Title: The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2018 - Introducing a new option for employers in multi-employer occupational defined benefit (DB) pension schemes to defer the requirement to pay an employer debt on ceasing to employ an active member.	Impact Assessment (IA)
IA No: DWP2018_01	**Date:** 21 February 2018
RPC Reference No: RPC-4199(1)-DWP	**Stage:** Final (Validation)
Lead department or agency: Department for Work and Pensions	**Source of intervention:** Domestic
Other departments or agencies: n/a	**Type of measure:** Secondary legislation
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Summary: Intervention and Options

RPC Opinion: Green

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year**	**One-In, Three-Out**	**Business Impact Target Status**
£83.1 million	£83.1 million	-£8.7 million	In scope	In scope

What is the problem under consideration? Why is government intervention necessary?

Where an employer who is participating in a multi-employer occupational defined benefit (DB) pension scheme[1] ceases to employ any active members[2] of the scheme (for example an employer's last active member in the scheme retires) when at least one other participating employer continues to have employees who are active members[3], legislation sets out the requirements for what is commonly known as an "employer debt". The basis of the employer debt is the difference between the assets that the scheme holds and the estimated cost of buying out all of the scheme's pension liabilities with an insurance company (the "full buy-out" level). If the scheme is estimated to be in deficit on that basis the "departing" employer will be liable to pay a certain proportion (its share) of that difference. The rationale behind this requirement is to safeguard the funding of the pension scheme when the link to the employer has been broken.

Evidence presented to DWP is that employers within non-associated[4] multi-employer schemes, who often are smaller businesses or non-profit organisations, are generally much less likely to be able to take advantage of arrangements within the existing legislation whereby only part of the debt, or no debt, may be payable by the "departing employer" (see Annex A for more information). This could be because they have no other employer (associated employer) to transfer the debt to so cannot use one of the apportionment arrangements or no longer intend to employ any active members of the scheme so cannot make use of the period of grace arrangement. Government intervention is needed to ensure that all types of employers in multi-employer schemes are given feasible opportunities to manage their employer debt liabilities in a way that minimises the associated costs and economic distress to business, whilst keeping the interests of their pension scheme members sufficiently protected.

[1] Multi-employer scheme means a scheme in relation to which there is more than one employer.
[2] Active member – in relation to an occupational pension scheme, means a person who is in pensionable service under the scheme.
[3] The situation is called an 'employment cessation event'.
[4] Non-associated multi-employer scheme – scheme where in general the employers are from unconnected businesses or organisations.

What are the policy objectives and the intended effects?

The objective is to ensure that all types of employers in multi-employer schemes are given feasible opportunities to manage their employer debt liabilities in a way that minimises the associated costs and economic distress to business, whilst keeping the interests of their pension scheme members sufficiently protected.

The intended effect is to help businesses, especially small and medium businesses, and non-profit organisations avoid unnecessary economic distress and prevent deterioration of their business.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Non-legislative options are not viable as the provisions pertaining to employer debt are set out in legislation.

Option 0: Do nothing.

Doing nothing would continue to put some businesses and non-profit organisations (that are sponsoring multi-employer occupational DB pension schemes) at risk of economic distress or even insolvency when they cease to employ an active member of the scheme and cannot make use of the existing arrangements to manage the employer debt. There is a sustained campaign from charities and the plumbing industry asking for action.

Option 1: (the preferred option)

Introduce a new deferred debt arrangement which would provide employers in multi-employer schemes with a feasible option to defer the requirement to pay the employer debt on ceasing to employ an active member. This deferred debt arrangement would be subject to a condition that the employer retains all their previous responsibilities to the scheme and continues to be treated as if they were the sponsoring employer in relation to that scheme.

This is our preferred option because it would allow employers to manage the pension debt flexibly as they continue to be fully responsible for the funding of the scheme and thus ensuring sufficient protection of member benefits.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

Does implementation go beyond minimum EU requirements?		N/A		
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Mediu m**Yes	**Larg e**Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** N/A	**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Date: 22/02/18

Summary: Analysis & Evidence — Policy Option 1

Description: The Occupational Pension Schemes (Employer Debt) (Amendment) Regulations 2018 - Introducing a new option for employers in multi-employer occupational defined benefit (DB) pension schemes to defer the requirement to pay an employer debt on ceasing to employ an active member.

