Title: Government response to the consultation: abolition of contracting out: statutory override for protected persons regulations	Impact Assessment (IA)
IA No: DWP0028a	**Date: 12 February 2014**
Lead department or agency: DWP	**Stage:** Final
Other departments or agencies: HMRC	**Source of intervention:** Domestic
	Type of measure: Primary legislation

Summary: Intervention and Options

RPC Opinion: Not in scope

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

When the new single-tier pension begins, employers will be able to choose to use the power in the Pensions Bill 2013 to amend their schemes, and any scheme changes must be certified by an actuary as recovering no more than the increases National Insurance (NI) costs – statutory override. The ending of contracting out will have a cost and administration implications. For employers and employees they will have to pay the same rate of NI as those contracted in and will be able to build a full state pension. The Government proposes to give private sector employers limited powers to change scheme rules without trustees consent for recouping the value of the higher NI. In some formerly nationalised industries, employers and trustees are limited in their ability to change scheme rules by legislation at the time of privatisation (railways (including Transport for London), coal, electricity and nuclear waste and decommissioning. The Government formally consulted last year (18 January – 14 March 2013) on whether or not the override should apply to these employees with protected persons status.

What are the policy objectives and the intended effects?

The objectives for managing the end of contracting-out for salary-related (DB) occupational pension schemes are:

- to minimise the impacts on employers and schemes;
- to ensure the administrative processes of ending contracting-out are as smooth and simple as possible;
- that the amount built up in schemes (preserved rights a member has accrued) to 2016 continue to be paid; and
- that the sustainability of DB occupational pension schemes is not undermined.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The Government was undecided on this issue – there was no preferred option and a decision would be made following the public consultation. There were two options considered – one where an override will apply to all schemes members or one that excludes members covered by the protected persons legislation. There were no other options considered.

The Government has decided to exempt all protected persons from the statutory override. The Government are sympathetic to the promises made at the time of privatisation that affected individuals would be no worse off in terms of employees pensions rights than they were in the public sector. Preventing employers from using the protected persons legislation does not mean that employers cannot meet the costs of increased employer National Insurance contributions. But as protected persons were made promises that their pension schemes would see no changes, we believe that it is fair and appropriate to not allow employers to apply the statutory override.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** Yes	**< 20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Steve Webb Date: 12/02/2014

Background

The State pension system currently

1. Entitlement to the basic state pension is dependent on payment of National Insurance contributions (NICs). The basic state pension is a flat rate pension and full entitlement is gained by paying 30 qualifying years of NICs.

2. There is also an earnings-related component of state pension provision, known as the additional state pension (AP) - also called State Second Pension (S2P) (formerly State Earnings Related Pension Scheme (SERPS) before 2002). Individuals build entitlement on their earnings above the annual lower earnings limit for NICs (£5,668 in 2013/14) up to the upper accrual point (£40,040 in 2013/14) which is a fixed monetary value. The more an individual earns between these two thresholds, the more AP they accrue. There is a statutory duty to increase AP in line with average earnings in accrual and in line with price inflation once in payment.

3. As a result of being contracted out, lower NICs are paid at a lower rate by the employer and employee. The employee does not, therefore, have any entitlement to a full-rate AP. Since 2002 AP effectively builds up at a flat rate for people with annual earnings below £15,000 (in 2013/14) – around half median earnings, known as the low earnings threshold. People can be credited in to S2P through caring or ill-health and are treated as having earnings at this level.

Contracting-out of the earnings-related element of state pension from 1978

4. The concept of contracting-out (leaving the earnings-related element of the state pension system) under the State Earnings Related Pension Scheme (SERPS) was that in return for providing pension benefits broadly equivalent to the benefits payable under SERPS, lower National Insurance contributions were payable by the employer and employee.

5. Initially, (from 1978) an individual could only be contracted-out if he was a member of a defined benefit occupational pension scheme. Members of occupational defined benefit schemes and their employers pay a lower rate of National Insurance (NI). This is known as the NI rebate. The NI 'rebate' had to be paid into the member's pension fund.

