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SPC Dinner

This year's SPC Dinner once again promises to be an event not to be missed by all senior members of our industry.

This unique event will enable guests to gain up-to-the-minute insights from top figures in the pensions industry, while being entertained in sumptuous surroundings at one of London's most prestigious venues (The Savoy Hotel). And, if previous years are anything to go by, it will also provide networking opportunities not to be found elsewhere.

Your keynote speaker will be Lawrence Churchill, Chairman of the Pension Protection Fund. Steve Bee of Scottish Life will respond to the toast to the guests. SPC President Robert Birmingham will also give his views on your Society, and the directions our industry appears to be taking.

However, previous Dinners have been heavily booked, so to avoid disappointment it is advisable to book without

delay. A form is available by clicking [here](#).

Tickets are £135.00 per head. This represents exceptional value, as in addition to the informative content and chance to meet with fellow industry professionals, it includes pre-dinner cocktails, a five-course meal (in the best Savoy style), half a bottle of wine with dinner, and a liqueur with the coffee. For second and subsequent tables, the price is just £125.00 per head.

This year we want to encourage many new faces at the SPC Dinner. We believe that if you come once you will want to come again, and to bring colleagues and guests as well. If your organisation is new to the SPC Dinner, we are therefore pleased to offer a special price of £115.00 per head for you and one other person.

The closing date for applications is October 7, but to guarantee your place(s) we strongly advise you to make reservations now. Tickets will be available from the third week in October. ■

SPC London Evening Meetings

The handout is now available from the final SPC London Evening meeting of the 2004/2005 season.

Details are as follows:-

DATE	SUBJECT	SPEAKER(S)	VENUE
May 18 th	An Update on Current Accounting Issues Relevant to Pensions	Ian Sykes (KPMG)	KPMG, London

To obtain a copy, please click on the subject title above. ■

SPC elects new council

A new SPC Council took office on May 25th 2005. The membership is as follows:-

Mark Ashworth	The Law Debenture Pension Trust
Jennifer Batty	Capita Hartshead
Chris Bellers	Friends Provident
John Betts	Mercer Human Resource Consulting
Robert Birmingham	Entegria Ltd
Martin Bracegirdle	HBOS FS
Lindsay Davies	Hymans Robertson LLP
Stephen Dry	Scottish Widows Investment Partnership
Donald Duval	Aon Consulting
Ken Edis	Edis Partnerships Ltd
David Fairs	KPMG LLP
Ian Gault	Herbert Smith
Mark Greenlees	Sacker & Partners
Liz Hinchliffe	Prudential
Maureen Howe	Legal & General Group
Brian Huggett	Pearl Group Ltd
Kevin LeGrand	Buck Consultants Limited
Christopher Massey	PricewaterhouseCoopers LLP
Roger Mattingly	HSBC Actuaries and Consultants Limited
Sir David Miers	Chairman, SPC
Karen Rhodes	Punter Southall & Co
Stewart Ritchie	Scottish Equitable
Cathy Robertson	Standard Life
Jane Samsworth	Lovells
Eric Shepley	Watson Wyatt LLP
Paul Stanway	Jardine Lloyd Thompson
Martin West	Gissings
Deborah Wilson	MNPA Ltd



We welcome to SPC membership:

- **Chambers and Newman Financial Services,** Stockport
- **PIMCO Europe Limited,** London W1.



SPC Annual Report now available

SPC's annual report for 2004 has now been published. To obtain a copy click [here](#). ■

Robin Ellison leads SPC discussion on conflicts of interest

SPC held a Roundtable for Members on June 9 2005. The theme was "Conflicts of Interest". Our scene-setting guest was Robin Ellison who is Head of Strategic Development at Pinsent Masons and Chairman of NAPF. He offered us some thoughts designed to stimulate discussion, focusing on the changing role of pension scheme trustees, their relationship with the scheme sponsor (and the relationship of both of them in turn with their advisers), the potential for conflict and the impact on trustees of new legislation, tighter regulation and stricter compliance requirements. ■

THE NEW PENSIONS TAX REGIME

What has changed recently?

This article covers recent changes to the new tax regime, as contained in the Finance Act 2005 and in draft regulations re-issued in June.

THE MAIN CHANGES CONTAINED IN THE FINANCE ACT 2005

Background

The Finance Bill 2005 was published shortly after the Chancellor's Budget in March. When the General Election was called, it was republished as the Finance (No 2) Bill 2005, with a number of clauses being dropped. After a single day's scrutiny in Parliament, the second Bill was published as the Finance Act 2005 and contains a number of changes to the new pensions tax regime in Schedule 10.

Scheme pensions

One of the more significant changes is the removal of the requirement for schemes with fewer than 50 members to buy scheme pensions (including dependants' scheme pensions) with an insurance company. All schemes will be able to pay these pensions directly out of scheme assets. This is a change which SPC requested.

The circumstances where a scheme pension may be reduced are expanded.