FULL ECONOMIC ASSESSMENT

Price Base Year 2017	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £41.6	**High:** £166.2	**Best Estimate:** £83.1

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	**1**	0	0
High	0		0	0
Best Estimate	0		0	0

Description and scale of key monetised costs by 'main affected groups'

Total cost to businesses

The proposed measure is optional. Employers will choose how to manage the employer debt. The employer can either pay a one-off amount in the form of an employer debt (this is the counterfactual), or they can enter into a deferred debt arrangement and remain liable for their scheme and an associated future stream of Deficit Repair Contribution[1] (DRC) payments. We expect that employers would only choose to defer if it is in their interests to do so, i.e. the benefits outweigh the costs. On this basis the proposal is classed as zero net cost to businesses.

Familiarisation / administration cost

Where an employer debt is triggered, various administrative, legal and actuarial costs arise. At the point where an employer debt event is triggered these costs arise whether the employer debt is paid or whether one of the existing arrangements is used to manage the debt. These costs would also be incurred if employers choose to use this new deferred debt arrangement option; but in effect there are no additional familiarisation costs associated with this legislative change so the one-off cost of this policy option is nil.

Cost to scheme members[2]

Under this option scheme trustees, who are mandated to work in the best interest of the scheme members, will need to be satisfied that the proposed arrangement would not be detrimental to the scheme or its members. This will work as a safeguard for the scheme and its members' benefits. Also, the employer will retain responsibility for the scheme's funding in exactly the same way as it would if it continued employing at least one active member of the scheme. On that basis we assess that there would be no additional risk to members of not getting their pensions paid in full – i.e. zero cost to members.

[1] Deficit Repair Contributions (DRCs) - contributions made by sponsors to make up the deficit in an underfunded scheme over a specific period of time.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.00	0	4.8	41.6
High	0.00		19.3	166.2
Best Estimate	0.00		9.7	83.1

Benefits to businesses

Benefits to businesses are calculated by comparing the before and after time profiles of employer debt payments using a 3.5% discount rate, in line with the Green Book[3]. Under both options the employer is responsible for their debt, but benefits arise from not having to pay the debt in full up-front on a full buy-out basis and distributing the payments over time through continued DRCs instead. We estimate that net benefits to all affected businesses added together would be approximately £9.7 million per year on average, or around £83.1 million cumulative over the appraisal period.

[2] Members of DB schemes are current or future pensioners.

[3] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf

Key non-monetised benefits to businesses

Insolvency avoided. Paying the whole employer debt up-front may cause significant economic distress to some businesses which could potentially lead to insolvency. Giving them an opportunity to cover their scheme deficit over time may prevent some employers from becoming insolvent, which would mean they continue employing workers and creating value added – thus generating economic and wider societal benefits.

Key non-monetised benefits to wider society

Charities and voluntary organizations were among those lobbying for changes to the employer debt regime. We therefore believe there would be charities and voluntary organisations, among other organisations, benefiting from the proposed option. Therefore their regular activities are likely to be in a better condition than would be otherwise, and due to the nature of their activities wider positive benefits to society may be expected as a result, but it would be disproportionate to attempt to quantify these.

Key assumptions/sensitivities/risks **(%)**	**Discount rate**	3.5%

The estimated impacts are highly uncertain and particularly sensitive to the following key assumptions:

- Only employers sponsoring multi-employer schemes where the employers are non-associated and the schemes have what is known as a 'last-man-standing' (NALMS) structure will benefit. The option will not be restricted to this type of scheme but given that other types of schemes already have feasible opportunities to make use of the existing deferment arrangements we make this assumption.
- 0.05% of all employers sponsoring schemes with NALMS structure will have a cessation event and will make use of the proposed option every year over the next 10 years.
- On average schemes that have a cessation event have the mean level debt across the whole NALMS population (i.e. there is no correlation between the size of an employer debt and the likelihood of having an employer cessation event[4]).
- Employer debt estimated on the full buyout basis is equal to 140% of the same underlying debt but estimated on the Statutory Funding Objective (SFO), also known as Technical Provisions, basis. This is in line with the rule of thumb that DWP and its Arms-Length-Bodies tend to apply when illustrating DB pension deficit on different bases.
- Deficit Reduction Contributions (DRCs) last for 8 years (8 years is the actual average DRC length observed across DB schemes)[5].