6. Contracting out is designed to be broadly actuarially neutral, so the amount of AP for a contracted-in individual is expected to be equivalent to the private pension that would be derived from the rebate for a contracted-out individual. The individual should therefore be neutral between being contracted-in and being contracted-out.

Abolition of contracting-out through defined benefit pensions

7. Where individuals are contracted out of AP they and their employers receive a rebate on their NICs to reflect the fact they are building up less state pension entitlement. Defined benefit (DB) schemes are obliged to provide members with a minimum level of benefits as set out in legislation for DB schemes. The purpose of the contracting-out rebate is, in effect, to compensate members for the additional state pension they have given up.

8. With the introduction of a single-tier pension the AP will close. As a consequence contracting-out of the AP - giving up entitlement to the AP in return for a lower National Insurance (NI) rate for employer and employee – will come to an end for DB pension

schemes.

9. Employees who are contracted-out when single-tier pension is introduced will be automatically brought back into the state pension. Both employer and employee will stop paying a lower rate of NI and instead pay the full rate of NI. Employers will have to pay the same rate of National Insurance as all other employers, meaning the employer NI rate for each contracted-out employee will increase by 3.4 per cent of employee earnings between the Secondary Threshold (ST) and Upper Accrual Point (UAP).

10. For employees, the end of contracting-out will also have cost implications which will be the loss of the contracted-out NI rebate. They will have to pay the same rate of NI as all other employees, meaning the employee NI rate for each contracted-out employee will increase by 1.4 percent of employee earnings between the Lower Earnings Limit (LEL) and Upper Accrual Point (UAP).

11. While occupational defined benefit schemes will lose the NI rebate, the requirement for employers to provide a replacement for the additional state pension entitlement will fall away as individuals are brought back fully into the state pension. The minimum requirements for contracted-out DB schemes (the Reference Scheme Test) will no longer apply.

12. Many organisations who responded to the Government's consultation on state pension reform, 'A State Pension for the 21st Century' (the Green Paper), told us about the significant implications that ending contracting out for DB schemes would have for sponsoring employers, schemes and employees.

Employer override

13. Some respondents said that private sector employers may want to balance the cost of paying higher NI contributions by reducing their future scheme liabilities, and hence the level to which they must continue funding their scheme. They therefore wished to reduce the level to which they must fund their scheme by the same amount as the increased NICs, reflecting the fact that employees would be brought back fully into the state pension system when contracting out ends. This could be done by reducing future pension benefits or by increasing employee contribution rates to their pension schemes.

14. Some private sector employers, however, are limited by their scheme rules in their ability to modify the benefit structure. In many cases, scheme rules can only be changed by the trustees or with the trustees' consent. As changes in response to the end of contracting-out are likely to be detrimental to members' workplace pension income, it is likely that trustees may not consent to them.

15. The Government has given a commitment to Parliament that the reforms to public service pensions should endure for 25 years, setting a high bar for future scheme changes in the Public Service Pensions Bill. Public service employers will therefore not be able to pass the cost of increased NICs onto their employees by reducing the value of pension scheme benefits.

16. The objective is to ensure that the sustainability of DB schemes is not undermined. The Pensions Bill 2013 currently before Parliament includes legislation to allow private sector employers limited powers to change scheme rules for this purpose without trustee consent. The statutory override enables employers to make an adjustment to future pension benefits or contribution rates to offset the end of the contracted-out NI rebate. The new powers will allow for the statutory override to be used more than once so employers can

phase in changes if they choose. However, any scheme changes must be certified by an actuary as 'recouping no more than' the employers increase in NI cost before proposed changes under the statutory override can be implemented. Scheme members do have to be consulted about potential changes by the employer in relation to the statutory override.

Protected Persons legislation

17. There is a small group of individuals (approximately 60,000) employed in some formerly nationalised industries (rail (including Transport for London), electricity, coal, nuclear waste and decommissioning), where the employers and trustees are limited in their ability to change scheme rules by legislation made during privatisation.

