EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL PENSON SCHEMES (CONTRACTING-OUT) (AMOUNT REQUIRED FOR RESTORING STATE SCHEME RIGHTS) AMENDMENT REGULATIONS 2010

2010 No. 506

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 updates actuarial tables contained within the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights) Regulations 1998 which set out the cost of reinstating members of contracted-out occupational pension schemes into the additional state pension.

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

None.

4. Legislative Context

4.1 The Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights) Regulations 1998 set out the detailed method of calculation which must be employed in working out how much the premium payable should be in each individual case to have rights to additional state pension restored. Those Regulations set out actuarial formulae and tables applying to members and surviving dependants according to age and gender, adjusted according to the prevailing level of interest rates. The tables are based on professional information provided by the Government Actuary's Department.

4.2 The tables permit HM Revenue and Customs to calculate the cost, to an occupational pension scheme, of restoring an individual's rights to the additional state pension where individuals' have retirement ages between 65 and 68.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

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 Members of contracted-out occupational pension schemes do not build full rights to additional state pension in respect of periods when they are paying reduced rate National Insurance contributions as contracted-out employees.

7.2 There are arrangements for reinstating a person into the additional state pension in certain cases where the contracted-out occupational pension scheme winds up underfunded. Such a scheme may have offered this option to eligible members as an alternative to other approaches to securing the available funds (for example, purchasing a deferred annuity from an insurance company or paying a lump sum to another occupational or private pension scheme to purchase rights for the member in that scheme). Where a member chooses to have their rights to additional state pension restored for the period in question, the scheme pays a premium to the National Insurance Fund in that respect.

7.3 The instrument makes technical changes to the existing actuarial tables used for ascertaining the cost of restoring a pension scheme member's rights to additional state pension where they have been contracted out. The revised tables take into account the gradual rise in state pension age from 65-68 in the years 2024 to 2046 as set out in Schedule 3 of the Pensions Act 2007 http://www.opsi.gov.uk/acts/acts2007/ukpga_20070022_en_9#sch3

- ***Consolidation***

7.4 This SI amends existing legislation, The Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights) Regulations 1998 where the 'effective date' (the date HM Revenue and Customs determine the resources of the scheme are insufficient to meet its liabilities) is on or after 6th April 2010. Previous amendments apply where the effective date is before this date. Consolidation is therefore not appropriate.

8. Consultation outcome

These Regulations substitute actuarial tables in existing legislation in order to take account of the rise in state pension age from 65-68 as set out in Schedule 3 of the Pensions Act 2007. Due to the highly technical nature of the regulations, and the fact that there is no change in policy, they have not been subject to a public consultation exercise, an exemption which is permitted under section 185(2) of the Pension Schemes Act 1993.

9. Guidance

The updated tables will be used by scheme actuaries to make calculations in the course of dealing with the winding up of certain underfunded occupational pension schemes. The tables are readily accessible through commercially available pensions services.

10. Impact

10.1 This instrument imposes no new costs on business, charities or voluntary bodies.

10.2 This instrument imposes no new costs on the public sector.

10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation imposes no new costs on small businesses.

12. Monitoring & review

The actuarial tables are used by HM Revenue & Customs and are revised from time to time – as by the current instrument – to update the factors based on actuarial advice on the effects of changes in estimates of life expectancy and similar relevant considerations. The next review of the tables is expected to be undertaken in 2012.

13. Contact

Maureen Rafferty at the Department for Work and Pensions Tel: 020 7449 7390 or email: Maureen.rafferty@dwp.gsi.gov.uk can answer any queries regarding the instrument.