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying provisions only) £m:**
Costs: 0.00	**Benefits:** 8.7	**Net:** 8.7	-43.5

SMALL AND MICRO BUSINESS ASSESSMENT (Option 2)

Costs to businesses, including small and micro businesses, are assessed to be zero.

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[4] We do not have any evidence or rationale that would suggest otherwise.

[5] Source: Security and Sustainability in DB Schemes 2017 (link), paragraph number 201.

Benefits to all businesses are assessed to be worth about £9.7 million per year. We cannot estimate precisely how much of the £9.7 million benefit will be incurred by small and micro businesses. However, based on industry engagement and the assumptions behind the £9.7 million estimate we expect that many of the beneficiaries will be small and micro businesses, most of the remaining ones being charities and medium size businesses.

Evidence Base (for summary sheets)

Problem under consideration:

Where an employer who is participating in a multi-employer occupational defined benefit (DB) pension scheme ceases to employ any active members of the scheme (for example an employer's last member in the scheme retires) when at least one other participating employer continues to have employees who are active members (this is known as an employment cessation event), legislation sets out the requirements for what is commonly known as an "employer debt". The employer debt is the amount of money that the employer must pay into the scheme if it is under-funded[6] in order to relinquish responsibility for the scheme. The basis for the calculation of the debt is the difference between the assets that the scheme holds and the estimated cost of buying out the scheme's entire pension liabilities with an insurance company (the "full buy-out" level). The rationale behind this requirement is to safeguard the funding of the pension scheme when the link to the employer has been broken.

An employment cessation event can occur in a variety of circumstances, for example where an employer's last active member retires or leaves service or as a result of a corporate restructuring. The current legislation requires that where an employer debt is triggered by an employment cessation event, the total amount of debt should be paid up front as a lump sum into the pension scheme. However, it is already accepted that it may not always be feasible or necessary for the employer to fund the entire lump sum up front, and the existing legislation has a number of arrangements whereby only part of the debt, or no debt, may be payable by the 'departing employer'.

However, the evidence presented to DWP shows that employers within non-associated[7] multi-employer schemes, who often are smaller businesses or non-profit organisations, are generally much less likely to be able to take advantage of these arrangements compared to employers in associated schemes. This could be because they have no other employer (associated employer) to transfer the debt to so cannot use one of apportionment arrangements such as a flexible apportionment arrangement, or no longer intend to employ any active members of the scheme so cannot make use of the period of grace arrangement.

Rationale for intervention:

Government intervention is needed to ensure that all types of employers in multi-employer schemes are given feasible opportunities to manage their employer debt liabilities in a way that minimises associated costs and avoids unnecessary economic distress to their businesses, whilst keeping the interests of their pension scheme members sufficiently protected.

Policy objective:

The objective is to ensure that all types of employers in multi-employer schemes are given feasible opportunities to manage their employer debt liabilities in a way that minimises the associated costs and avoids unnecessary economic distress to their businesses, whilst keeping the interests of their pension scheme members sufficiently protected. The intended effect is to help businesses, especially small and medium businesses, and non-profit organisations, avoid unnecessary economic distress and prevent deterioration of their business operations.

Description of options considered (including status-quo):

A non-legislative option is not viable as the provisions for managing an employer debt are set out in legislation.

Option 1: Do nothing.
Doing nothing would continue to put some businesses and non-profit organisations that are sponsoring multi-employer occupational defined benefit pension scheme(s) at risk of economic distress or even insolvency when they cease to employ an active member of the scheme where they cannot make use of the existing arrangements to manage their employer debt. There is a sustained campaign from employers and their representatives for parity with options open to associated schemes.