18. This legislation prevents employers from making changes to the pension benefits offered to those employees who were previously employed by the State.

19. On 18 January 2013, the Government began a public formal consultation[1] on whether employers who sponsor schemes which include members who are 'protected persons' should be able to use the statutory override in respect of people covered by the PPL.

20. The consultation ended on 14 March 2013. The Government received 145 responses from various sources including individuals, sponsoring employers, pension scheme trustees, trade unions and pension advisors.

Decision on statutory override for protected persons

21. This is a very complicated issue with many different and conflicting interests. We had to consider the best and fairest course of action in an area where the strength of argument is finely balanced.

22. On one hand we have been strongly urged to honour the promises made at the time of privatisation. We are conscious that for members close to pension age there is little time to make adjustments to their arrangements, and that the issue argued this involves a relatively small group of workers, around 60,000 individuals, who represent less than 4 per cent of the 1.6 million members in private sector contracted-out schemes.

23. On the other hand, employers and the employer representatives argue it is important for all scheme members to be treated in the same way when contracting out ends. If protected persons are excluded from the override, employers will look for other ways to offset the loss of the rebate which could affect their employees, their business, or their customers in various ways. There may also be difficulties for some employers caused by differential treatment between parts of their workforce.

24. We also considered that due to the changing pension landscape since many of these industries were privatised, those protected through legislation will, in many cases, have ended up with more generous pension terms than their counterparts in the public sector who have seen changes made to the pension schemes in recent years.

25. On balance, taking into account the small number of workers we think this issue can and should be resolved through negotiation between employers and their employees. The Government thinks it is import to stand by the promises made to former state workers at the time of privatisation. Therefore the Government proposes that employers should not be

[1] https://www.gov.uk/government/consultations/possible-statutory-override-for-protected-persons-regulations

allowed to use the statutory override to alter the pension schemes in relation to members with protected person status.

Evidence Base

26. Following the consultation on an override for 'Protected Persons' Regulations, it has been decided that no override will be introduced.

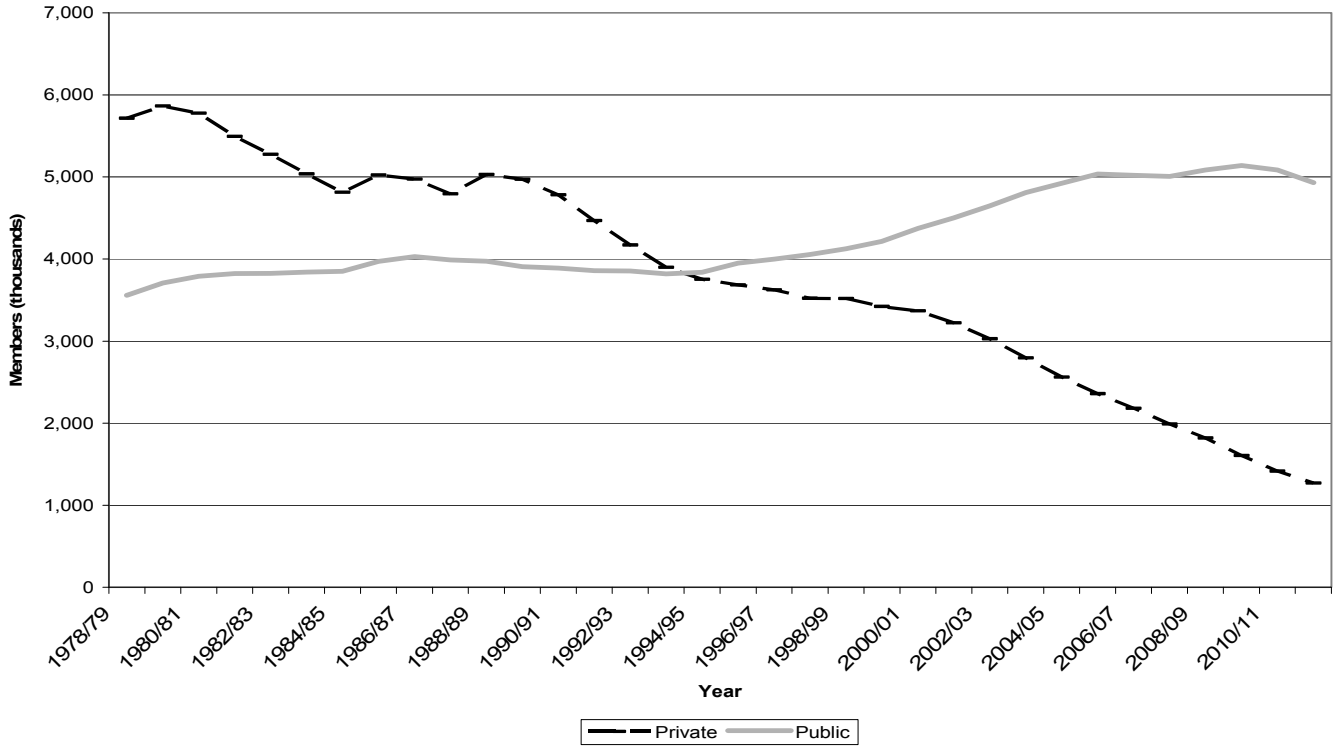
27. Note that ***this impact assessment relates only to the ending of DB contracting-out in isolation***. No account is taken of interactions with the rest of the state pension reforms. This does not matter when considering the impacts on sponsoring employers of DB schemes, because the only impact of the reform on them comes through the ending of contracting-out. For individuals, the full impact of the reform including both the ending of contracting-out and the changes to the state pension system has already been published in the impact assessment accompanying the 2013 Pensions Bill. This impact assessment is available to download at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254151/a-pensions-bill-single-tier-ia-oct-2013.pdf

