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Date

13 October 2005

Dear Sir / Madam

The Occupational Pension Schemes (Transfer Values, Pension Credit Benefit and Pension Sharing Valuation) (Amendment) Regulations 2005

I am writing to seek your views about some planned changes to regulations which will affect the **British Coal Staff Superannuation Scheme** and the **Mineworkers' Pension Scheme**.

The documents attached to this letter set out the detail of the proposals.

The closing date for comments is **25 November**.

Please send your comments to:

Mike Rochford
Department for Work and Pensions
3rd Floor
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1-11 John Adam Street
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Email: mike.rochford@dw.p.gsi.gov.uk

Yours sincerely

Mike Rochford

PENSIONS

British Coal Staff Superannuation Scheme Mineworkers' Pension Scheme

Introduction

1. The Department proposes to make amendments to three sets of regulations in relation to the bonus that may be paid by the British Coal Staff Superannuation Scheme (BCSSS) and the Mineworkers' Pension Scheme (MPS).

Bonus

2. Pensions payable by the BCSSS and MPS may include a bonus, which is based on the funding position of the scheme. Bonuses may or may not be payable depending on the funding position of the scheme. The amending regulations make provision in relation to the bonus where the member wants to transfer out of the scheme or where the pension rights have to be valued for divorce purposes. The regulations provide that in calculating the member's cash equivalent transfer value, the actuary should take into account that a reduced bonus, or no bonus, may be payable.

3. In relation to the bonus, the changes made by these amending regulations put members who transfer out of the scheme and members whose pension rights are subject to pension sharing on the same footing as other members remaining in the scheme.

Commentary on draft regulations

4. These regulations are the Occupational Pension Schemes (Transfer Values, Pension Credit Benefit and Pension Sharing Valuation) (Amendment) Regulations 2005 ("the amending regulations"). They amend the following regulations:

The Occupational Pension Schemes (Transfer Values) Regulations 1996 SI 1996/1847

The Pension Sharing (Pension Credit Benefit) Regulations 2000 SI 2000/1054

The Pension Sharing (Valuation) Regulations 2000 SI 2000/1052.

Regulation 1

5. This is a general regulation about the citation, commencement and interpretation of the regulations.

Regulation 2

6. When a member of a pension scheme decides to transfer to another scheme, the value of his pension rights is translated into a cash amount and paid to his new scheme. This "cash equivalent transfer value" is then used to acquire rights for the member in the new scheme. The methodology for the calculation of cash equivalent

transfer values is contained in the Occupational Pension Schemes (Transfer Values) Regulations 1996 (the “Transfer Values regulations”).

7. Regulation 2 amends regulation 7 of the Transfer Values regulations by inserting new paragraphs (2A) and (2B). New paragraph (2A) provides that where a cash equivalent value is being calculated, the calculation should reflect the fact that, in accordance with the provisions governing the scheme in question, a reduced bonus or no bonus may become payable.

8. New paragraph (2B) defines the term “bonus”.

Regulation 3

9. This regulation amends the Pension Sharing (Pension Credit Benefit) Regulations 2000. These regulations contain the requirements for the treatment of pension credit rights held by a pension credit benefit member of the BCSSS or MPS. These regulations would be invoked if a pension credit member of the BCSSS or MPS seeks to transfer out of the pension scheme.

10. Part III of the Pension Sharing (Pension Credit Benefit) Regulations 2000 provides for transfer arrangements in respect of pension credit rights held by a pension credit benefit member in the Schemes, and regulation 24 provides for the calculation and verification of cash equivalent transfer values. The amending regulations make the same provision in relation to the bonus in respect of the cash equivalent transfer value as the Occupational Pension Schemes (Transfer Values) Regulations 1996 (see above).

Regulation 4

11. This regulation amends the Pension Sharing (Valuation) Regulations 2000. These regulations provide for the valuation of the scheme member’s pension rights for the purpose of divorce. These regulations would be invoked if a member of the BCSSS or MPS requires a valuation of his pension rights for divorce purposes.

12. Regulation 4 of the Pension Sharing (Valuation) Regulations 2000 provides for the calculation of the value of the member’s shareable rights in the pension scheme. The regulations provide that the value is to be the same as the cash equivalent transfer value. The amending regulations make the same provision in relation to the bonus in respect of the cash equivalent transfer value as the Occupational Pension Schemes (Transfer Values) Regulations 1996 (see above).

13. **Civil partnerships** The Government intends to bring into effect the Civil Partnerships Act on 5 December 2005. As part of the changes, the rules on pension sharing on divorce will be extended to provide for pension sharing on the dissolution of civil partnerships. The amendments described in relation to regulations 3 and 4 above will therefore apply to pension sharing on the dissolution of a civil partnership.

Regulatory Impact Assessment

14. No Regulatory Impact Assessment has been produced for these regulations as they only apply to two pension schemes and their effect on the schemes’ costs will be negligible. The regulations have no impact on the wider business community.