Option 2: (the preferred option)

[6] If it is fully funded on the full buy-out basis the employer does not have to pay anything.

[7] Non-associated multi-employer scheme – scheme where in general the employers are from unconnected businesses or organisations.

Introduce a new deferred debt arrangement which would provide employers in multi-employer schemes with a feasible option to defer the requirement to pay an employer debt on ceasing to employ an active member. This deferred debt arrangement would be subject to a condition that the employer retains all their previous responsibilities to the scheme and continues to be treated as if they were the sponsoring employer in relation to that scheme.

This is our preferred option because it would allow employers to manage the pension debt flexibly as they continue to be fully responsible for the funding of the scheme and thus ensuring sufficient protection of member benefits.

This option was developed following a Call for Evidence on Section 75 Employer Debt in Non-Associated Multi-Employer Defined Benefit Pension Schemes[8] undertaken in 2015. Subsequent discussions on the option have taken place with selected stakeholders (for example the Pensions Regulator, the Pension Protection Fund and some of the respondents to the Call for Evidence). The Department conducted a formal consultation[9] on draft regulations between April and May 2017.

Monetised and non-monetised costs and benefits of preferred option (including administrative burden):

Total cost to businesses

Costs to businesses are assessed to be zero. The proposed measure is optional. Employers will have a choice – in case of ceasing to employ an active member they can either pay a one off amount in the form of an employer debt (this is the counterfactual), or they can remain liable for their scheme and an associated future stream of Deficit Repair Contribution[10] (DRC) payments. Employers will choose this new option if they believe the benefits outweigh the costs (when compared against the counterfactual). On this basis the proposal is classed as zero cost to business.

Familiarisation / administration cost

Where an employer debt is triggered, various administrative, legal and actuarial costs arise. At the point where an employer debt event is triggered these costs arise whether the employer debt is paid or whether one of the existing arrangements is used to manage the debt. These costs would also be incurred if employers choose to use this new deferred debt arrangement option; but in effect there are no additional familiarisation costs associated with this legislative change, so the one –off cost of this option is nil.

Unintended consequences

How the employer chooses to manage the debt carries a degree of uncertainty and in some cases having to pay the debt upfront may unintentionally result in better outcomes for the employer. DB scheme deficits (and resulting DRCs) are calculated based on prudent actuarial forecasts of future economic performance, and are recalculated triennially. If employers paid their employer debt straightaway they would cease to be employers in relation to the scheme and therefore would not face the risk associated with any changes in future economic climate that result in changes in the estimated deficit (and imposed DRCs) and the amount of any potential employer debt if it were to be triggered at some future date. Depending on the future economic climate employers could face additional costs if choosing to defer and the economic position deteriorates, or additional savings if it improves (relative to forecasts at the point a decision is made). Given that the time horizons we are dealing with pension liabilities are very long[11] we assume that any such unintended costs or benefits net to zero. Furthermore the proposed measure is optional and businesses will make use of it only if they expect it to be beneficial to them given their individual circumstances.

Monetised benefits to businesses

Benefits to businesses are calculated by comparing the before and after time profiles of employer debt payments using a 3.5% discount rate, in line with the Green Book.

The first step in estimating the savings to employers is to establish the number of employers we expect to benefit from the proposed change. Non-associated multi-employers with what is known as a 'last-man-standing' (NALMS) structure will be the beneficiary of the proposal:

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[8] Link: <https://www.gov.uk/government/consultations/employer-debt-in-non-associated-multi-employer-defined-benefit-pension-schemes>

[9] Link: < https://www.gov.uk/government/consultations/the-draft-occupational-pension-schemes-employer-debt-amendment-regulations-2017>

[10] Deficit Repair Contributions (DRCs) - contributions made by sponsors to make up the deficit in an underfunded scheme over a specific period of time.

[11] For example, the cash flow requirements of DB schemes, sponsored by FTSE 100 companies, is expected to peak sometime in 2040 and 2060 as the current deferred and active members of schemes become pensioners themselves [source: LCP Accounting for pensions, 2014]. Although the FTSE 100 employers may not necessarily be the employers in scope with respect to the proposed option they can be used as a proxy to illustrate the long-time horizons of DB pension liabilities.

