

 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	The Pensions Act 2011 (Transitional and Consequential Provisions) Regulations 2014	
Lead Department/Agency	Department for Work and Pensions	
Stage	Final	
IA number	DWP0041	
Origin	Domestic	
Expected date of implementation (and SNR number)	SNR 7	
Date submitted to RPC	10 February 2014	
RPC Opinion date and reference	21 March 2014	RPC13-DWP-1856(2)
Overall Assessment	GREEN	
<p>RPC comments</p> <p>The IA is fit for purpose. The IA sets out how the proposal will modify the legal framework to support the commencement of parts of the Pensions Act 2011 and mitigate the impacts on business of a Supreme Court judgement. The Committee note that the impact assessment for the Pensions Act 2011 was not subject to RPC scrutiny and the costs of the legislation were not scored for One-in, One-out purposes. As this proposal demonstrates that the original legislation did impose additional costs on business, it would appear that the impact assessment should have been subject to better regulation processes.</p>		
<p>Background (extracts from IA)</p>		
<p>What is the problem under consideration? Why is government intervention necessary?</p>		
<p><i>“Regulations will be made under sections 30, 31 and 33 of the Pensions Act 2011 (as well as under other pensions legislation) to provide for transitional and consequential measures and to modify existing pensions legislation for the commencement of s.29 of that Act. S.29 restores and clarifies the definition of Money Purchase (MP) benefits which is key to pensions legislation. It will come into force with retrospective effect to 1997. This was in response to a Supreme Court judgment in July 2011 which cast doubt on the meaning of MP. The regulations ease the practical position for affected schemes, which have acted on the basis of a different understanding of MP benefits, and help them comply with the regime for non-MP benefits.”</i></p>		
<p>What are the policy objectives and the intended effects?</p>		
<p><i>“1. Protection for members: The Department is committed to protecting pension scheme members benefits and is obliged to do so under European law. 2. Minimising the burden on industry. The regulations will minimise the burden on affected schemes becoming compliant. 3. Consistency with Departmental and Governmental priorities: Clarifying the meaning of MP ensures clarity and consistency in the legal framework. These regulations will provide the clarity and certainty as to how both primary and</i></p>		

secondary legislation applies to affected schemes.”

Comments on the robustness of the OITO assessment

The IA says that it is a deregulatory proposal which is net beneficial to business but for which it is not proportionate to quantify the benefits. This is consistent with the current Better Regulation Framework Manual (paragraph 1.9.12) and provides a reasonable assessment of the likely impacts. For One-in, Two-out purposes, the RPC is able to validate the proposal as a zero net cost measure with unquantified benefits.

Comments on the robustness of the Small & Micro Business Assessment (SaMBA)

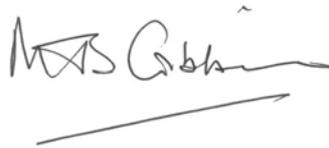
The proposal is deregulatory and therefore the SaMBA is not applicable.

Quality of the analysis and evidence presented in the IA

The proposal will modify the effects of section 29 of the Pensions Act 2011 to protect pension scheme members from requirements being placed on schemes to revisit certain past decisions. For the small number of pension schemes that used different definitions of ‘money purchase’ to those contained in section 29, and where there is no risk to members’ entitlement, the revisiting of previous decisions would be likely to impose additional costs with no clear benefit. The IA estimates that without the proposal the commencement of section 29 would potentially affect 800 occupational pensions schemes. Due to the uncertainty on the exact number of schemes that would be affected and the size of the costs that would potentially be avoided, the Department has not been able to quantify the benefits of the proposal.

The RPC can validate the impacts of this proposal, but notes that the cost savings indicate that the initial legislation should have been subject to the requirements of the better regulation system, including the scoring of the direct impacts for One-in, One-out purposes.

Signed



Michael Gibbons, Chairman