It will now be possible to reduce scheme pensions where there is a pension sharing order or court order, where a public service pension is abated or where the pension is forfeited in circumstances set out in regulations.

Annuities

The Act relaxes the definitions of lifetime annuities and short-term annuities, so that the Revenue can legislate for more flexible annuities. These might, for example, allow annuities to decrease in certain circumstances or allow insurers to give a one-off increase. Revenue wishes to consult providers on the extent to which flexibility will be allowed.

The Act clarifies the treatment of a lifetime annuity when the annuity rate includes a dependant's annuity. The full cost of the annuity is used to provide tax-free cash and is tested against the lifetime allowance. This ensures that schemes do not have to separate out the cost of the dependant's annuity.

The Act confirms that annuities in payment from Section 226 retirement annuity contracts will be taxed under PAYE from 6 April 2007.

Transfers of pensions in payment

Lifetime annuities, short-term annuities, scheme pensions and dependants' scheme pensions in payment can

be transferred from one insurance company to another, providing they are used to provide another pension of the same kind. If they are not, the transfer will be treated as an unauthorised member payment.

The transfer of any unsecured or alternatively secured fund holdings must be made into a new arrangement which does not already hold benefits. This is for the purpose of ensuring the maximum income withdrawal is the same under the new arrangement as it was under the original arrangement.

Dependants' pensions

The definition of a dependant is extended so that, providing the scheme rules allow, dependency can be determined at the time a pension is set up. This means a dependant's pension can be paid to someone who was married to the member at the time the member started to receive a pension, but who was divorced from the member when he or she died. The Finance Act 2004 required dependency to be determined at the point of death, rather than when the pension was set up.

The Act relaxes the definition of a dependant's scheme pension, so that schemes can offer more flexible dependants' pensions.

If a member dies after reaching age 75 on or after 6 April 2006, the total

dependants' scheme pensions must not exceed the member's pension at the date of the member's death. This is to prevent dependants' scheme pensions (which are not tested against the member's or dependant's lifetime allowance) being inflated to avoid the lifetime allowance charge. Any dependant's pension above this will be treated as an unauthorised payment.

Tax free cash

Tax free cash can now be paid from one arrangement under a scheme so that, for example, a scheme can use the defined benefit arrangement to pay the entire pension and the money purchase arrangement to pay the cash. This is particularly relevant where a defined benefit scheme includes money purchase AVCs.

Individuals lose their right to tax free cash if they reach age 75 without crystallising their benefits. The uncrystallised fund is tested against the lifetime allowance as though it were being crystallised to provide unsecured benefits (benefit crystallisation event 1 in the Finance Act 2004).

A minor amendment has been made to the formula for calculating tax-free cash when an individual has pre A-Day cash rights of more than 25% and makes further contributions after A-Day. The formula in the Finance Act 2004 could result in a lower cash amount when an individual has post A-Day benefit accrual and the fund has not grown at the same rate as the increase in the standard lifetime allowance. The amendment ensures that this cannot happen.

Under the current rules for occupational pension schemes, members who joined their scheme before 1989 can take tax-free cash when they reach normal retirement date and defer their pension if they continue in service. The Revenue confirmed in its Technical Note that it would close the 'double-dipping' loophole, which enables these members to take a second tax-free cash sum when they take the rest of their pension benefits after A-Day. However, it did not make this amendment in the Finance Act 2005, although this could follow in later legislation.

Block transfers

There are three circumstances in the Finance Act 2004 when pre A-Day protection is scheme specific, but may continue to apply if the member

transfers out and the transfer is a 'block transfer'.

The three circumstances are where an individual:

- Has pre A-Day tax free cash rights of more than 25% of pre A-Day rights in an occupational pension scheme or a Section 32 buy-out
- Has a protected pension age
- Is claiming corresponding relief

A block transfer is defined in the Finance Act 2004 as a transfer of at least two members' benefits at the same time, to a scheme the member did not previously belong to.

In all three cases, the definition of a block transfer has been changed by the Finance Act 2005 so that, where there is more than one block transfer, the rights are still protected. This is to cater for corporate restructuring where benefits may be transferred to another pension scheme more than once.

Where an individual has a protected pension age, enabling them to take benefits before normal minimum pension age, there is a further change in the definition of a block transfer. The amendment removes the requirement that any block transfer must be made to a scheme the member did not previously belong to in order to maintain the protected pension age. But this only applies where the transfer is coming from an occupational pension scheme, old code scheme, statutory scheme, deferred annuity contract (i.e. a Section 32 buy-out) or a Parliamentary scheme with a protected pension age.

Revenue may set a time limit for membership of the scheme receiving the transfer value. Where the block transfer is coming from a Section 226 retirement annuity contract or a personal pension with a protected pension age, the requirement remains for the transfer to be made to a scheme the member did not previously belong to, if the protected pension age is to be kept. It is not clear what the thinking is behind this discrepancy.