2005 No. []

PENSIONS

**The Occupational Pension Schemes (Transfer Values, Pension
Credit Benefit and Pension Sharing Valuation) (Amendment)
Regulations 2005**

<i>Made</i> - - - -	[]
<i>Laid before Parliament</i>	[]
<i>Coming into force</i> - -	[]

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 97(1), 101I, 181(1), 182(2) and (3) and 183(3) of the Pension Schemes Act 1993(a), and sections 30 and 83(4) and (6) of the Welfare Reform and Pensions Act 1999(b), and of all other powers enabling him in that behalf, having consulted such persons as he considers appropriate(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Transfer Values, Pension Credit Benefit and Pension Sharing Valuation) (Amendment) Regulations 2005 and shall come into force on [].

(2) In these Regulations—

“the Pension Credit Benefit Regulations” means the Pension Sharing (Pension Credit Benefit) Regulations 2000(d);

“the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996(e);

“the Valuation Regulations” means the Pension Sharing (Valuation) Regulations 2000(f).

Amendment of the Transfer Values Regulations [s97(1), 182(2) and (3), 183(3) PSA]

2.—(1) Regulation 7 of the Transfer Values Regulations is amended in accordance with this regulation.

(2) In paragraph (1) (manner of calculation and verification of cash equivalents) for “paragraph (2) or (5)” substitute “paragraph (2), (2A) or (5)”.

(a) 1993 c.48. Section 101I is inserted by section 37 of the Welfare Reform and Pensions Act 1999 (c.30) (“the 1999 Act”). Section 183(3) is amended by paragraph 45 of Schedule 3, paragraph 15(b) of Schedule 6 and Part 1 of Schedule 7 to the Pensions Act 1995 (c.26), paragraph 42 of Schedule 12 to the 1999 Act and paragraph 32 of Schedule 12 to the Pensions Act 2004 (c.35). Section 181(1) is cited because of the meaning there given to “prescribe” and “regulations”.

(b) 1999 c.30.

(c) See section 185(1) of the Pension Schemes Act 1993 (c.48) and section 83(11) of the 1999 Act.

(d) S.I. 2000/1054; relevant amending instruments are S.I. 2000/2691 and 2005/706.

(e) S.I. 1996/1847; relevant amending instruments are S.I. 1997/786 and 2005/706.

(f) S.I. 2000/1052; relevant amending instruments are S.I. 2000/2691 and 2005/706.

(3) After paragraph (2) insert—

“(2A) Where a member, in relation to whom a cash equivalent is to be calculated and verified, is a member of a scheme modified by—

(a) the British Coal Staff Superannuation Scheme (Modification) Regulations 1994(a); or

(b) the Mineworkers’ Pension Scheme (Modification) Regulations 1994(b),

the cash equivalent of his bonus shall be calculated and verified by the actuary to reflect the fact that a reduced bonus, or no bonus, may become payable in accordance with the provisions governing the scheme in question.

(2B) For the purposes of paragraph (2A) “bonus” means any—

(a) augmentation of his benefits; or

(b) new, additional or alternative benefits,

which the trustees of the scheme in question have applied to the member’s benefits, or granted to him in accordance with the provisions governing that scheme, on the basis of findings as to that scheme’s funding position.”.

Amendment of the Pension Credit Benefit Regulations [s101I, 182(2) and (3), 183(3) PSA]

3.—(1) Regulation 24 of the Pension Credit Benefit Regulations is amended in accordance with this regulation.

(2) In paragraph (1) (manner of calculation and verification of cash equivalents) for “paragraph (2) or (5)” substitute “paragraph (2), (2A) or (5)”.

(3) After paragraph (2) insert—

“(2A) Where an eligible member, in relation to whom a cash equivalent is to be calculated and verified, is a member of a scheme modified by—

(a) the British Coal Staff Superannuation Scheme (Modification) Regulations 1994; or

(b) the Mineworkers’ Pension Scheme (Modification) Regulations 1994,

the cash equivalent of his bonus shall be calculated and verified by the actuary to reflect the fact that a reduced bonus, or no bonus, may become payable in accordance with the provisions governing the scheme in question.

(2B) For the purposes of paragraph (2A) “bonus” means any—

(a) augmentation of his benefits; or

(b) new, additional or alternative benefits,

which the trustees of the scheme in question have applied to the eligible member’s benefits, or granted to him in accordance with the provisions governing that scheme, on the basis of findings as to that scheme’s funding position.”.

Amendment of the Valuation Regulations [s30, 83(4) and (6) WRPA]

4.—(1) Regulation 4 of the Valuation Regulations is amended in accordance with this regulation.

(2) In paragraph (1) (manner of calculation and verification of cash equivalents) for “paragraph (2) or (5)” substitute “paragraph (2), (2C) or (5)”.

(3) After paragraph (2B)(c) insert—

“(2C) Where a transferor, in relation to whom a cash equivalent is to be calculated and verified, is a member of a scheme modified by—

(a) S.I. 1994/2576, amended by S.I. 2001/3649.

