EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL PENSION SCHEMES (DISCLOSURE OF INFORMATION) (AMENDMENT) REGULATIONS 2012

2012 No. 1811

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 brings the Occupation Pension Schemes (Disclosure of Information) Regulations into line with the requirements of the workplace pension reforms and specifically the requirement of automatic enrolment. The instrument covers the timescales for basic scheme information to be issued to jobholders and makes a minor amendment to the information which should be included in the basic scheme information in relation to the ways that a member can be admitted to a scheme.

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

None

4. Legislative Context

4.1 These regulations amend the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (SI 1996/1655). This statutory Instrument can be viewed using the following link: http://www.legislation.gov.uk/1996/1655

4.2 These Regulations bring the current disclosure of information regulations into line with the requirements of the workplace pension reforms introduced by the Pensions Act 2008. They change the time allowed for issuing basic scheme information to jobholders (that is, those subject to automatic enrolment) from two months to one to coincide with the period during which a jobholder is able to opt-out of being automatically enrolled into a workplace pension scheme (known as the opt-out window). They also amend the requirement for the basic scheme information to describe how members are admitted to an occupational scheme to ensure this will cover the full range of scenarios which might arise as workplace pension reforms are introduced from 2012.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to the 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 Regulations ensure that occupational pension scheme disclosure of information requirements dovetail with the automatic enrolment provisions.

7.2 The Pensions Act 2008 introduced a duty on all employers to automatically enrol 'jobholders' into a workplace pension scheme. The Act defines a jobholder as an individual aged at least 16 and under 75, earning more than the lower limit of the qualifying earnings band.

7.3 When they are automatically enrolled into a workplace pension scheme the jobholder then has an opt-out window of one month in which they can notify the employer that they do not wish to become a member of the scheme.

7.4 The proposed amendments have two purposes :

- To ensure that prospective and new members of occupational pension schemes receive basic scheme information before the end of the automatic enrolment opt-out period, where this applies, as far as that is practicable.
- To ensure disclosure requirements regarding the contents of the basic scheme information cover the full range of scenarios by which workers may join or be enrolled in an occupational pension schemes.

7.5 Existing legislation requires occupational pension schemes to provide basic scheme information to prospective members where practicable, and in any event within two months of that person joining the scheme. With the introduction of automatic enrolment, this could mean that jobholders may not receive this information until after the one-month opt-out period has expired. These Regulations provide that where information is to be sent to a jobholder, that information should be sent within one month of the scheme receiving the jobholder information from the employer, to make it more likely that the jobholder will receive the basic scheme information within the one month automatic enrolment opt-out window.

7.6 Existing statutory requirements requiring the scheme to set out the ways a person can be admitted to the scheme do not cover the full range of scenarios whereby members could be admitted to an occupational pension scheme once the automatic enrolment provisions are introduced. These Regulations amend paragraph 2 of Schedule 1 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (http://www.legislation.gov.uk/1996/1655) to cover all admission scenarios, including automatic enrolment, or re-enrolment, and opting-in to, or joining, pension saving.

- ***Consolidation***

7.7 These Regulations amend secondary legislation. Informal consolidation will be included in due course in the Department's 'The Law Relating to Social Security' (the blue volumes), available on the internet at no extra cost: The Law Relating to Social Security - DWP

8. Consultation outcome

8.1 The Department undertook formal consultation between 24 April 2012 and 22 May 2012. The consultation was for less than twelve weeks because there had been a previous consultation in 2010 and continued informal consultation with a number of stakeholders throughout 2011, including NAPF and ABI, so stakeholders were familiar with the subject. The original consultation on a wider range of measures can be viewed using the following link: http://www.dwp.gov.uk/consultations/2010/pen-scheme-disclosure.shtml . The Government Response to the 2010 consultation can be viewed using the following link: http://www.dwp.gov.uk/docs/pen-scheme-disclosure-consultation-response.pdf . The 2010 consultation was for a wider range of measures relating to disclosure of information regulations including consolidating or partially consolidating existing regulations. The Department decided to take the wider measures forward as part of the Governments Red Tape Challenge to reduce the regulatory burden on business.

8.2 There were 18 responses to the consultation on these amendments. They came from a range of organisations including pensions industry, pension industry representatives, employers, lawyers and accountants. The responses were overwhelmingly in favour of the proposed changes stating that they were achievable within the prescribed timescales and provided a good fit with the requirements of automatic enrolment.

8.3 There were no objections to the Regulations but one response requested that the Regulations be delayed until the wider Occupational Pension Schemes (Disclosure of Information) review is conducted as part of the Government's Red Tape Challenge. As the amendments are expected to have a nil monetised cost and seventeen of the eighteen respondents believed the amendments were being introduced at an appropriate time the government has decided to bring the regulations into force on 1 October 2012 to coincide with the beginning of automatic enrolment.

8.4 There were small technical amendments suggested and adopted as part of the consultation process. The overall policy intention did not change as a result of these amendments.

8.5 The Government's response to the consultation is published at: http://dwp.gov.uk/consultations/2012/

9. Guidance

No respondent requested guidance and a guidance requirement is not anticipated to these minor amendments to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996.

10. Impact

10.1 The impact on the private sector and civil society organisations is beneficial, but unquantifiable.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment is attached to this memorandum and will be published alongside it on: http://www.Legislation.gov.uk

11. Regulating small business

11.1 The legislation applies to small business. These regulations place a burden on pension scheme providers. However, small businesses do not usually administer pension schemes and therefore impact on small business is expected to be negligible.

11.2 There was a wide ranging consultation on the draft Regulations. There were no issues raised about the effect of these Regulations on small business.

12. Monitoring & review

No formal post-implementation review is planned, but the operation of these Regulations will be monitored on an on-going basis by means of representations and feedback from the pensions community and the Pensions Regulator**.**

13. Contact

Cathy Twamley at the Department for Work and Pensions Tel: 020 7449 7625 or email: cathy.twamley@dwp.gsi.gov.uk can answer any queries regarding the instrument.