Anti-avoidance measures

Anti-avoidance rules have been put in place to:

- Prevent employers from getting tax relief on contributions or expenses to provide benefits under an Employer Financed Retirement Benefit Schemes (i.e. a scheme which is not registered under the new regime) if they are not then actually

used to provide member benefits, or when benefits from registered schemes are reduced as a result of the Employer Financed Retirement Benefit Scheme provision.

- Prevent assignment or surrender and reallocation of benefits within the same scheme to avoid a lifetime allowance charge or a special lump sum death benefits charge.
- Create an unauthorised payment if pension benefits (which are not permitted under the transfer lump sum death benefit rules or authorised pension death benefits) are passed to a connected member when another member dies. This does not apply if there are at least 20 members in the scheme and all the members' benefits are increased at the same rate.
- Clarify that one person cannot use part of another person's personal lifetime allowance to avoid paying a lifetime allowance tax charge.
- Create an unauthorised payment in certain circumstances where an employer uses unallocated money to increase the benefits of a connected member.

Enhanced protection

A new event when enhanced protection will be lost has been added. This is when an 'impermissible transfer' is received. Under a money purchase scheme, this is a transfer from another arrangement not relating to the member, anything transferred in from outside a pension scheme or a transfer lump sum death benefit. Under a defined benefit arrangement, a transfer is impermissible if it is used to provide money purchase benefits.

Enhanced protection might also be lost if a lump sum is paid out from a pensions term assurance contract when the member dies. This arises from an explanatory note to a small amendment to the Finance Act 2004. The note explains that pensions term assurance under a money purchase scheme is now classed as a cash balance benefit. This appears to be because the Finance Act 2004 did not actually cater for pensions term assurance and so the legislation is being made to 'fit' something that was overlooked.

The amendment means that enhanced protection is lost if a lump sum is paid out from a pensions term assurance contract when the member dies,

➔ because pensions term assurance has a value of nil until the benefit is actually paid, and so relevant benefit accrual has occurred since the benefits were registered for enhanced protection. (Under a cash balance scheme, enhanced protection is lost if benefits increase by more than 5% compound, RPI or an amount specified in regulations). We understand that this rule does not bite if a scheme pays any return of fund from the money purchase fund first (when the rules for enhanced protection have not, at that point, been breached) and paying out the pensions term assurance a day later.

There is a change to the 'post commencement earnings limit', which is the maximum level of earnings which can be used to calculate benefits for a member of a defined benefit scheme under enhanced protection.

There are two definitions of the post commencement earnings limit, one for members who were subject to the earnings cap before A-Day and one for members who were not. The change is that, in both cases, where the earnings figure is based on the twelve months earnings in the three years ending before leaving service, the figure may be increased by 5% compound or RPI (or an amount specified in regulations) between that date and the first relevant event (i.e. when benefits are first payable). This means that the maximum earnings which can be used to calculate benefits for individuals in defined benefit schemes (the 'post commencement earnings limit') is now as follows:

For a member subject to the earnings cap at A-Day (including members of the pre '89 regime who were subject to the earnings cap on their tax free cash), this is the lesser of:

- 7.5% of the standard lifetime allowance (SLA) when they take benefits, and
- The member's best 12 months' earnings in the three years up to first taking benefits or leaving employment, if earlier. If the member has left employment, the earnings figure is increased by the greater of 5% or RPI or an amount specified in Revenue regulations between the end of the appropriate three year period and the date benefits are first payable.

For all other members it is the member's best 12 months' earnings in the three years up to the date benefits are first payable or leaving employment, if earlier. If the member has left employment, the earnings figure is increased by the greater of 5% or RPI or an amount specified in Revenue regulations between the end of the appropriate three year period and the date benefits are first payable.

If this figure is more than 7.5% of the SLA, then it is the greater of:

- 7.5% of the SLA when they take benefits, and
- A third of earnings over the three years before first taking benefits or leaving employment, if earlier. If the member has left employment, the earnings figure is increased by the greater of 5% or RPI or an amount specified in Revenue regulations between the end of the appropriate three year period and the date benefits are first payable.

Protected pension ages

An amendment to the Finance Act 2004 clarifies that individuals may qualify to take their benefits before Normal Minimum Pension Age (NMPA) under the rules for protected pension ages, even if their only benefit in the scheme is tax free cash. The Finance Act 2004 originally only gave protection to an individual with 'pension' rights.

There is clarification of the treatment of tax free cash for an individual with a protected pension age due to a special occupation. The maximum tax free cash is 25% of their personal lifetime allowance (which is reduced by 2.5% for every full year before NMPA that benefits are taken). The Finance Act 2004 omitted to include reference to the reduced lifetime allowance, giving the impression that 25% of the full lifetime allowance could be paid as tax free cash.

