

# **PENSIONS**

**Government response to the consultation on**

**THE PENSION SHARING (PENSION CREDIT BENEFIT)  
(AMENDMENT) REGULATIONS 2008**

**27 August 2008**

**DWP** Department for  
Work and Pensions

## **CONTENTS**

Introduction

Responses to consultation

List of respondents

## INTRODUCTION

### **The Pension Sharing (Pension Credit Benefit) (Amendment) Regulations 2008**

1. The consultation on these regulations began on 29 May 2008 and ended on 21 July 2008
2. 14 responses to the consultation were received. A list of the respondents is at Annex A. The Department is very grateful to all who contributed to the consultation.
3. The Pension Sharing (Pension Credit Benefit) (Amendment) Regulations 2008 are planned to come into effect on 6 April 2009 .
4. The regulations will be available on OPSI's website at  
<http://www.opsi.gov.uk/si/si-2008-index.htm>
5. This document is available on the Department's website at  
<http://www.dwp.gov.uk/consultations/2008/govt-resp-pspcb-amdt-regs08.pdf>
7. A paper copy of this document can be obtained from:  

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3<sup>rd</sup> Floor, Department for Work and Pensions  
The Adelphi  
1-11 John Adam Street  
London WC2N 6HT  
Email: dave.nicks@dwp.gsi.gov.uk
8. This document describes the policy underpinning the changes being made. Comments on the legislation should not however be taken as an authoritative interpretation of the law. Such an interpretation can only be provided by a court.

## RESPONSES TO CONSULTATION

1. This section summarises the main points made by respondents to the consultation and sets out the Government's response.

### **The policy proposal**

2. The proposal to allow the early payment of pension credit benefit was welcomed.
3. Two respondents pointed out that there are two circumstances under the Finance Act rules where the pension credit benefit member will not have the same choices as other pension scheme members.
4. The former spouse pension credit benefit member cannot take a tax free pension commencement lump sum when the member has a right to receive payment of their pension before the pension sharing order is made, nor can they draw their pension before normal benefit age on grounds of ill health if they have not had an occupation. The "ill-health condition" requires members to be incapable of carrying out their occupation because of physical or mental impairment, and to have ceased to carry it out.
5. Changes to the tax rules are outside the scope of these regulations and the Government accepts that in these circumstances all pension credit benefit members will not have the same choices as other pension scheme members.

### Timing of implementation

6. Most respondents said that the regulations could be implemented in October, as schemes do not have to offer pension credit benefit members payment of pension credit benefit before normal benefit age. The public service schemes that responded said that they would not be able to implement the change in October.
7. Four respondents suggested that this proposal should be implemented at the same time as safeguarded rights are abolished. This would make administration easier for schemes.

## Response

8. Safeguarded rights, which are derived from contracted out benefits, cannot be paid before age 60 and cannot be paid as lump sums. These restrictions will be removed when safeguarded rights are abolished, subject to the will of Parliament, in the current Pensions Bill.
9. The Pension Sharing (Pension Credit Benefit) (Amendment) Regulations 2008 will allow pension credit held in occupational pension schemes to be paid before normal benefit age (normal benefit age commonly being between 60 and 65).
10. The Government agrees that these provisions complement each other and should be made at the same time. The Pensions Bill, if passed, is not expected to receive Royal Assent until after 1 October 2008 (the proposed commencement date in the consultation document for the implementation of the Amendment Regulations). Therefore, we propose that the Amendment Regulations take effect when safeguarded rights are expected to be abolished, namely on 6 April 2009.

## Costs imposed by the regulations

11. Five respondents commented on the cost to schemes of the proposal. Only one respondent attempted to quantify the costs involved in implementing the change. They suggested that for each scheme affected there would be a one off cost of between £2,000 and £5,000. Overall, the respondents said that the impact on any scheme would be minimal. There would be no significant extra costs to amend systems to implement the change, nor any significant savings once implemented.

**List of respondents**

The Actuarial Profession  
Aon Consulting  
Association of Consulting Actuaries  
Association of Pension Lawyers  
Hewitt  
HMRC  
Mercer  
Ministry of Defence  
National Association of Pension Funds  
Resolution  
Scottish Public Pensions Agency  
Skandia Life  
Society of Pension Consultants  
Zurich