Contracting-out demographics

28. Chart 1 below shows the number of individuals in contracted-out DB schemes since 1978, split by whether they are in the public or private sector.

Chart 1: DB contracted-out scheme membership by sector, 1978 – present



Source: Second Tier Pension Provision 2011/12 – DWP statistics

29. The chart shows that membership of private sector DB contracted-out schemes has been in decline since 1978, reflecting the wider decline in DB schemes in the private sector[1].

[1] See for example '*Pensions: Challenges and Choices, -The First Report of the Pensions Commission*', 2004.

Meanwhile, membership of contracted-out DB schemes in the public sector has grown steadily, in line with general employment growth in the public sector over this period.

30. According to the 2011 Occupational Pension Schemes Survey[2], there are currently 1.6 million active[3] members of contracted-out DB schemes in the private sector and 5.3 million active members of contracted-out DB schemes in the public sector. These are expected to reduce to 950,000 in the private sector and 4.5 million in the public sector by 2016.

31. Table 1 below shows how active membership is distributed by scheme size. It shows that most members are concentrated in the biggest schemes. It also shows the number of contracted-out DB schemes in the public and private sectors in 2011. Together with the active membership data this shows that while the public sector will be more affected in terms of membership, the number of different schemes involved is much larger in the private sector.

Table 1: Number of active members of contracted-out DB schemes, and number of schemes, by size of membership and whether in public or private sector, 2011

	Membership of DB schemes (millions)		Number of DB schemes	
Membership size	**Private**	**Public**	**Private**	**Public**
5,000+	1.2	5.3	140	132
1,000 to 4,999	0.2	0.1	450	69
100 to 999	0.1	0	1,600	63
12 to 99	0	0	..	37
2 to 11	0	0	..	30
Total	**1.6**	**5.3**	**3,290**	**331**

