

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL, PERSONAL AND STAKEHOLDER PENSION SCHEMES
(DISCLOSURE OF INFORMATION) (AMENDMENT) REGULATIONS 2010

2010 No. 2659

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. Purpose of the instrument

This instrument amends the provisions for the required disclosure of information by occupational, personal and stakeholder pension schemes to their members and other interested parties such as recognised trade unions. The amendments introduce new provisions allowing schemes to use electronic communication methods to deliver required information. The amendments will also enable schemes to issue streamlined annual benefit statements to members, with further information available on request.

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

None.

4. Legislative Context

These amendments have arisen from a review of the statutory requirements for the provision of information by, and to, private and public pension schemes. These requirements concern the provision of various information such as an explanation of how the scheme works, the benefits accruing and the contributions payable, annual benefit statements showing an individual member's rights in the scheme, and information about scheme funding arrangements. At present, the regulations envisage the provision of written information to members, generally by post. The amendments being made through this instrument are intended to facilitate up-to-date and effective means of communication.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 These amendments make a number of changes to the provisions which set out the information which occupational, personal and stakeholder pension schemes must provide to members, beneficiaries, recognised trade unions and others. They also make changes to the provisions which set out the information that people must provide to such schemes. The information covered by these regulations concerns matters such as basic information about the scheme, its constitution and funding position, and an individual's pension and other benefit entitlements such as death benefit and survivor's pension.

7.2 There are two main changes. The first is to make provision for schemes to use electronic communication methods and the second is to allow defined contribution ("money purchase") schemes to

provide more concise annual benefit statements to members, with further information being available should they wish to access it.

7.3 The new provisions introduced by these amendments allow pension schemes to use electronic communication methods such as emails and websites as their default means of providing information to members. Members will have the right to opt out of electronic communications, however, in which case the scheme must continue to provide them with written information in the post, as at present.

7.4 The amendments dealing with annual benefit statements reduce the amount of information required to be sent to members by removing the requirement to provide some statements. They also allow other statements to be provided separately, making use of the new electronic communication provisions to provide this information through a website if the scheme wishes. A shorter, more general statement to the effect that certain general assumptions have been made must be provided. Members will be able to access more details should they wish to know more.

7.5 For stakeholder pension schemes, current regulations require the provision of a detailed breakdown of pension contributions. The amendments will allow stakeholder schemes to provide a summary of contributions instead of the full details. In this case, members must be advised that they can request the detailed information if they wish. The scheme must provide such information within 2 months of the member's request.

7.6 These amending regulations come into force on 1 December 2010. The decision was taken not to wait until the next Common Commencement Date of 6 April 2011 to commence these provisions as the amendments introduce useful flexibilities for pension schemes, but do not require them to make any changes to their procedures in order to continue to comply with the statutory requirements. Members are also expected to benefit from the amendments contained in the regulations.

- *Consolidation*

7.7 Informal consolidation of this instrument will be included in due course in the Department's "the Law Relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at: <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>

8. Consultation outcome

A public consultation on draft amending regulations was carried out between 6 January and 1 March 2010. Twenty-eight responses were received from pension consultants, insurance companies, industry representative bodies, pension scheme trustees, trade unions and member representative organisations. The proposed amendments were generally well received and most comments concerned detailed drafting points. Following consultation, minor changes have been made to details of the electronic communications and annual benefit statement amendments, a proposed amendment to shorten the time limit for the provision of basic scheme information to new members has been omitted and some proposed exemptions from specified information requirements for the National Employment Savings Trust have also been removed from the amending regulations.

9. Guidance

Schemes and their professional advisers need to be aware of these amendments in considering any changes to the design of information products and procedures, in the context of a particular scheme's rules and existing procedures. The government response to the consultation is available on the Department's website, but there are no plans to produce guidance for schemes. The development of appropriate communications procedures is a matter for professional advice taking into account an individual scheme's circumstances and its, or its sponsoring employer's, existing information technology systems. Where schemes change the way information is delivered to members, any necessary guidance - for example on how members may opt out of electronic communications - will be provided directly to the member by the scheme.