Electronic payments

The Finance Act 2005 gives the Revenue power to make regulations requiring schemes to make payments (as specified in the regulations) to it electronically. This means that even the smallest of schemes will need the technology to do this, unless they can delegate the responsibility to their practitioner or third party administrator. The payment must be cleared and all transactions needed must be completed

before the Revenue will treat the money as having been received.

THE MAIN CHANGES TO THE DRAFT REGULATIONS

The 'provision of information' regulations

The requirements concerning the information which must be exchanged between the scheme administrator and the member when the member has an increased personal lifetime allowance (e.g. because of a pension credit) or has claimed primary or enhanced protection have been relaxed fairly significantly. The member no longer has to send a copy of the certificate, only a note of the number given to them on the certificate by the Revenue. The timescales for exchanging information have also been removed. This effectively means it will be up to schemes to put procedures in place to make sure they get the necessary information before retirement.

The 'modification of rules of existing schemes' regulations

The Revenue has powers to make regulations which override scheme rules. This protects trustees from any increased liability as a result of the removal of the earnings cap, or from making any payment which would be classed as an unauthorised payment under the new tax regime (thereby giving rise to a tax charge and other sanctions).

The latest draft of the regulations (as at June 27th, 2005) states that the overriding modification lasts until the earlier of (1) the first date after 5 April 2006 on which amendments to the scheme rules take effect and (2) the end of the 2010 - 2011 tax year (this was originally the end of the 2008 - 2009 tax year).

Although the new lifetime and annual allowances, the new normal minimum pension age and the maximum that may be paid as tax free cash are overriding, it would appear that the legislation does not otherwise override scheme rules. This means that scheme rules will need to be changed to take advantage of more generous tax free cash rules (where the rules are more restrictive) and remove old Revenue limits.

➔ The 'prescribed schemes and occupations' regulations

The regulations make it clear that members of AVC schemes may have a protected pension age.

The 'relevant annuities' regulations

The proposal to base the maximum income withdrawal under a secured or alternatively secured pension on the highest annual income derived from rates in the FSA comparative annuity rate tables has been dropped. The maximum income withdrawal will now be based on the highest annual income derived from rates in the GAD tables, using the funds available to buy the member's (or dependant's) annuity, assuming the purchaser were the same age and sex of the member (or dependant). We understand from the Revenue that the GAD tables will be revised.

Where the member (or dependant) is over age 75, age 75 must be used. The regulations previously stated age 74 and 364 days.

OTHER CHANGES

The Inland Revenue changes its name

The Inland Revenue is now known as Her Majesty's Revenue & Customs (HMRC).

Earnings cap

The earnings cap for 2005/2006 was announced in the Budget as £105,600. The cap for members joining occupational pension schemes between 1987 and 1989 was also increased (for the first time) from £100,000 to £105,600 to make the two caps consistent.

Protected rights

Draft Department for Work and Pensions regulations confirm that, as from 6 April 2006, protected rights can be commuted for tax-free cash. The regulations also confirm that protected rights can be commuted for cash within the trivial commutation rules (1% of the standard lifetime allowance).

Protected rights cannot currently be taken before age 60, even on serious ill health. The regulations confirm that they may be used to pay benefits from the normal pension age (age 50 from 6 April 2006 and age 55 from 2010) and may be paid early on serious ill health. ■

Annuities and Scheme Pensions

We have prepared an article which summarises what changes have been or will be made to the legal and social security requirements on annuities, and we compare the different types of annuities which can be marketed from A-Day to the new rules on scheme pensions. To read the article go to <http://www.pc.uk.com/docs/Annuities&SchemePensions.pdf>.

SPC seeks clarification on new tax regime

As reported in SPC News No. 2 2005, Revenue produced revised draft regulations earlier this year, governing the new pension taxation regime to take effect in April 2006. The draft regulations are at <http://www.hmrc.gov.uk/pensionschemes/draftregs.htm>.

SPC has raised queries on a number of these regulations, i.e.

- The Pension Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations
- The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations
- The Pension Schemes (Information Requirements – Qualifying Overseas

Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations

- The Registered Pension Schemes (Accounting and Assessment) Regulations
- The Registered Pension Schemes (Provision of Information) Regulations – this was one of our main areas of comment.
- The Registered Pension Schemes (Relevant Annuities) Regulations
- The Registered Pension Schemes (Relief at Source) Regulations 2005 – another major area of comment

We also raised queries on schedule 10 to the Finance Act 2005.

You can obtain full details of SPC's queries at <http://www.spc.uk.com/docs/LC98.pdf> ■

Rule amendments for April 6th 2006 tax changes

Because some aspects of the new pension taxation legislation are unlikely to be clear until later this year/next year, we are concerned that this will not leave enough time to allow the development of full rules for adoption before 6 April 2006. So a rule amendment seems a sensible contingency plan.

However, irrespective of whether an amending rule (interim or otherwise) or new full rules are adopted, this will be a rule amendment adopted under the current Revenue reporting regime, although not effective until 6 April 2006.

