EXPLANATORY MEMORANDUM TO

THE FINANCIAL SERVICES AND MARKETS ACT 2000 (PENSIONS GUIDANCE) REGULATIONS 2016

2016 No. 590

1. Introduction

1.1 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

2.1 This instrument specifies that annuity[1] arrangements which are in an individual's name and which are not held by an occupational pension scheme as a scheme asset will be in scope of the expanded Pension Wise guidance service. This will protect the economic health of the scheme and other scheme members.

2.2 It also specifies that persons who are the named main beneficiary of the annuity and persons who have a right to a payment under the annuity once the main beneficiary has died should have access to the guidance.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The Bank of England and Financial Services Act 2016[2]contains a power to expand the Pension Wise service to consumers who wish to, or who are considering, selling their annuities on the secondary market for annuities. The expanded guidance service is planned for introduction from December 2016.

4.2 The Department has received Law Officers' consent to commence the relevant power as soon as possible after Royal Assent, received 4 May 2016, rather than upon the expiry of the usual two-month period, and also to lay the secondary legislation shortly after this commencement.

4.3 The power contains a regulation making power to allow the Secretary of State to specify which types of annuity arrangement will be in scope of the expanded guidance service and which persons should have access to the guidance.

[1] An insurance product which provides a regular retirement income for life

[2] http://www.legislation.gov.uk/ukpga/2016/14/pdfs/ukpga_20160014_en.pdf

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 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 Since 6 April 2015, those aged 55 and over have been able to access their defined contribution pension savings. To support this process, the Government established Pension Wise, funded by a levy on the financial services industry, to offer those eligible free and impartial guidance to help them make informed decisions. Building on these freedoms, the Government is creating the conditions for a new secondary market in annuities to commence in April 2017. This means that those who were effectively required to purchase an annuity under existing law may, with the agreement of their provider, "cash in" the right to the income stream they are currently receiving under their annuity in exchange for a lump sum or to purchase an alternative product.

7.2 As part of the consumer support package that sits alongside these further reforms, the Government wants these consumers to have access to Pension Wise. The instrument specifies that annuity arrangements which are in an individual's name and which are not held by an occupational pension scheme as a scheme asset will be in scope of the expanded Pension Wise guidance service.

7.3 It also specifies that persons who are the main beneficiary of the annuity and persons who have a right to a payment under the annuity once the main beneficiary has died should have access to the guidance.

Consolidation

7.4 The instrument is stand-alone, so consolidation is not appropriate. Should further related instruments arise in the future, the Department will ensure that due consolidation is considered.

8. Consultation outcome

8.1 The Government held a formal consultation on the secondary annuities market from March 2015 to June 2015, which included proposals to expand the Pension Wise service to consumers who wish to use the secondary market. The Government published its response in December 2015.

8.2 A core theme throughout the consultation responses was that consumer protection is essential – both in terms of providing access to adequate information and ensuring that consumers understand the value of their annuities.

8.3 There was a wide range of views in consultation responses around what this would look like in practice, including broad support for the extension of Pension Wise to the secondary annuities market, although there was less agreement on whether guidance was sufficient or whether advice should be required.

8.4 Most respondents, however, thought that it was appropriate to mandate advice above a certain value as higher value annuities are more likely to represent the main or significant portion of an individual's retirement income. Almost all respondents thought that the cost of advice should be borne by the annuity holder.

9. Guidance

9.1 No guidance is necessary to understanding how the instrument will operate. The Government has worked closely with the pensions industry and other stakeholders to understand the different types of annuity arrangements available across the private pensions market, and has then used a number of informal forums to test and explain the policy. The Government will continue to engage and work with all stakeholders to agree what, if any, forms of communication about the secondary annuities market should be made available to consumers.

10. Impact

10.1 The impact on business is minor. Occupational pension schemes and insurance providers will need to have knowledge of these reforms and to consider introducing minor administrative changes to their internal processes. The Department has estimated these costs at around £0.04m. There is no impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is submitted with this Explanatory Memorandum and is available on the legislation.gov.uk website.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 No formal post-implementation review of this new provision is planned, but the Government will be monitoring the impact and effectiveness of the extended Pension Wise service to ensure it provides the intended level of consumer protection. In addition, the Department for Work and Pensions monitors all new pensions legislation on an on-going basis by means of representation and feedback from the pensions community and the Pensions Regulator.

13. Contact

13.1 Paul Strickland at the Department for Work and Pensions Telephone: 020 7449 7254 or email: paul.strickland@dwp.gsi.gov.uk can answer any queries regarding the instrument.