

**EXPLANATORY MEMORANDUM TO**  
**THE PENSIONS ACT 2004 (DISCLOSURE OF RESTRICTED**  
**INFORMATION) (AMENDMENT OF SPECIFIED PERSONS) ORDER 2006**

**2006 No. 2937**

1. This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 This Order amends Schedules 3 and 8 to the Pensions Act 2004 (the Act) to enable the Pensions Regulator and the Board of the Pensions Protection Fund respectively to disclose restricted information to certain persons to facilitate the exercise of certain regulatory functions by those persons.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Background**
  - 4.1 Section 86(2)(a)(i) of the Act empowers the Secretary of State, after consultation with the Pensions Regulator, to amend Schedule 3 to add any person exercising regulatory functions and specifying functions in relation to that person.
  - 4.2 Section 200(2)(a)(i) of the Act empowers the Secretary of State, after consultation with the Board of the Pensions Protection Fund, to amend Schedule 8 to add any person exercising regulatory functions and specifying functions in relation to that person.
  - 4.3 One of the “persons” listed in Schedule 3 and Schedule 8 of the Act is the Gaming Board for Great Britain for functions under the Gaming Act 1968 and the Lotteries and Amusement Acts 1976. The Gambling Act 2005 replaced the Gaming Board with the Gambling Commission and repealed the Gaming Act 1968 and the Lotteries and Amusement Acts 1976. The Order amends Schedule 3 and Schedule 8 to reflect these changes.
5. **Extent**
  - 5.1 The Order extends to Great Britain.

## **6. European Convention on Human Rights**

James Purnell, Minister of State for Pensions Reform has made the following statement regarding Human Rights:

“In my view the provisions of The Pensions Act 2004 (Disclosure of Restricted Information) (Amendment of Specified Persons) Order 2006 are compatible with the Convention rights.”

## **7. Policy background**

- 7.1 In April 2006, the Financial Reporting Council took on new responsibilities for actuarial standards and regulation. A key characteristic of actuarial work is to characterise, measure and analyse the uncertain future. Thus, actuarial services are predominantly used in insurance and pensions.
- 7.2 The Financial Reporting Council regime (in line with the model outlined in the Morris review) will be funded by the Actuarial Profession, insurers and pension schemes. Those are those parties in relation to whom the Financial Reporting Council’s actuarial work is relevant to a significant extent or who have a major interest in that work.
- 7.3 The Financial Reporting Council has arrangements in place with the Financial Services Authority to recover a proportion of its costs from insurers. In order to enable the Financial Reporting Council to make arrangements to recover its funding from pension funds it is necessary to amend the Pensions Act 2004 to allow the Pensions Regulator to share restricted information with the Financial Reporting Council about the bodies and individuals it regulates (a “gateway”). This will help to achieve a more robust, joined-up and efficient regulatory regime for actuaries and enable the Financial Reporting Council to more easily make arrangements to recover its funding from pension funds.
- 7.4 Without a statutory gateway, disclosure by the Pensions Regulator to the Financial Ombudsman can only be by consent, or relating to information held in the public domain, or in the public interest. The Pensions Regulator asked the Secretary of State to make an amendment to Schedule 3 to provide a statutory gateway to allow the Pensions Regulator to disclose information to the Financial Ombudsman. Schedule 8 has also been amended to allow the Board of the Pension Protection Fund to disclose information to the Financial Ombudsman.

- 7.5 The Order provides information gateways between the Pensions Regulator and the Gambling Commission, the Board of the Pensions Protection Fund and the Financial Ombudsman.
- 7.6 The Gambling Act 2005 repealed the Gaming Act 1968 and the Lotteries and Amusement Acts 1976, and replaced the Gaming Board with the Gambling Commission. The references in Schedule 3 and Schedule 8 to the old legislation, and the Gaming Board for Great Britain, are out of date and there is therefore a need to include the Gambling Act 2005 and the new Gambling Commission.

### Consultation

- 7.7 There is no requirement under section 317 of the Pensions Act 2004 to consult on the proposed information gateways for the Financial Ombudsman and Gambling Commission. However, section 86(2) of the Act requires the Secretary of State to consult the Pensions Regulator before amending Schedule 3. Section 200 (2) of the Act requires the Secretary of State to consult the Board of the Pensions Protection Fund before amending Schedule 8. The Pensions Regulator and the Board of the Pensions Protection Fund have indicated that they are content with the proposed changes. Both the Financial Ombudsman and the Gambling Commission changes are straightforward.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 There is no impact on the public sector.

## **9. Contact**

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