10. Impact

10.1 The provisions which facilitate the use by private and public sector pension schemes of electronic communication methods could allow administrative savings of up to £27 million per annum in the long term, depending on take-up.

10.2 The impact on the public sector is otherwise negligible.

10.3 A full impact assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

These amendments offer greater flexibility to schemes sponsored by employers of all sizes, including small firms.

12. Monitoring & review

The effectiveness of these changes will be monitored through contacts with the pensions industry and member representative organisations. The position will be formally reviewed in 2017. Should the need for any changes become apparent before that time then appropriate amendments will be considered however.

13. Contact

Tim Found at the Department for Work and Pensions Tel: 020 7449 7375 or email: tim.found@dwp.gsi.gov.uk can answer any queries regarding the instrument.

TITLE: THE OCCUPATIONAL, PERSONAL AND STAKEHOLDER PENSION SCHEMES (DISCLOSURE OF INFORMATION) (AMENDMENT) REGULATIONS 2010 LEAD DEPARTMENT OR AGENCY: DEPARTMENT FOR WORK AND PENSIONS OTHER DEPARTMENTS OR AGENCIES: NONE	Impact Assessment (IA)
	IA No:
	Date: 01/10/2010
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Tim Found 020 7449 7375

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Existing regulations dealing with pension scheme disclosure of information requirements make no provision for schemes to use modern methods of electronic communication. A move to such methods of communication has the potential to save schemes significant amounts of money. In the absence of specific provisions on electronic communications, as provided by the current proposed regulations, schemes would not be able to realise the full benefits of communicating in this way.

What are the policy objectives and the intended effects?

To assist schemes to adopt more efficient and cost-effective means of communication with their members.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

An earlier consultation sought views on moving to a more principles-based approach to regulation in this area, but responses highlighted significant problems. Such a reform has therefore been rejected in favour of making the specific change described above.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved? **It will be reviewed**
04/2017

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review? **Yes**

Ministerial Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister: Steve Webb

Date: 01.11. 2010

Summary: Analysis and Evidence

Policy Option 1

Description:

PRICE BASE	PV BASE	TIME PERIOD	NET BENEFIT (PRESENT VALUE (PV)) (£M)		
			LOW:	HIGH:	BEST ESTIMATE:
COSTS (£m)		Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low		Optional	Optional	Optional	
High		Optional	Optional	Optional	
Best Estimate		Negligible	Nil	Negligible	
<p>Description and scale of key monetised costs by 'main affected groups'</p> <p>If a scheme chooses to make more use of electronic communications, there may be some one-off set-up costs in moving to an electronic system but these should be negligible on the grounds that the vast majority of employers will already have some form of IT infrastructure in place. Furthermore, any move to electronic communications will be voluntary and is likely to be made only if there is a financial benefit to the scheme. No data exists that allows an estimate of any set-up costs</p>					
<p>Other key non-monetised costs by 'main affected groups'</p> <p>Scheme members without ready access to a computer could find it harder to access information on their benefits. However, the regulations require schemes to inform members if they propose to move to electronic communications in future and to ask whether the individual member prefers to receive information by post. If a member elects to continue to receive information in this way, the scheme must honour that preference.</p>					
BENEFITS (£m)		Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low		Optional	Optional	Optional	
High		Optional	Optional	Optional	
Best Estimate		0	Up to £27m	Up to 200	
<p>Description and scale of key monetised benefits by 'main affected groups'</p> <p>The figure here represents the annual savings to employers by moving from paper-based communications to electronic communications. The annual savings would be realised for as long as a pension scheme continues to use electronic communications. Given the uncertainties around how long-lived pension schemes are it seems sensible not to impose an arbitrary time period over which benefits are realised. Instead it is more appropriate to recognise that the benefits accrue on</p>					
<p>Other key non-monetised benefits by 'main affected groups'</p>					
Key assumptions/sensitivities/risks				Discount rate (%)	3.5
<p>This indicative estimate is based on all schemes moving from using postal to electronic communications, thereby saving significant printing and postage costs. Lower take-up would lead to lower savings, but there is no data on which to base an estimate of take-up. The savings therefore represent an upper bound estimate of the benefits. In addition, no allowance has been made for future levels of pension scheme membership, which are hard to predict; but it is reasonable to assume that the level of the benefits will be affected by future changes in pension scheme membership.</p>					