- Although the proposed measure will not be restricted to employers in non-associated multi-employer schemes, it is assumed that employers in associated multi-employer schemes will not make use of it because they already have deferred debt options available to them. Based on our engagement with the industry we know that the existing range of options work well for associated employers in multi-employer schemes, and hence it is not likely the proposed additional option would add any substantial value to them.
- There is a further assumption that the proposal will be most attractive to employers in non-associated multi-employer schemes with a specific structure know as Last-Man-Standing (LMS). A LMS structure is where all assets and liabilities are held together, and the scheme does not wind-up until the last employer withdraws and is liable for the remaining deficit. It is employers in this type of schemes that, according to the Call for Evidence, are most likely to make use of the proposed deferred debt arrangement.

According to internal data provided to us by the Pension Regulator (tPR) for the purposes of this exercise, there are at least 22[12] non-associated multi-employer schemes (NAMES) with a LMS structure; their total 'buy-out' deficit is estimated to be c. £50bn[13]; and there are c. 5,000 employers[14] who sponsor NAMES with a LMS structure (including non-profit organisations and charities). This implies an average employer debt per employer of £10m[15] (£50 bn / 5,000 ≈ £10 million[16]).

Where employers do not pay the employer debt as a result of the proposed option, they will still remain responsible for the funding of the scheme. If the scheme is in deficit the employer will be required to continue making DRCs under scheme funding rules. The value of this direct business benefit is derived from reallocating the lump sum payment (employer debt) into smaller contributions over time (DRCs). Under both options the employer is responsible for their debt, but benefits arise from not having to pay the debt in full up-front on a full buy-out basis and distributing the payments as ongoing DRCs over time instead.

To quantify the benefits we also need to know how many employment cessation events there will be during the appraisal period. It is important to highlight that there is no such information available because there is no requirement on employers to report such events to the Pension Regulator. For the purposes of quantifying the benefits in the absence of any kind of data on the number of those events, we arbitrarily assume that approximately 1% of all non-associated employers in last man standing schemes will have a cessation event and take up the deferment option at some point in the future. This assumption is uncertain, and is based on the Impact Assessment on *The Occupational Pensions Schemes (Employer Debt) Regulations 2011*[17]. This impact assessment based its assumptions on discussions with contacts in the pensions industry, and in the absence of any other data source assumed 1% and 2% take-up rates for "Group Guarantees" and "Apportion Arrangements" respectively over the lifetime of the proposals. The two policies are types of debt deferral so we use them as a proxy to indicate a broad scale of take-up of the proposed new deferral; at the same time we acknowledge that the new proposal is different and there is no guarantee its take-up would be the same. We use the lower rate of 1% as our assumption. We provide sensitivity analysis on this assumption.

In addition, an arbitrary assumption is made that half of the estimated number of cessation events will occur over the next 10 years (assuming the remainder experience cessation events later), giving a figure of 0.5% of employers in potentially affected schemes in scope of the appraisal. Also, in the absence of any data on future distribution of cessation events, it is assumed that on average the frequency of cessation events will be smooth over the 10 years period. Therefore we assume that 0.05% (0.5% / 10) of NALMS employers will have a cessation event and will make use of the option every year. Multiplying the 0.05% by the number of NALMS employers (which is around 5,000 as set out above) gives a figure of approx. 3 employers making use of the proposed option every year[18].

We acknowledge that the 3 employers per year assumption is uncertain, but having sense checked against the views received from the industry we believe the assumption is reasonable. For instance, as part of the Call for

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[12] Schemes deemed to be either PPF and/or Part 3 Pensions Act 2004 eligible, as at November 2014. Caveat: 4 schemes were excluded from the estimates due to discrepancies in the data.

[13] Caveat: we have rounded the estimate down to £50bn for prudency as any quoted buy-out deficit figures are subject to market conditions at the valuation date. The £50bn deficit is an estimate (roll-forward), with a universal effective date of 31/03/2015.