In spite of Revenue's indication that it will not want to see rule amendments after 6 April 2006, this would mean that the current reporting requirements would need to be followed for any adopted before 6 April 2006 in readiness for

the new regime - which in turn creates a whole raft of additional paperwork which needs to be completed by scheme administrators, and sent to Revenue for processing, at a time when so many other issues need to be addressed.

There is also a question mark over the right to alter scheme rules where, for example, a personal pension scheme adopted the Revenue's Integrated Model Rules (Rule 21.1).

We have asked Revenue to address the possibility of excluding, from the current reporting requirements, any rule change made only to allow the greater flexibility from the new regime, and a blanket exclusion from the current requirement to get permission before a rule amendment is adopted. ■

SPC voices concern at format of Revenue guidance on new pension taxation regime

We are following with interest the development of Revenue's guidance on the new pension taxation regime and a number of SPC members are working hard on commenting on the draft material.

It is clear that the new guidance will be much bigger than the existing IR 12 or IR 76. One reason for this is that the new guidance, helpfully, incorporates examples.

We know that Revenue is completely committed to presenting information in paperless form and we do not therefore suggest that there should be a paper version of the new guidance. However, in their day to day work, the vast majority of practitioners will need to print off parts of the guidance, even if they have internet access. Furthermore, some organisations do not provide universal internet access and some practitioners will therefore probably work on a day to day basis with a document printed off from the internet by somebody else.

There is, therefore, no prospect of the document being used only straight from the screen because people's ways

of working, and indeed eye sight, do not accommodate this.

It must therefore be easy to print off sections of the guidance. We recognise that the resources available for introducing the new regime are limited, but it is essential that the guidance is on the Inland Revenue web-site in a format which makes printing off easy. A word document would meet the requirement, as would a pdf or a document in rich text format. Html pages will not suffice. These have to be

printed off one at a time, which adds up to a significant waste of time.

We have no concerns over Revenue's plans to publish in html, provided that it also make the guidance available in some other format which lends itself to printing. Publication in html only would generally be regarded as unacceptable.

The initial batch of guidance was, in fact, published on the Revenue website in html only, and we have urged Revenue to address promptly the practical problems this will cause. ■

Replacement of MFR

SPC has made a detailed submission to DWP on its consultation paper on the replacement of the minimum funding requirement by a scheme specific funding standard.

DWP's consultation paper is available at <http://www.dwp.gov.uk/consultations/consult/2005/funding-pension-schemes/index.asp>

You can see SPC's comments at <http://www.spc.uk.com/docs/AC49.pdf> and <http://www.spc.uk.com/docs/AC43.pdf>.

SPC also continues to participate in DWP's MFR replacement panel, which has oversight of the move from MFR to the new funding standard. ■

Draft Financial Assistance Scheme Regulations

The draft Financial Assistance Scheme Regulations 2005 set out the detailed provisions which DWP intends to apply to the operation of the Financial Assistance Scheme.

Our response concentrated mainly on points of detail. Our one general comment was that we would expect that significant numbers of schemes, whose members are eligible for the Financial Assistance Scheme, will have been wound up and will therefore no longer have any trustees, who might be able to support the members in applying to the scheme. We therefore suggested that DWP should consider the preparation of a user-friendly guide to assist individuals in making

an application. We note that a number of trade unions and TUC are among the recipients of the draft regulations and these bodies would, we assume, have a role to play as acting as a focal point for scheme members where the infrastructure of the scheme has disappeared.

Our main comment of detail related to schedule 2 to the draft regulations. Where the dependant was already receiving a pension at the start of winding up, the Financial Assistance Scheme would only apply if the dependant had attained – or was within 3 years – of the scheme's normal retirement age (in relation to a deceased member) on 14th May 2004,

with the first FAS payment not being before the dependant reaches age 65. The top up provided by the FAS is then to an overall maximum of £12,000 pa, with a de minimis amount of £520

Where a dependant's pension arises on a qualifying member's death after the commencement of winding up, the FAS applies regardless of the age of the dependant, with the first payment effectively falling due immediately, once the amount of the FAS top up has been determined. The top up would then be to an overall maximum of £6,000 pa, with a de minimis of £260.

We asked for confirmation that our understanding of the treatment of dependants is correct. ■

Clarification on Pension Protection Guidance for Actuaries

In April the Pension Protection Fund issued two sets of guidance for actuaries of schemes which are eligible for the Pension Protection Fund levies:-

- Guidance for undertaking valuations to determine the level of scheme underfunding in accordance with Section 179 of the Pensions Act 2004.
- Guidance for undertaking valuations to determine the level of scheme funding in accordance with Section 143 of the Pensions Act 2004.

We welcomed this guidance, and ask PPF to comment on a few areas of the guidance.

