ASSOCIATION OF
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CONSULTING ACTUARIES

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13 November 2012

Caroline Blackett
Private Pensions Policy and Analysis
Dept for Work & Pensions
1st floor Caxton House
6-12 Tothill Street
LondonSW1H 9NA

Dear Caroline

THE OCCUPATIONAL PENSION SCHEMES (MISCELLANEOUS AMENDMENTS No. 2) REGULATIONS 2013

I am writing on behalf of the Association of Consulting Actuaries in response to the consultation paper and above draft regulations issued on 4 October 2012.

Members of the ACA provide advice to thousands of pension schemes, including most of the country's largest schemes. Members of the Association are all qualified actuaries and are subject to the Actuaries' Code of the Institute and Faculty of Actuaries. Advice given to clients is independent and impartial. ACA members include the scheme actuaries to schemes covering the majority of members of defined benefit pension schemes.

The ACA is the representative body for consulting actuaries, whilst the Institute and Faculty of Actuaries is the professional body.

Our responses to the questions are set out in the appendix to this letter. From this you will see that we believe that there should be more flexibility with your proposals on bridging pensions.

We hope that you find our comments of assistance and would be happy to discuss them further if that is helpful. You can contact me on 020 7432 6635 (david.everett@lcp.uk.com), or Mark Seed (who prepared the response) on 0161 957 8066 (Mark_Seed@JLTGROUP.COM).

Yours sincerely

David Everett

David Everett
Chairman
ACA Pension Schemes Committee

APPENDIX: ACA RESPONSES TO SPECIFIC QUESTIONS

Question 1 – transfer rights

Do respondents agree that the number of schemes and, hence, members affected by this are small? Can any respondents provide an indication of numbers and costs?

We agree that the number of schemes to which this is relevant is very small. Furthermore, the proportion of the membership in each such scheme to which this is relevant is very small.

For any such schemes that exist, we do not think it likely that the trustees would wish to withhold the transfer option from such a small proportion of the membership. We would therefore be comfortable with the proposed amendment to the regulations not being made. Equally, we are comfortable with the proposal to keep in effect the old policy intention (and the wording proposed) as it is merely seeking to correct an oversight when the Government moved the inflation measure underlying statutory revaluation from the RPI to the CPI.

Questions 2a and 2b – indexation of pension credit benefit

Do the changes make it clear how the minimum statutory indexation requirements should be calculated for pension credit benefit held in defined benefit schemes?

Do the changes preventing an underpin where a scheme continues to pay RPI-based increases provide the same easement as in section 51 of the Pensions Act 1995?

We appreciate the logic for these changes and believe the wording proposed achieves the intention, although others, closer to the legislation than us may be in a better position to comment.

Question 3 – indexation of pension credit benefit held within a cash balance scheme

Does the proposed amendment give the same easement to a pension credit benefit held within a cash balance scheme regarding the requirement for annuities to provide for LPI?

We appreciate the logic for this change and believe the wording proposed achieves the intention, although others, closer to the legislation than us may be in a better position to comment.

Question 4 – bridging pensions

Is the new power sufficient to allow trustees of schemes providing bridging pensions to modify their scheme to take account of changes to SPA, without allowing them to make wider or more general changes?

We believe that the new power is sufficient to enable certain bridging pensions to be modified to take account of changes to SPA without allowing them to make wider or more general changes.

We say **certain** bridging pensions because it seems thatsubject to employer consent and affected members and their representatives being consulted (but see our comment below), trustees will be able to do one of two things:

- where, as at 5 May 2010, the bridging pension ceases at an age between 60 and 65 it will be able to cease at SPA;
- where, as at 5 May 2010, the bridging pension ceases at SPA it will be able to cease at 65 for men and 60 for women,

without offending the accrued right protection provisions set out in Section 67 of the Pensions Act 1995.

We suggest that the proposed wording is changed to enable more flexibility, specifically to allow the bridging pension to cease at an age earlier than set out above. For example, an employer may not be willing to bear the cost of extending the bridging pension to the new SPA but may be prepared to go part way. Flexibility could be achieved by changing the wording to regulations 8A(1) and (2) so that they read as follows:

(1) The trustees of a scheme which, as at the relevant date, provides for a reduction in the rate of pension, taking effect upon a member attaining a specified age not less than 60 and not more than 65, may by resolution modify the scheme so as to provide that the reduction in the rate of pension shall instead take effect on **a later date that is not later than** the day a member becomes entitled to state retirement pension

(2) The trustees of a scheme which, as at the relevant date, provides for a reduction in the rate of pension, taking effect upon the member attaining the age of entitlement to state retirement pension, may by resolution modify the scheme so as to provide that the reduction in the rate of pension shall instead take effect upon a member attaining **an earlier age that is not earlier than** the age at which they would have become entitled to state retirement pension had they been born on 5th May 1950.

Additional wording is shown in bold.

We can see no reason why the new flexibility should be restricted to those who have not yet retired (as suggested in paragraph 39 of the consultation document – although it is not clear that this restriction is actually reflected in the draft regulations). We suggest flexibility to modify for those who have not yet retired and those who have retired.

We do not believe that the modifications should be listed changes under the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006. The scheme benefit is either being improved or is remaining unchanged in terms of the age at which it ceases to be paid. In view of this, the need to consult would, in our opinion, lead to unnecessary complication and cost. We don't therefore believe that any amendments should be made to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006.

In paragraph 41 you say "It is assumed that any modification to scheme rules which are made by the trustees under the new power would be actuarially neutral, so that if a member's bridging pension was to be paid for a longer period, the cost would be offset by paying the member's pension at a lower level." We are confused by this statement which we believe is not and should not be reflected in the draft regulations.

We note that the Government plans to include amendments in the Finance Bill 2013 to prevent problems that would currently arise when scheme pensions reduce (i.e. bridging pensions stop) after age 65. The ACA looks forward to commenting on this draft legislation when released.

Response by:

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