[14] Caveat: we have rounded down the employer figure to the nearest 1,000 (as one employer can sponsor more than one scheme and the quoted figure provided by tPR may count some employers more than once). However, there is no double counting in the estimated total employer debt.

[15] Caveat: we recognise that the distribution of actual debt to an employer may possibly be skewed; however as such a distribution was unavailable we are using an average mean estimate instead of a median estimate.

[16] Just to put this into context: there are about 6,000 DB schemes in total, and their total deficit on a full buy-out basis is about one trillion pounds, which means it's about £167 million on average per scheme. However, many of the employers sponsoring NALMS scheme(s) are small or medium businesses and their pension schemes smaller/medium too; therefore the average deficit per NALMS scheme is much smaller than the average for the whole DB population – as expected.

[17] Link to on The Occupational Pensions Schemes (Employer Debt) Regulations 2011: http://www.legislation.gov.uk/uksi/2011/2973/impacts

[18] To put it into context: there are about 14,500 employers who are sponsoring a DB scheme(s) in total. The 3 employers affected per year (or 30 in total) is a small subset of the total population; however the proposed measure has a significant impact on them.

Evidence[19] exercise in 2015, we have received 65 responses from individual employers (33 of which were charities) who supported the proposed approach.

With an assumed 3 (after rounding) employment cessation events annually, where the proposed option to defer debt would be taken up, the estimated aggregate employer debt triggered per year would be approx. £25m (3 businesses x £10m average employer debt ≈ approx. £25m[20]). We do not have any evidence or rationale that would suggest that schemes with higher or lower debt are more or less likely to have a cessation event; hence we implicitly assume here that on average schemes that have a cessation event have the same amount of estimated debt as the whole NALMS population on average.

Referring to the assumptions set out above, in year 1 three employers have a cessation event and take up the proposed option; and their aggregate employer debt is worth £25 million, on the full buyout basis. In year two there is another 'inflow' of three employers with the aggregate employer debt worth £25 million, and so on. Under the counterfactual, they have to pay the debt in full up-front.

Under the proposed option, they can defer the debt and cover it over time in the form of Deficit Repair Contributions (DRCs). We assume that DRCs are paid over 8 years, which matches the actual average DRC payments length observed across Defined Benefit schemes; and also assume that the payments are made in equal chunks over eight years. We highlight that this is a very simplifying assumption as in practice DRCs vary and are re-set triennially. Given the 3.5% annual discount for time preference, in line with the Green Book, the deferral creates value.

In addition to the different time profile of the payment, DRCs are imposed based on the same underlying debt but calculated on the Statutory Funding Objective (SFO) basis – this because of the regulatory requirements. We assume that the employer debt estimated on the full buyout basis is equal to 140% of the same underlying debt but estimated on the Statutory Funding Objective (SFO), also known as Technical Provisions, basis. This is in line with the rule of thumb that DWP and its Arms-Length-Bodies tend to apply when illustrating DB pension deficit on different bases. The difference between the two measures is primarily driven by (a) differences in required assumptions of future returns on investment, and (b) the full buy-out basis includes insurer's premia. Hence the employer debt which is equal to £25 million on the full buyout basis is equal to about £18 million (£17.86m before rounding) on the SFO basis.

It is important to note that there are no anticipated indirect effects on either other employers in the scheme (the departing employer paying the debt up-front is not anticipated to affect the DRC payments paid by other employers in the scheme), or the insurance industry (the up-front debt goes into the scheme; though the debt is estimated on a full buyout basis, the payment is not actually used to buy insurance).

Benefits to businesses are calculated by comparing the profiles of the employer debt payments – the profile under the counterfactual being the employer debt calculated on the full buyout basis and paid in full up-front, and the profile under the proposed option being the employer debt calculated on the SFO basis and paid in equal chunks over 8 years. Table 1 below shows the profile under the counterfactual.

Table 1. Value of cash flows under the counterfactual.

	Sum	Year number									
		1	2	3	4	5	6	7	8	9	10
Nominal Value	**250.00**	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00
Present Value	**215.19**	25.00	24.15	23.34	22.55	21.79	21.05	20.34	19.65	18.99	18.34

Source: DWP calculations

Table 2 below shows the profile under the proposed option.