IMPACT ON ADMIN BURDEN (AB) (£M):			IMPACT ON POLICY COST		IN
NEW AB: 0	AB SAVINGS:	NET: -27	POLICY COST SAVINGS:		Yes

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	United Kingdom				
From what date will the policy be implemented?	01/12/2010				
Which organisation(s) will enforce the policy?	The Pensions Regulator				
What is the annual change in enforcement cost (£m)?	Negligible				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A	Non-traded: N/A			
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits:		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	7
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	7
Small firms Small Firms Impact Test guidance	No	7
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	7
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	7
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	7
Human rights Human Rights Impact Test guidance	No	7
Justice system Justice Impact Test guidance	No	7
Rural proofing Rural Proofing Impact Test guidance	No	7
Sustainable development Sustainable Development Impact Test guidance	No	7

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

- No. Legislation or publication
- 1 Consultation document 2009: <http://www.dwp.gov.uk/docs/pen-scheme-disclosure-regts-consultation.pdf>
 - 2 Consultation document 2010: <http://www.dwp.gov.uk/consultations/2010/pen-scheme-disclosure.shtml>
 - 3 Consultation 2010 impact assessment::: <http://www.dwp.gov.uk/docs/disclosure-impact-assessment.pdf>
 - 4 Government response: <http://www.dwp.gov.uk/consultations/>
 - 5

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs		neglig								
Annual recurring cost		0	0	0	0	0	0	0	0	0
Total annual costs		neglig	0	0	0	0	0	0	0	0
Transition benefits		0								
Annual recurring benefits		27	27	27	27	27	27	27	27	27
Total annual benefits		27	27	27	27	27	27	27	27	27

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Background

1. As part of the rolling deregulatory review of private pensions legislation, the Department for Work and Pensions has reviewed requirements relating to the disclosure of information by occupational, personal and stakeholder pension schemes. A public consultation exercise was conducted between January and March 2010 on proposals to introduce an "overarching principle" in the relevant legislation, at the same time stripping back on the detailed, prescriptive requirements set out in regulations. Consultation responses raised concerns that the proposed reform could have unintended and unwelcome consequences for schemes. In light of this, the intention now is to carry out further work on possible consolidation and other changes to the relevant legislation, in the meantime making a number of specific changes which are considered necessary or desirable. These specific changes are contained in these amending regulations. This is an assessment of the impact of the amending regulations.

Contents of the amending regulations

2. The changes fall into two categories: (i) amendments to facilitate the use by schemes of electronic means of communication and (ii) some changes to the legislation covering the detailed information which must be included in annual benefit statements and statutory money purchase illustrations.

3. Item (ii) - changes to annual benefit statement requirements - is intended to make statements shorter and more user-friendly for the reader. Any savings for schemes from these changes are likely to be negligible. (The use of electronic means of providing these statements is however a matter within the scope of item (i).)

4. This impact assessment therefore concerns item (i) - amendments to facilitate electronic communications.

Electronic communications - the policy

5. Existing regulations include provisions for schemes to send documents by post. The provisions include a deeming provision such that the trustees of a scheme can be sure they have satisfied their responsibility to provide deferred or pensioner members with required information if they have sent the relevant information to them by post to their last known address.

6. The amending regulations facilitate schemes' use of electronic means of providing information, in the interests both of achieving efficiency savings and of enabling more flexible and effective access to information by members.

7. The amending regulations substitute new provisions for those covering the issue of documents by post. They allow a scheme to satisfy the relevant disclosure requirements by providing information either using postal or electronic means. As long as the information has been sent to the last known postal or electronic address, the scheme's trustees or managers will have met the legislative requirements. Electronic communications may take the form of a notification (eg by email or text message) that information is available for the member on a website to which he has been granted secure access.