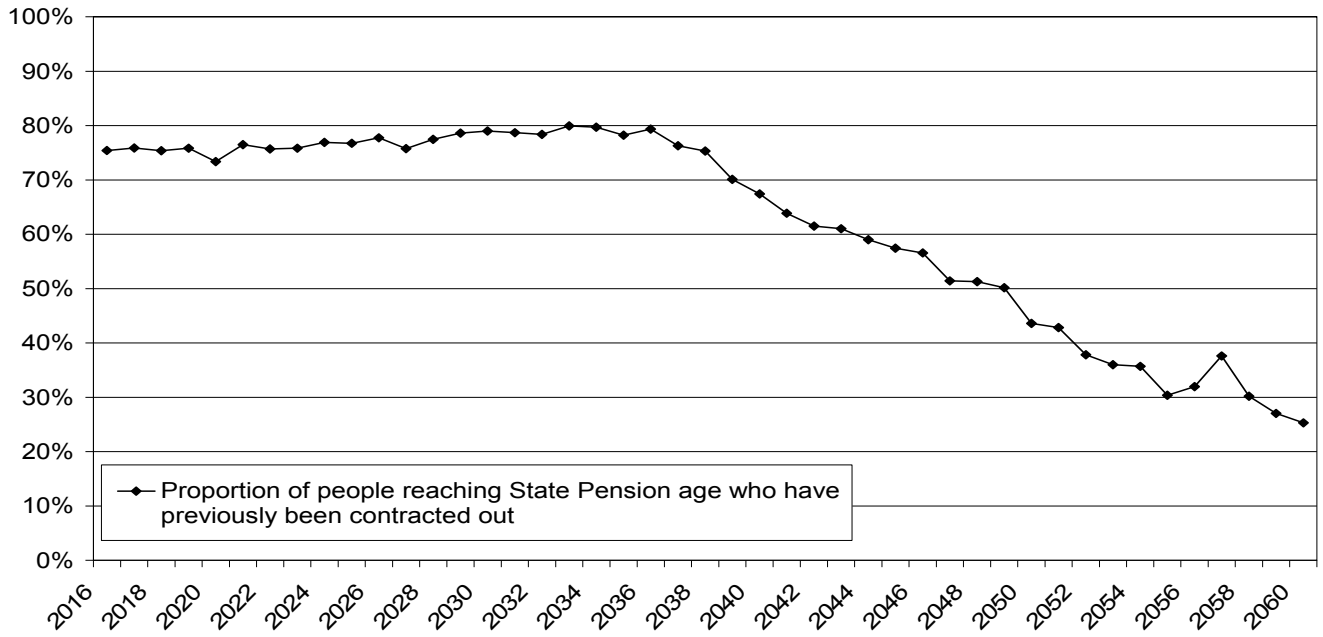
Source: OPSS data 2011

32. However, Chart 2 below shows that until the late 2030s over three quarters of people reaching State Pension age in any year will have been contracted-out at some point in their working lives. This will include people that were contracted-out when in a private sector DB or DC scheme (DC scheme members were able to contract out until 2012).

[2] Occupational Pension Schemes Annual Report 2011, ONS. Available to download from http://www.ons.gov.uk/ons/rel/pensions/occupational-pension-scheme-survey-annual-report/2011-annual-report/index.html

[3] Active members are those that continue to accrue new pension rights in a scheme.

Chart 2: Proportion of people reaching SPA by year, that have been contracted-out at any point in their working lives



Source: DWP (Pensim2)

Impact on individuals

33. Under DB contracting-out, the individual scheme member receives a rebate of NICs of 1.4 per cent of earnings between the Lower Earnings Limit (LEL) and the Upper Accrual Point (UAP). In the current tax year, this roughly corresponds to the annual earnings band £5,668 - £40,040. The precise increase in NI will vary across individuals and will depend on their level of earnings in each year. Some illustrative examples were published in the impact assessment accompanying the 2013 Pensions Bill – available to download at

    https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254151/a-pensions-bill-single-tier-ia-oct-2013.pdf - see table 5.2.

34. The ending of DB contracting-out will only affect active members of contracted-out DB schemes. There are currently 1.6 million contracted-out active members of private sector DB schemes and 5.3 million active members of DB schemes in the public sector[4]. All public sector schemes are contracted-out on a DB basis.