Table 2. Value of cash flows under the proposed option.

[19] Section 75 Employment Debt in Non-Associated Multi-Employer Defined Benefit Pension Schemes- Call for evidence 2015.

[20] Figures do not sum due to rounding.

Year		Sum																		
1	Nominal Value	17.86		2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Present Value		15.34	2.16	2.08	2.01	1.95	1.88	1.82	1.75	1.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2	Nominal Value	17.86			2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Present Value		14.82		2.08	2.01	1.95	1.88	1.82	1.75	1.70	1.64	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3	Nominal Value	17.86				2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Present Value		14.32			2.01	1.95	1.88	1.82	1.75	1.70	1.64	1.58	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4	Nominal Value	17.86					2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00	0.00	0.00	0.00	0.00	0.00
	Present Value		13.84				1.95	1.88	1.82	1.75	1.70	1.64	1.58	1.53	0.00	0.00	0.00	0.00	0.00	0.00
5	Nominal Value	17.86						2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00	0.00	0.00	0.00	0.00
	Present Value		13.37					1.88	1.82	1.75	1.70	1.64	1.58	1.53	1.48	0.00	0.00	0.00	0.00	0.00
6	Nominal Value	17.86							2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00	0.00	0.00	0.00
	Present Value		12.92						1.82	1.75	1.70	1.64	1.58	1.53	1.48	1.43	0.00	0.00	0.00	0.00
7	Nominal Value	17.86								2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00	0.00	0.00
	Present Value		12.48							1.75	1.70	1.64	1.58	1.53	1.48	1.43	1.38	0.00	0.00	0.00
8	Nominal Value	17.86									2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00	0.00
	Present Value		12.06								1.70	1.64	1.58	1.53	1.48	1.43	1.38	1.33	0.00	0.00
9	Nominal Value	17.86										2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23	0.00
	Present Value		11.65									1.64	1.58	1.53	1.48	1.43	1.38	1.33	1.29	0.00
10	Nominal Value	17.86											2.23	2.23	2.23	2.23	2.23	2.23	2.23	2.23
	Present Value		11.26										1.58	1.53	1.48	1.43	1.38	1.33	1.29	1.24
Total	Nominal Value	178.57																		
	Present Value	132.07																		

Source: DWP calculations

As shown in the tables above, the present value of the costs under the counterfactual is £215.19 million, and the present value of the costs under the proposed option is £132.07 million. The difference between the two is £83.1 million, which is the estimated benefit to businesses, in present value (real) terms.

The estimated benefits are highly sensitive to the assumed level of take-up of the proposal. We have arbitrarily doubled and halved the 0.5% take-up rate in the next 10 years to 1% and 0.25% for our upper and lower scenarios respectively. Under the upper scenario the estimated benefit is £166.2 million, and under the lower one it is £41.6 million.

Non-monetised benefits to businesses

In addition to the benefits to businesses, wider societal (unquantified) benefits are expected. Charities and voluntary organisations are among those that have been lobbying for the changes to the employer debt regime. We therefore believe there will be charities and voluntary organisations, among other organisations, benefiting from the proposed option. Therefore their regular business activities are likely to be in a better condition than would be otherwise, and due to the nature of their activities wider positive benefits to society may be expected as a result. It would be disproportionate to attempt to quantify these benefits.

Costs and benefits to scheme members[21]

Under this option scheme trustees, who are mandated to work in the best interest of the scheme members, will need to be satisfied that the proposed arrangement would not be detrimental to the scheme or its members. This will work as a safeguard for the scheme and its members' benefits. Also, the employer will retain responsibility for the scheme's funding in exactly the same way as it would if it continued employing at least one active member of the scheme. On that basis we assess that there would be no additional risk to members of not getting their pensions paid in full – i.e. zero cost to members.

