

**PENSIONS AND
LIFETIME SAVINGS
ASSOCIATION**

**PLSA RESPONSE TO CONSULTATION: THE DRAFT PENSION PROTECTION FUND
(MODIFICATION) (AMENDMENT) REGULATIONS 2017**

08 November 2016

INTRODUCTION

We're the Pensions and Lifetime Savings Association; the national association with a ninety year history of helping pension professionals run better pension schemes. With the support of over 1,300 pension schemes and over 400 supporting businesses, we are the voice for pensions and lifetime savings in Westminster, Whitehall and Brussels.

Our purpose is simple: to help everyone to achieve a better income in retirement. We work to get more money into retirement savings, to get more value out of those savings and to build the confidence and understanding of savers.

We welcome the opportunity to respond to this consultation concerning the secondary legislation in respect of compensation payable from the Pension Protection Fund, and in particular the way that the long service provisions of Pensions Act 2014 will work in specific situations.

We note that when the long service provisions were announced by the Minister, it was stated that similar provisions would apply for compensation awarded under the Financial Assistance Scheme ("FAS"). We look forward to those proposals, but appreciate that the April 2017 implementation date applicable to compensation payable by PPF may be difficult given the additional complexity that the long service provisions would entail under the FAS.

We respond to each consultation questions below.

QUESTION 1: DO THE AMENDMENTS IN DRAFT REGULATION 2(1) – (3), AMENDING REGULATION 22(3) OF THE PENSION PROTECTION FUND (COMPENSATION) REGULATIONS 2005 (THE "COMPENSATION REGULATIONS") ACHIEVE THE RESULT DESCRIBED IN THE CONSULTATION, PARAGRAPHS 23 – 25?

We do not believe that the amendments as drafted achieve that result. As we understand it, the purpose of the amendments is to assure that compensation payable to a member due to a pension credit is separate from compensation due to pensionable service for the purposes of applying the compensation cap, even where both tranches are payable from the same scheme. A member receiving compensation from those two sources effectively has two separate compensation caps, and could theoretically receive the maximum compensation in respect of each tranche of benefits.

The new language in sub-paragraphs (6BA) and (6BB) of the Compensation Regulations goes some way towards making clear that a member may have two tranches of compensation, one attributable to pension credit and another attributable

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to pensionable service, and that similarly the new compensation (“benefit A”) may be attributable to one or the other. It could be inferred from the language in (6BA) and (6BB) that benefit A should be added to the appropriate tranche for the purposes of the compensation cap. However, the sub-paragraphs as written simply reflect a state of affairs rather than stating what should happen when it exists. It would be better if operative language were added stating precisely what should happen when there is, for example, additional compensation attributable to a pension credit.

For example, perhaps operative language could be inserted in sub-paragraphs (6BA) and (6BB) stating that where benefit A is attributable to a pension credit from a transferor and benefit C or lump sum L is also attributable to a pension credit from the same transferor, then benefit A shall be applied to that benefit C or lump sum L for the purposes of calculating compensation to which (6C) or (6D) will apply. Similar language could apply in respect of benefits based on pensionable service.

QUESTION 2: DO THE AMENDMENTS IN DRAFT REGULATION 2(4), AMENDING REGULATION 22(3) OF THE COMPENSATION REGULATIONS ACHIEVE THE RESULT DESCRIBED IN THE CONSULTATION, PARAGRAPHS 26 - 29?

The result of this change is ambiguous. We would interpret the language proposed to allow the length of service attributable to the member at the time the later compensation payment becomes effective to apply to both the first compensation payable and the later compensation. This could result in a higher cap for compensation in payment than originally applied.

It appears from the explanation in the consultation that the intention is that the higher cap should apply only in respect of the proportion of the compensation that became payable at the later date, so that the additional compensation is added to the original unaltered compensation, up to the higher cap. If this is the case, then we do not believe that the language achieves the desired result.

QUESTION 3: DO YOU THINK THE GOVERNMENT SHOULD ALLOW FOR AN INCREASE IN THE AMOUNT THE PPF CAN DISCHARGE AS A LUMP SUM? DO YOU THINK THE AMENDMENT TO REGULATION 9A(3) OF THE PENSION PROTECTION FUND (GENERAL AND MISCELLANEOUS AMENDMENTS) REGULATIONS 2006 ACHIEVES THE END DESCRIBED IN PARAGRAPHS 30 - 32 OF THE CONSULTATION?

It makes sense to allow members lump sum discharges of more than £2K, now that the tax rules allow unlimited withdrawals of money purchase benefits from private pension schemes. We are not sure that we understand why a £10K cap was chosen, however.

The £10K cap in Regulation 11 of the Registered Pension Schemes (Authorised Payments) Regulations 2009, which is referenced in the consultation, is used in

respect of commuted non-money purchase benefits for the most part. Money purchase benefits now may be withdrawn as an uncrystallised funds pension lump sum in any amount.

There may be good reasons for the PPF to limit money purchase lump sum withdrawals to £10K, but the reasons for such a limitation should be explored. It will often be better for members with small pension pots to be able to take those benefits directly from the PPF rather than transferring them to private pension schemes. At what point the trustee should be encouraged to transfer the benefits to another scheme may differ, depending on the demographics of the membership. There may be a case for allowing the PPF to cash out benefits up to a higher amount.

Thank you for the opportunity to comment. If you have any questions about our response, please don't hesitate to contact us.

Penny Pilzer

Penny.Pilzer@plsa.co.uk