Guidance for Undertaking the Risk Based Levy in Accordance with Section 179

Part 4 of the guidance relates to benefits for and in respect of members. It would be helpful to have clarification of how the cap for Pension Protection Fund purposes is to be applied when a scheme has a normal retirement age lower than 65. Is the intention that the PPF early retirement reduction factors, yet to be published, be applied (i.e. until they are published it will not be possible to determine the capped amount where the normal retirement age is less than 65) or is it intended that the appropriate factors be derived from the assumptions used for assessment for entry into the Pension Protection Fund. (This comment is also relevant to the guidance for undertaking the entry valuation in accordance with section 143.)

The guidance on data in Part 6 does not cover the position where data is

incomplete. For example there might be no information available on the split between pre- and post 1997 benefits, and on destinations under open market options exercised under insured schemes. For any scheme which buys out pensions on retirement, it might be uncertain which members are still alive and there might be no information about cash taken at retirement before age 65. Some guidance on materiality would be helpful. (This comment is also relevant to the guidance for undertaking the entry valuation in accordance with Section 143).

We assume that one of the driving forces behind reviews of the guidance note will be the wish to avoid opportunistic "dumping" of liabilities on the Pension Protection Fund. We urged, however, that reasonable notice be given of any changes in the guidance, so that they can be properly taken into account in any calculations actually in progress, and that reviews should be applicable from the effective date of the valuation, rather than from the date of its signature.

Guidance for Undertaking the Entry Valuation in Accordance with Section 143

Paragraph 4.3 states that for the purpose of determining and valuing the benefits, the compensation cap should be assumed to increase by 1.5% a year relative to limited price increases during any period of deferment after the relevant time. We assume that the intention is that the compensation cap should be taken to increase at 1.5% a year more than the limited price index.

Entry valuations could give a result lower than the buy-out cost of PPF benefits. This could mean that schemes which, on the fact of it, one would have expected to qualify for entry to the PPF, will not do so. How big an issue this will be in practice, we do not know, but we suggested that it be kept under review.

PPF responded that guidance on how the compensation cap be calculated for schemes with a normal pension age lower than 65 is now available on the PPF website – see <http://www.pensionprotectionfund.org.uk/index/guidance/compensation-cap-factors.htm>.

PPF is still developing its policy on the approach to be adopted for Section 143 and Section 179 valuations where data is incomplete.

PPF noted our request that reasonable notice be given of any changes in the guidance.

PPF confirmed that the assumption for increases to the compensation cap for Section 143 valuations is 1.5% p.a. more than LPI.

PPF recognises that entry valuations could produce a lower liability figure than the buy-out cost for PPF purposes and will be looking at how much of an issue this is in practice. PPF suggests that there is cover for this sort of situation by virtue of Section 151 of the Pensions Act 2004 which provides for trustees to apply for the Pension Protection Fund to assume responsibility for a scheme where a section 143 valuation has become binding, but where the scheme assets were not less than the protected liabilities. ■

DWP proposes amendment of contracting out regulations

In March DWP issued two sets of draft regulations proposing changes to the rules for contracting-out benefits. The draft regulations were the Occupational and Personal Pensions Schemes (Miscellaneous Amendments) Regulations 2005 and the Personal Pension Schemes (Appropriate Schemes) Amendment Regulations 2005.

DWP's proposals can be seen at http://www.dwp.gov.uk/consultations/2005/contractedoutregs_amdts/consultation.pdf

SPC's response is obtainable at <http://www.spc.uk.com/docs/LC82.pdf>

Our main comments were that it was inconsistent to continue to exclude commutation of GMP at normal

retirement if it can be commuted at wind-up and protected rights may be commuted at retirement.

We also commented on the proposal to reinforce the exclusion of self-invested personal pensions as a vehicle for contracting-out.

The balance of financial reward and risk currently makes contracting-out

by any means a dubious proposition in general, but, if contracting-out again becomes a realistic option, we think that policy attention ought to be devoted to identifying a basis upon which self-invested personal pensions can be used for contracting out, rather

than ensuring that they cannot. Self-invested personal pensions are already growing in popularity and we would expect this trend to continue when the new pension taxation regime comes into force. We would expect increasing numbers of transfers from defined

benefit schemes to self-invested personal pension schemes, including portions of GMP. Significant numbers of pension savers would therefore have an interest in being able to contract out through one of these schemes. ■

DWP proposes changes to transfer payment regulations

We briefly summarised the Protected Rights (Transfer Payment)(Amendment) Regulations 2005 in SPC News No. 2 2005, on page 7. These draft regulations will allow the transfer of protected rights

without consent from one COMP scheme to another.

You can obtain a copy of SPC's comments on the draft regulations from <http://www.spc.uk.com/docs/LC69.pdf> ■

SPC response to draft Occupational Pension Schemes (Investment) Regulations

We summarised the draft Occupational Pension Schemes (Investments) Regulations 2005 in SPC News No. 2 2005, on page 8.

For a copy of SPC's response to the draft click here <http://www.spc.uk.com/docs/LC115.pdf> ■

SPC seeks guidance on indexation regulations

We summarised the Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Amendment) Regulations in SPC News No. 2 2005, on pages 4 and 5.