8. The amended regulations contain certain safeguards. These are that (i) a member may opt out of electronic communications, in which case the scheme must provide information in hard copy format, (ii) existing members who do not already receive information by electronic means must be given advance warning that future communications will be in this format unless they opt out, (iii) schemes must have regard to the needs of disabled persons when designing electronic communications, and (iv) information provided electronically must be in a format which is capable of being stored or printed.

Electronic communications - the basis of the estimated savings figure of up to £27m pa

9. The available data on current pension schemes' information delivery is very limited. Due to the scope of the information required, a number of assumptions have been made in reaching the estimated benefit of this measure.

10. The estimate is based on a £1 per item cost of information delivery, which relates to a pension scheme member receiving their annual communication in a single package. This value is an estimated average administration cost (ie paper-based cost) per individual member of a scheme per annum and is based on estimated average postal and stationery prices.

11. It assumes that, generally, one paper-based service is delivered to an individual scheme member each year. Examples of such communications include:

- An annual benefit statement or statutory money purchase illustration;
- Information for new members or retiring members;
- An annual scheme funding report (defined benefit schemes only);
- Ad hoc communications requested by members such as cash equivalent transfer values and valuations of pensions on divorce.

12. In cases where individuals would receive more than one piece of information in a year, it is assumed that schemes send all the information in a single communication, in order to keep costs low. The only exception to this is in the case of ad hoc communications, where an adjustment has been made to reflect the fact that these are ad hoc and will possibly require additional communications.

13. The estimated savings are generated simply by multiplying the per member communication cost (assumed to be £1) by the number of members who would receive a communication. Affected members cover active, deferred and pensioner members in both the public and private sectors. There are currently around 400,000 people joining private sector occupational schemes each year and 900,000 people retiring from such schemes. Both these groups of people will need to receive communications at the point of joining the scheme or retiring, as applicable. In addition, there are currently 12.9 million members of private sector defined benefit schemes, each of whom must receive an annual scheme funding report, and 1.9 million members of private sector defined contribution schemes who must all receive annual benefit statements and statutory money purchase illustrations as appropriate. In the public sector, 8.3 million members are assumed to be covered by the disclosure regulations. Some members may receive more than one communication in a year.

14. In the absence of any data on the number of schemes already using electronic communications, it has been assumed that all schemes (public and private sector) will make the move from paper-based communications to electronic communications, with the figures showing estimated overall total benefits. In fact, some schemes may already be making use of electronic communications and some may choose not to switch to electronic communications at all. Hence, the overall figures will represent an upper-bound estimate of the savings to be made.

15. The savings from moving to electronic communications continue indefinitely and have not been presented in present value terms over a set time period. This would provide a misleading interpretation of the benefits of the policy since it implies that they would be time-limited; specifying an annual savings figure represents a more accurate interpretation of the benefits of the move to electronic communications.

IMPACT TESTS

Competition

16. There are no implications for competition policy.

Small firms

17. There are no special impacts on small firms.

Legal aid

18. There are no implications for legal aid.

Sustainable development, carbon assessment, other environmental impact

19. There will be a negligible benefit from schemes printing less hard copy information, which is likely to be offset by a negligible disbenefit in members printing their own copies.

Health

20. There are no implications for health.

Race equality

21. There are no implications for race equality.

Disability equality

22. The draft regulations include a requirement for schemes to take into account Web Content Accessibility Guidelines in implementing electronic communications. Members will also have a right to opt out of electronic communications and receive information by hard copy instead. To the extent, therefore, that individual disabled members are in the future more likely to have a choice as to which means of communication works best for them, this may represent a small improvement in the accessibility of pensions communications for disabled people.

Gender equality

23. There are no implications for gender equality.

Human rights

24. There are no implications for human rights.

Rural proofing

25. There are no implications for policy on rural issues.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]

These amending regulations introduce some flexibilities for schemes, but it will be a matter for trustees and advisers whether to make changes to current procedures for the provision of information to members and other interested parties. The general area of pension scheme disclosure requirements will be reviewed, however, including an assessment of whether consolidation of the relevant legislation would be a worthwhile exercise. A further review will take place in 2017.