35. DB schemes in the private sector have been in long term decline, with active membership (contracted-in and out) peaking at 8.1 million members in 1967, down to 1.9 million today. It is expected that this decline will continue in future, given the financial pressures that DB sponsors are under. Similarly, DB membership in the public sector is expected to fall given the announced reductions in government expenditure in future years. Therefore the number of individuals affected will be less than the roughly 6.9 million that would be affected if the policy were introduced today.

[4] Occupational Pension Schemes Annual Report 2011, Office for National Statistics.

36. Following the ending of DB contracting-out, individuals will see the withdrawal of this rebate and a consequent rise in their NICs. The same applies to DB scheme sponsors, who will see a 3.4 percentage point increase in their NICs in respect of each employee on the band of earnings ST - UAP (see below) – effectively an increase in their labour costs. It would be expected that over some period of time private sector sponsors will respond to this increase in their labour costs by passing those costs onto some other party – either consumers through price increases or workers through reductions in the level of remuneration[5],[6].

37. Given the nature of the change, it is assumed that private sector sponsors will pass this cost increase onto workers (i.e. scheme members) through a change in the level of remuneration. The assumption that it is ultimately employees who fully bear the incidence of payroll taxes such as NI is commonly used by economists and there is a great deal of empirical evidence to support this assumption. For example, Brittain[7] uses econometric analysis to show that there is '*a direct and complete trade off between the basic wage rate and the tax per worker, or a 100 per cent shifting of the tax burden at the expense of labor's [sic] basic wage….the presence of a payroll tax on employers tends to reduce the wage in dollars by roughly the amount of the tax*'. Okner and Pechman[8] show that '*under perfect competition, price flexibility, perfect factor mobility and inelasticity of the supplies of labor [sic] and capital…payroll tax is borne entirely by wage earners*'. A fuller list of studies that cover the effects of the incidence of payroll taxes can be found in '*Incidence of Payroll Taxes is Fully on Employees*', available to download at:

http://www.americanbenefitscouncil.org/documents/bush_taxbenefits_1pager.pdf.

38. In addition to this more theoretical and empirical evidence, DWP has also sought the views of sponsoring employers in the private sector affected by the ending of DB contracting out on how they would react. In September 2011 the Department met with the Confederation of British Industry and some of its members, which included representatives of some major private sector employers sponsoring DB schemes. All these sponsoring employers were unambiguous in their response – ***the additional National Insurance would be passed on to employees in full and this adjustment would happen immediately***.

39. The employers present at this meeting indicated their strong preference for this adjustment to be made in the pension scheme. The 2013 Pensions Bill contains provisions under which scheme sponsors will find it easier to make adjustments to their pension schemes to compensate for no longer paying a lower rate of NI. The effect of these mitigations is to allow the sponsoring employer to pass on the incidence of its tax rise to the individual through reducing the value of future accruals in the pension scheme.

40. On the basis of the evidence above, the Department considers it unlikely that private sector employees will demand and receive compensatory wage increases in response to seeing reductions in their occupational pension provision. With private sector sponsors making it clear that they will pass on the costs of NI increases in full, it is implausible that they would be willing to provide off-setting wage increases as compensation. In the private

[5] Workers and consumers could of course alter their behaviour in response to such actions by the firm. Such behavioural responses are not covered here.

[6] Such a tax on labour could also lead to capital substitution if the firm finds it cheaper to replace labour with capital following the imposition of the tax.

[7] John Brittain, 1971, *The Incidence of Social Security Payroll Taxes.* The American Economic Review, Vol 61, No, 1, March 1971.

[8] Benjamin Okner and Joseph Pechman, 1974, *Who paid the taxes in 1966?* The American Economic Review, Volume 64, No. 2, Papers and Proceedings of the Eighty-sixth Annual Meeting of the American Economic Association, May 1974.

sector in particular, where unionisation is less prevalent, the bargaining power of employees is limited and this makes the likelihood of compensatory wages increases even less likely. Furthermore, the design of a single tier state pension is such that most individuals who would have been contracted-out after 2016 will see a higher level of state pension than in the baseline: around 85 per cent of individuals who start to pay higher National Insurance contributions (NICs) and reach State Pension age over the first two decades after implementation will receive enough extra state pension over their retirement to offset the increase in NICs, and any potential adjustments to their occupational pension schemes. More detail on this is provided in the impact assessment published alongside the 2013 Pensions Bill.