We believe that there are some aspects of government policy on indexation, which the regulations leave unclear, mainly relating to hybrid schemes and we have therefore written to DWP, seeking clarification in the relevant areas.

You can obtain a copy of our letter at <http://www.spc.uk.com/docs/ADC80.pdf> ■

SPC response to the draft Pension Scheme (Trustees' Knowledge and Understanding) Regulations 2005

In SPC News No. 2 2005 we briefly summarised these regulations. The aim is to disapply the trustee knowledge and understanding requirements from individual trustees during the first six months of their appointment, unless the trustee is an independent trustee, professional trustee or a trustee who holds him or herself out as an expert. This is intended to give new member nominated trustees a period of grace.

You can obtain a copy of our comments on the draft regulations from <http://www.spc.uk.com/docs/LC99.pdf>. ■

DWP publishes research on effective means of conveying messages about pensions and savings

The Department for Work and Pensions has published research designed to explore effective ways of communicating information about pensions and saving for retirement. As part of

the government's Informed Choice programme, the findings will be used to ensure government communications on pensions are as clear and effective as possible.

This qualitative research was carried out over three iterative stages. The initial stage of the research explored the information needs of members of the public. During the next two stages, ➔

➔ information sheets designed to address people's retirement planning needs were developed and refined. The research was conducted on behalf of DWP by BMRB Social Research and Alan Hedges.

Main Findings

Some respondents displayed considerable lack of knowledge, apathy and scepticism towards pensions. To address these issues, information sheets were created and tested to address:

- Deciding what you need in retirement: General information was developed on how to make decisions about what a person may need in retirement and how much they need to save in order to achieve it. Whilst these approaches encouraged greater thought about retirement, it became clear that more personalised information is required to combat some respondents' difficulties in this area.
- Addressing lack of understanding about pensions: Simple explanations were provided on how defined benefit and money purchase pension schemes operate, plus concepts such as annuities and inflation. Most found these explanations clear and easy to understand, giving them a better understanding of pensions. Although for others they reinforced their negative perceptions, such as the perceived inflexibility of pensions.

- Highlighting the benefits of pensions: such as tax relief, employer contributions and guaranteed income until death. Reactions were mixed, although illustrations of the combined effect of these benefits were particularly effective where respondents had access to a scheme with employer contributions.
- Emphasising the importance of saving early: Typically respondents were unaware of the full extent of the impact of starting a pension from an early age because they did not take into consideration the impact of compound interest. For this reason they were positively surprised by how much of a difference starting to save early made to rates of return. Although important points were made about targeting such messages to appropriate age groups.
- Considering other methods of saving for retirement: Comparisons in rates of return were drawn between investing in pensions, property and bank accounts. These helped address common misconceptions over pensions performing poorly compared to other forms of saving, and gave helpful points to consider on the uses of different methods of saving. However, an important finding was that such communications should not

be seen to 'promote' pensions over other investments.

DWP considers that the report raises some important questions about role of written information in retirement planning and what it can be expected to achieve. Respondents displayed a number of barriers to saving in pensions such as; lack of trust, knowledge, and a lack of transparency and perceived low rates of return in pensions.

Information can help address these issues. However, people's uptake of pensions depends on whether they believe they can afford to pay into one, preferences for other investments and other pressing financial priorities. Regardless of how clearly and concisely pensions and their benefits were explained in the research, for some, they would not overcome these barriers.

The report was published on 4th April 2005 by Corporate Document Services. The authors are Emma Green and Clarissa White. The research was conducted by BMRB Social Research and Alan Hedges. The report is DWP Research Report No. 239. A free summary is available from Paul Noakes at the DWP Social Research Branch (Room 4-26a, Adelphi, 1-11 John Adam Street, London WC2N 6HT, 020 7962 8557). The report and summary are available free on the DWP website, www.dwp.gov.uk/asd/. ■

Employers will have to consult staff before making major pension changes

DWP has published draft regulations which will require employers to inform employees and to consult employee representatives at least two months before making a 'listed change' to their pensions.

Where an occupational pension scheme is concerned, a 'listed change' would include;

- an increase in pension age
- the closure to new entrants
- stopping accrual
- making a scheme contributory.

In respect of money purchase occupational schemes and personal

pension schemes, a 'listed change' would include;

- a reduction in the employer's contribution either by a margin of 2% or more or to below 3%
- an increase in member contributions by a margin of 2% or more.

When consulting, employers must consider any representations made by consultees, must reply to those representations, and must state the reasons if it rejects them. Employers and trustees will also have to inform the Pensions Regulator (on request) about action to comply with the duty to consult.

DWP intends the regulations to come into force in three phases. From 6 April 2006, employers with 150 or more employees will be covered. On 6 April 2007, the threshold will drop to 100 employees and on 6 April 2008, it will drop to 50.

