?	Y	Amended accordingly
22.	Vera McCann DSD Stormont Estate	Page 4, regulation 4 (7) Should “paragraph (5)” read “paragraph 6”?	Y	Amended accordingly
23.	Vera McCann DSD Stormont Estate	Expl. Note, para 6, line 2  Should “information services” read “information service”?	Y	Amended accordingly

## EXTRACT FROM THE REGULATORY IMPACT ASSESSMENT

### Chapter 3: Member Protection

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#### 3.1 The Pensions Regulator

3.1.1 Retaining the current regulator would fail to address weaknesses identified during the recent consultation process, undertaken as part of the Quinquennial Review of the Occupational Pensions Regulatory Authority (Opra). A National Audit Office (NAO) report also supported the need for a more pro-active, high-profile and risk-focussed regulator.

3.1.2 Opra has made a good job of fulfilling the role it was required to perform, and encouraged better governance of pension schemes. However there are flaws in the legal framework that define both Opra's current role and its powers to act or intervene in failing schemes. These flaws tend to lead to the organisation spending too much time on trivial matters that result in minor sanctions and penalties.

3.1.3 The introduction of a new pensions regulator providing support, advice and guidance to the industry will enhance the regulator's role, producing a higher profile, pro-active regulator that will be better placed to address risk to scheme members' benefits. The Pensions Regulator will move to a completely different style of regulation.

#### *Summary of options and impact of consultation*

3.1.4 There has been widespread agreement about the need for a new pensions regulator. Many responses to consultation support a regulator that has: statutory objectives that set a clear framework for its activity and provide an overarching definition of its functions; a flexible, pro-active and risk-focussed approach; a high profile in the community it regulates; and a responsive and proportionate regulatory 'tool kit' which enables it to take a targeted and appropriate approach both to direct breaches of pensions legislation and to other matters of conduct that pose a risk to members' benefits.

3.1.5 When addressing breaches of pensions legislation, the regulator should not just punish but encourage compliance with regulatory provisions via compliance visits, provision of guidance, educational material and template forms to the regulated community.

3.1.6 The intention is that these activities and approaches will create a regulator that is able to focus its resources on the areas of greatest risk and be seen to have done so. This, in turn, will cause it to be respected, and ensure that it will be seen as an authoritative force in the regulated community.

*Pensions Bill 2004 Regulatory Impact Assessment*  
*Securing compliance*

3.1.7 The Regulator will have a regulatory 'tool kit' of sanctions, plus the power to serve an improvement notice. However, education, guidance, advice and support will be equally important tools to support the protection of pension scheme members' benefits.

*Costs/savings*

3.1.8 The introduction of the Pension Protection Fund has helped shape the responsibilities of The Pensions Regulator. It is estimated that The Pensions Regulator will have annual running costs of around £23 million per year including the cost of any monitoring and enforcement action that the regulator may need to take in respect of all the provisions in this RIA, once the new regulator is in place and well established. This represents an increase of £6 million per annum compared with Opra, and an increase in the levy of roughly 25%.

3.1.9 These additional costs would be funded through a levy on occupational and personal pensions. The increase is due to staff and non-staff costs (accommodation, codes of practice, printing, IT) to cover The Pensions Regulator's new powers and responsibilities. There will be one-off start up costs in the region of £6 million, and a further £20 million for IT development, some of which is necessitated by the difference between the new Regulator's responsibilities and those of Opra. Many of these costs would have been incurred in response to the NAO and Quinquennial Review recommendations for Opra improvement.