41. However those former nationalised industries that have pension schemes covered by the protected persons legislation are not able to respond by reducing the value of future accruals in their DB scheme to offset the lost rebate; the response they make instead means that the impact on individuals in the private sector varies by whether they are covered by the protected persons legislation or not; and that there is now a new impact on consumers of products/services provided by the former nationalised industries.

42. The Department has made attempts to quantify the number of individuals that are protected members – based on discussions with various affected schemes, it is estimated that there are around 60,000 such active members – out of a total contracted out membership of 1.6 million. This 60,000 represents less than 4 per cent of the total. These members are largely concentrated in the rail industry, but are also present in a number of the privatised power companies. As shown in table 2 below:

Table 2: Active protected members by industry, 2011

Industry	Employers	Employees
Electricity	c.134	c.20,000
Rail (including London Transport)	201	36,000
Nuclear Decommissioning	7	1,500
Coal	60	1,297

Source: Industry estimates provided to DWP

43. For individuals in schemes that are covered by the PPR, while they still see the 1.4 per cent NI increase as a result of the ending of contracting-out, they do not see a reduction in the value of their future pension accruals, because in the absence of the statutory override, their employers are unable to make changes to their schemes because of the protected persons legislation. While employers could make changes to the schemes of non-protected persons, it is assumed that employers would not have a differential treatment for protected and non-protected persons. This assumption is based on the DWP's September 2011 meeting with the CBI and scheme representatives (where some protected person schemes were represented). At this meeting, the affected employers informed the DWP that they did not wish to treat non-protected and protected members differently as they would consider this unfair and it could have serious negative implications for industrial relations with their workforces.

44. The consequence is that, at a macro level, not the entire incidence of the increased employer NI is borne by employees – the incidence of the additional NI paid by employers

in the former nationalised industries is instead shifted onto the consumer. This view was articulated to DWP at its September 2011 meeting with CBI and scheme representatives – see below.

45. In the public sector, HM Treasury has indicated that employees will not bear the incidence of increased employer contributions, which instead will be borne by public sector employers. The context of this decision is that the Government are already reforming public service pensions in response to the Hutton Report on public service pension provision[9]. In this context, HM Treasury has decided that public sector employees should not bear the further increased NI costs of their employers following the ending of DB contracting out. Instead, increased public sector employer NI will be considered as part of spending negotiations alongside other spending priorities in future Spending Review settlements.

46. The consequence of this evidence is that, while there is an immediate cash-flow increase in NI for private sector scheme sponsors, in economic terms the *total* burden (employer + employee elements) of the increased NI in the private sector is borne by: (i) individuals in the form of explicit National Insurance rises combined with reductions in the value of future occupational pension accrual; and (ii) consumers of former nationalised industries covered by the protected persons legislation who now face increased prices.

47. Since private sector scheme sponsors have indicated that this pass through would be immediate, the DWP has assumed in this impact assessment that the cost is passed on to employees/consumers in the private sector immediately and in full. Since this policy is being announced a number of years in advance of implementation, it is not unreasonable to assume that scheme re-designs and changes to pricing can be completed before the ending of DB contracting out actually happens.

48. Of course, this analysis only focuses on the NI consequences. The overall impact on individuals also needs to take account of the new single tier state pension that they will receive on reaching state pension age. Such an analysis is set out in some detail in the impact assessment published alongside the 2013 Pensions Bill. It shows that under single tier around 75 per cent of people who start to pay higher National Insurance contributions (NICs) and reach State Pension age over the first two decades after implementation will receive enough extra state pension over their retirement to offset the increase in NICs and any potential adjustments to their occupational pension schemes.