Note that the criteria for consulting relates to numbers of employees, not numbers of pension members. However, this phasing is consistent with the recent Information and Consultation of Employees Regulations 2004 (SI 2004/3426), issued by DTI following EU Directive 2002/14/EC, which are being similarly phased in (although starting from April 2005). ■

Draft scheme administration and audited accounts regulations issued

DWP has issued draft regulations for consultation. They will amend the Scheme Administration Regulations (SI 1996/1715) and the Audited Accounts Regulations (SI 1996/1975).

Changes are needed mainly to ensure that the UK complies with the EU Pensions Directive. Much of the draft regulations will therefore come into force on 22 September 2005 (the last date by which the Directive must be adopted by national governments). However, this is only for new schemes set up after that date; existing schemes will have until the start of the first scheme year beginning on or after that date. The rest of the Regulations will come into force on 6 April 2006.

Currently, earmarked schemes are exempt from having to provide audited accounts. This exemption will cease once the new regulations come into force and will be replaced by a new requirement - in future, the trustees/managers of an earmarked scheme will have to:

1. obtain a copy of the insurer's annual accounts:
2. make copies of these available to members on request; and
3. provide each member with an annual statement detailing the contributions credited to their account during the previous financial year.

The purpose of 3. is not clear, as members must already be given annual statements with this information. ■

Three draft codes of practice published for consultation

The Pensions Regulator has published three draft codes of practice for consultation. Two of these are concerned with reporting late payments of contributions, the other covers leavers of occupational pension schemes.

Late Payments to Pension schemes

The draft codes for late payments cover occupational pension schemes and personal pension/stakeholder schemes where there are direct payment arrangements.

The new codes confirm that the pension trustees/managers are (as now) only required to report a late payment of contributions where it is likely to be of material significance to the Regulator. Once a decision to report has been made, they should make a report within five working days.

The Codes, once finalised, will come into effect from 6 April 2006. The Regulator has issued Pensions Regulator Briefing No.s 1 and 2. These highlight employers' continuing duty to pay on time before that date.

Early Leavers

The third draft Code covers early leavers from occupational pension

schemes. The Pensions Act 2004 gives members who leave an occupational pension scheme the right to a transfer value or a refund of their own contributions if all the following apply:

- They leave at least one year before normal pension age.
- They have at least three months' qualifying service
- They have less than two years' qualifying service.
- Such early leavers must be given information offering the choice of a transfer or a refund. If they fail to exercise that choice within a 'reasonable' time as specified by the trustees and notified to the member, the trustees can pay a refund.

The draft Code sets out that the trustees must notify members of their rights within two months of leaving service. Members must respond to the trustees within three months of being notified and the trustees must carry out members' decisions within three months of being notified by the member. Where a member does not respond, the trustees may, as a default, pay a refund, but must do so within 3 months of the end of the reply period. ■

GN11 to be revised

The Actuarial Profession has issued a revised draft of GN11, the guidance note which actuaries follow when calculating transfer values.

The proposed guidance represents a fundamental change from the existing rules. At present, transfer values represent the "expected cost to the scheme" of providing the benefits which the member is giving up. In what is seen as a fundamental change to reflect the new pensions environment, the revised GN11 proposes a more prescriptive approach to the calculation of transfer values based on bond yields.

According to Wendy Beaver, Chairman of the Profession's Pensions Board: "Trustees will need to decide, in the context of the new rules governing pensions, how the calculated transfer value should reflect the funding level of the scheme, the financial strength of the employer, the nature of the benefit promise and the support of the Pension Protection Fund. It is right that this should be reflected in higher transfer payments to early leavers, where appropriate".

Where schemes are underfunded, legislation allows the actual transfer value paid to be lower than the GN11

amount, where the payment of the full GN11 amount could otherwise unfairly reduce the remaining scheme assets which back the benefits of the other members and pensioners. Scheme members who request a transfer value quotation must be told whether or not the transfer value being offered for payment has been reduced and, if so, must also receive details of the unreduced amount.

Consultation on the revised GN11 ended on 11 July. At the time of preparing this issue, SPC's response was under preparation. ■

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SPC is the representative body for the providers of advice and services needed to establish and operate occupational and personal pension schemes and related benefit provision. Our Members include accounting firms, solicitors, life offices, investment houses, investment performance measurers, consultants and actuaries, independent trustees and external pension administrators. Slightly more than half the Members are consultants and actuaries. SPC is the only body to focus on the whole range of pension related functions across the whole range of non-State provision, through such a wide spread of providers of advice and services. We have no remit to represent any particular type of provision.

The overwhelming majority of the 500 largest UK pension funds use the services of one or more of SPC's Members. Many thousands of individuals and smaller funds also do so. SPC's growing membership collectively employ some 14,000 people providing pension-related advice and services.

SPC's fundamental aims are:

- (a) to draw upon the knowledge and experience of Members, so as to contribute to legislation and other general developments affecting pensions and related benefits, and
- (b) to provide Members with services useful to their business.