EXPLANATORY MEMORANDUM TO

THE PENSIONS ACT 2004 (DISCLOSURE OF RESTRICTED INFORMATION BY THE PENSIONS REGULATOR – AMENDMENT) ORDER 2012

2012 No. 691

1. This explanatory memorandum has been prepared by the Department for Work and Pensions ("DWP") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

This instrument removes references in primary legislation to the Institute of Actuaries and the Faculty of Actuaries and replaces them with the "Institute and Faculty of Actuaries". This reflects the merger of both bodies into a single entity from 1 August 2010.

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

None.

4. Legislative Context

4.1 Schedule 3 to the Pensions Act 2004 lists the persons to whom the Pensions Regulator can disclose restricted information, provided that disclosure would enable or assist that person in the exercise of their functions. http://www.legislation.gov.uk/ukpga/2004/35/schedule/3

4.2 This includes disclosure to persons monitoring or setting standards in relation to actuarial work who are members of professional bodies.

4.3 As the two professional actuarial bodies referred to in Schedule 3 no longer exist following their merger, this instrument replaces those obsolete references with the name of the actuarial body created – "Institute and Faculty of Actuaries".

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister of State for Pensions, Steve Webb, has made the following statement regarding human rights:

"In my view the provisions of the Pensions Act 2004 (Disclosure of Restricted Information by the Pensions Regulator – Amendment) Order 2012 are compatible with the Convention rights."

7. Policy background

- ***What is being done and why***

7.1 The Pensions Regulator is not generally permitted to disclose information gathered in the course of its investigations. Under existing legislation, the regulator is permitted to disclose information to certain specified bodies if it is for the purpose of helping them in the exercise of their functions. This includes disclosure to the actuarial profession to enable them to investigate potential breaches of professional standards where there is a public interest.

7.2 On 1 August 2010, the Institute of Actuaries and the Faculty of Actuaries merged to form a single actuarial body - 'The Institute and Faculty of Actuaries'.

7.3 The order updates legislative references to the bodies representing the actuarial profession in Schedule 3 to reflect the merger.

- ***Consolidation***

7.4 The merger of two actuarial bodies to become the "Institute and Faculty of Actuaries" requires "one-off" legislative amendments.

8. Consultation outcome

8.1 The Pensions Regulator can disclose certain information to those persons listed in existing legislation. Before the Secretary of State can make amendments to that list, there is a legal obligation for him to first consult the Pensions Regulator.

8.2 The Pensions Regulator has been consulted and has agreed the changes as set out in the Order.

9. Guidance

This instrument corrects obsolete references to actuarial bodies which no longer exist - it does not impose new legal requirements. No guidance is therefore necessary.

10. Impact

10.1 This Order has no impact on business and civil society organisations.

10.2 This Order has a negligible impact on the public sector.

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

11. Regulating small business

This Order has no impact on small business.

12. Monitoring & review

The actuarial identity changes are one-off. A review of the legislation would only be needed should the name of the actuarial body change again in the future.

13. Contact

Contact Maureen Rafferty at the Department for Work & Pensions, Tel: 020 7449 7388 or email Maureen.rafferty@dwp.gsi.gov.uk with any queries regarding this instrument.