(b) S.I. 1994/2577, amended by S.I. 2001/3649 and 2004/3379.

(c) Regulation 4(2B) is inserted by S.I. 2000/2691.

- (a) the British Coal Staff Superannuation Scheme (Modification) Regulations 1994; or
- (b) the Mineworkers' Pension Scheme (Modification) Regulations 1994,

the cash equivalent of his bonus shall be calculated and verified by the actuary to reflect the fact that a reduced bonus, or no bonus, may become payable in accordance with the provisions governing the scheme in question.

(2D) For the purposes of paragraph (2C) "bonus" means any—

- (a) augmentation of his benefits; or
- (b) new, additional or alternative benefits,

which the trustees of the scheme in question have applied to the transferor's benefits, or granted to him in accordance with the provisions governing that scheme, on the basis of findings as to that scheme's funding position."

Signed by authority of the Secretary of State for Work and Pensions.

2005

Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments which relate to schemes referred to in the British Coal Staff Superannuation Scheme (Modification) Regulations 1994 (S.I. 1994/2576) ("the British Coal Scheme") and the Mineworkers' Pension Scheme (Modification) Regulations 1994 (S.I. 1994/2577) ("the Mineworkers' Scheme").

Regulation 2 amends the Occupational Pension Schemes (Transfer Values) Regulations 1996 (S.I. 1996/1847) where a cash equivalent transfer value is being calculated for a member of the British Coal Scheme or the Mineworkers' Scheme. Where such a member has been awarded a bonus, or bonuses, the amount of the cash equivalent transfer value payable in respect of such bonuses shall reflect that the bonuses are not guaranteed and could be reduced in the future, as a result of the scheme's funding position.

Regulation 3 makes amendments to the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054) similar to those made in regulation 2.

Regulation 4 makes amendments to the Pension Sharing (Valuation) Regulations 2000 (S.I. 2000/1052) similar to those made in regulation 2.

A full regulatory impact assessment has not been produced for this instrument as it has a negligible impact on the costs of business.

Consultation arrangements

Website

1. This document is on the Department's website at:

<http://www.dwp.gov.uk/consultations/2005>

Responses

2. Please ensure your response reaches us by **25 November**.
3. Please send your responses to:

Mike Rochford
Dept for Work and Pensions
3rd Floor
Adelphi
1-11 John Adam Street
London WC2N 6HT

Tel 020 7962 8126

Email: mike.rochford@dwp.gsi.gov.uk

Consultation arrangements

4. When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make clear whom the organisation represents and, where applicable, how the views of members were assembled.
5. A list of those consulted is attached. If you have any suggestions of others who may wish to be involved in this process, please contact us.
6. The information you send us may need to be passed to colleagues within the Department for Work and Pensions and published in a summary of responses received in response to this consultation along with a response from the Government. Because of the Freedom of Information Act (2000), all information contained in your response, including personal information, may be subject to publication or disclosure. By providing personal information for the purposes of the consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or completely remove it. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality even if your IT systems claim it automatically. More information about the Freedom of Information Act can be found on the website of the Department for Constitutional Affairs – <http://www.dca.gov.uk/foi/guidance/exguide/index.htm>
7. The Government aims to publish a response to the consultation shortly after the end of the consultation. The response will be on the Department for Work and Pensions' website at:

<http://www.dwp.gov.uk/consultations>

8. Because of the technical nature of this consultation and the limited nature of its subject matter, Ministers have decided not to publish it under the Cabinet Office Code of Practice on Consultation. However it is informed by best practice from the Code.

9. The Department values feedback on how well it consults. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact the DWP consultation co-ordinator. In particular please tell us if you feel that the consultation does not satisfy these criteria. Please also make any suggestions as to how the process of consultation could be improved further. Please contact:

Geoff Ashton, DWP Consultation Co-ordinator
5th Floor East, Trevelyan Square, Leeds LS1 6EB
0113 23 27 107
Geoff.Ashton@dwp.gsi.gov.uk

Consultation List

The consultation document has been sent to the following bodies:

BACM TEAM

British Coal Retired Staff Association
Coal Pension Trustee Services Ltd
Ex-Mining Employees Association
GMB Apex
NACODS Scotland
NACODS South Wales Area
NACODS Yorkshire
NUM
UDM

Association of British Insurers
Association of Consulting Actuaries
Association of Pension Lawyers
Association of Corporate Trustees
Department for Trade and Industry
Faculty and Institute of Actuaries
Government Actuary's Dept
HM Revenue and Customs
HM Treasury
Institute of Chartered Accountants in England and Wales
Joint Working Group
Linklaters
National Association of Pension Funds
Northern Ireland Office
Pensions Advisory Service
Pensions Management Institute
Pensions Ombudsman
The Pensions Regulator
Scottish Executive
Society of Pension Consultants
Trades Union Congress