We acknowledge that there is an argument that in some specific situations a strong employer could potentially enter a deferred debt arrangement when they could have met the employer debt in full when it was initially triggered, and that if the employer's financial position deteriorates in future they may not be able to make the level of payments they would have done otherwise (i.e. in the form of any future employer debt that may be triggered ending the deferred debt arrangement). However, under the proposed measure on-going monitoring of the employer in a deferred debt arrangement will form part of the standard triennial scheme funding valuations, and is expected to mitigate any potential additional (when compared against the counterfactual) risk to members' benefits to negligible levels. It is also important to note that in the absence of the proposed option some employers might not be able to pay their employer debt due to insufficient assets held thus putting their pension scheme members at risk of receiving lower benefits. In some of those situations the deferred debt arrangement is expected to reduce the financial pressure on the employer so that it allows continuing business operation on a normal basis while covering the deficit in their pension scheme over a number of years thus protecting member benefits (which would not be possible under the counterfactual).

[21] Members of DB schemes are current or future pensioners.

There will be no familiarisation, implementation, administrative or other type of cost to members as they will not be required to do anything.

Summary and preferred option with description of implementation plan

The preferred option addresses the situation where an employer undergoes an employer cessation event and does not intend to re-employ an active member of the pension scheme but wishes to make use of deferred debt arrangement. Under this option, the trustees forego an immediate payment of an employer debt by agreeing that the employer can enter into a deferred debt arrangement. The employer remains an employer in relation to the scheme and will be responsible for making any deficit recovery contributions. The gain for employers is economic, in respect of the benefits they derive from not having to pay the employer debt in full up-front. The estimated savings over the appraisal period are valued at £83.1 million, with sensitivity analysis suggesting a range of £41.6 million to £166.2 million.

We acknowledge these estimates are highly sensitive to assumptions, given the lack of available data, but the analysis presented is proportionate.

No formal Post Implementation Review is planned, but the operation of the regulations will be monitored on an ongoing basis by means of representations and feedback from the pensions industry, the Pensions Regulator and the Pension Protection Fund.

Annex A – additional information on current policy background

The existing legislation has a number of arrangements whereby only part of the debt, or no debt, may be payable by the 'departing employer'. There are four arrangements which prevent an employment cessation occurring:

- The period of grace arrangement helps small employers in multi-employer schemes who cease to employ an active member for a temporary period only (the rule currently means that the employer debt does not trigger for up to 36 months giving the employer time to employ an active member of the scheme).
- A flexible apportionment arrangement may allow an employer's pensions liabilities to be apportioned to another employer participating in the same pension scheme (in effect, this employer 'steps into the shoes' of the leaving employer). This may help employers in the same multi-employer scheme who are associated with each other through business.
- Restructuring involving a transfer of assets, employees, scheme members and pension liabilities, between one departing employer and one receiving employer, neither of whom have had an insolvency event.
- De Minimis restructuring where small scale corporate restructurings are being undertaken.

There are also four prescribed mechanisms which result in modification of the departing employer's debt:

- Withdrawal arrangements. The employer no longer participating in the scheme pays an amount of the debt to the scheme based on the scheme funding position. A guarantor agrees to pay the remaining balance (i.e. the difference between scheme funding and full buy out) when it falls due. The guarantor can be another employer in the scheme.
- Approved withdrawal arrangements. These are withdrawal arrangement where the departing employer pays less than its share of the deficit calculated on a scheme funding basis. Where trustees consider that an approved withdrawal arrangement is appropriate, the employer must submit an application to the Pensions Regulator for approval.
- Scheme apportionment arrangements. Some schemes have scheme rules that permit an employer debt attributable to the departing employer to be shared amongst the remaining employer(s) so reducing the debt to a nil or a nominal amount. Legislation permits that such apportionments can only take place in line with the scheme rules and the trustees applying a funding test to ensure that they are satisfied that the remaining employers are able to fund the scheme so that it has sufficient assets to cover its liabilities. This also prevents a debt being apportioned to weak or shell employers.
- Regulated apportionment arrangements. A regulated apportionment arrangement modifies the departing employer's section 75 debt and is only available where the scheme is in a PPF assessment period, or likely to enter one within the next 12 months. To take effect the regulator must approve a regulated apportionment arrangement and the PPF must not object to it. Such arrangements are very rare.