Impact on DB scheme sponsors

49. The abolition of DB contracting out will affect any employer sponsoring a contracted-out DB scheme that still has active members. Schemes where there are no active members are *not* affected.

50. The active membership figures quoted above make it clear that the public sector as a whole is more affected by the abolition of DB contracting-out than the private sector. This is because all public sector schemes are contracted-out DB schemes, whereas DB

[9] More detail on the background to the Hutton Report, as well as a copy of the final report itself, can be found at http://www.hm-treasury.gov.uk/indreview_johnhutton_pensions.htm

provision in the private sector has been in long term decline, with many of these schemes being replaced by defined contribution (DC) arrangements.

51. As stated above, sponsoring employers of DB schemes in the public and private sectors will see an increase in their NICs of 3.4 percentage points of the employee's earnings between the ST and the UAP. As discussed in paragraphs 32-40, the best available evidence suggests that private sector scheme sponsors will pass this cost on in full to their employees – and consumers in the case of former nationalised industries covered by the protected persons legislation – immediately. Thus, there is no *economic* impact on private sector scheme sponsors of increased NICs. Public sector employers will bear the full cost of their increased NI.

52. It should be noted that any changes made to pension schemes following the ending of contracting-out will most likely come with associated actuarial and legal costs. This will be considered in more detail in the impact assessment accompanying the draft secondary legislation on the end of contracting out. Furthermore, re-designing the scheme is a voluntary endeavour and any costs incurred by the sponsor in doing so would be in the expectation that these would be outweighed by the benefits of making these changes.

Impact on Consumers

53. As discussed above, in preparing this impact assessment, the DWP has sought the views of sponsoring employers in the private sector affected by the ending of DB contracting out on how they would react. At a meeting with the Confederation of British Industry and some of its members, which included representatives of sponsoring employers of DB schemes affected by the protected persons rules, DWP tested what the response of these employers would be if an override was not applied to protected persons. The affected sponsoring employers were clear that ***the additional National Insurance would then be passed on to consumers through higher prices and that this adjustment would happen immediately***.

54. In a recent consultation on price control pension principles Ofgem set out their principles for the treatment of pension costs. Principle 1 sets out that "customers of network monopolies should expect to pay the efficient cost of providing a competitive package of pay and other benefits, including pensions, to staff of the regulated business, in line with comparative benchmarks" [10]. It therefore seems reasonable that additional costs would be passed on through prices.

55. Since sponsoring employers were very clear that the adjustment would be immediate, DWP has assumed that consumer prices are adjusted immediately at the time of the change. Since this policy is being announced a number of years in advance of implementation, it is not unreasonable to assume that such price adjustments can be completed in full before the ending of DB contracting-out actually happens.

[10] Ofgem, 2010, *Price control treatment of network operator pension costs under regulatory principles.*

Direct costs and benefits to business calculations (following One-in, Two-out - OITO - methodology)

56. The abolition of DB contracting-out would result in greater NICs costs on all sponsoring employers of DB schemes – although as discussed above, DWP's evidence suggests that employers would pass on this cost instantly and in full. However, whilst it does seem reasonable to expect a price rise: this is likely to be minimal. The number of protected persons is currently 60,000 individuals which represents less than 4 per cent of the number of active members of private sector schemes and the proportion is not likely to be significantly higher in 2016.

57. Since NI is classified as a tax by the Office for National Statistics, it is out of scope of the OITO policy.

Impact on small business

58. Abolition of DB contracting-out will affect any sponsoring employer with a contracted-out DB scheme. However, DB provision is virtually non-existent among small and micro-employers. According to data provided by the Pensions Regulator, as of March 2011 there were just 111 private sector DB schemes with 2-9 members that may be contracted-out and have active members. These schemes covered just 534 members. It is highly likely that the vast majority of these schemes are 'top-hat' schemes – small schemes set up exclusively for senior executives of companies. Even in these cases, the sponsoring employer is typically large. So it is expected that there will be no impact on small business.