

To: private.pensionspublicconsultation@dwp.gsi.gov.uk

**The draft Occupational Pension Scheme (Employer Debt) (Amendment)
Regulations 2017**

Response from the Scottish Charity Regulator 5 May 2017

1. Background

The Office of the Scottish Charity Regulator (OSCR) is established under the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act) as a Non-Ministerial Department forming part of the Scottish Administration. OSCR is the registrar and regulator of charities in Scotland. There are currently over 24,000 charities registered in Scotland.

2. Consultation response

In our initial response to the Call for Evidence we highlighted that within the charitable sector there are a number of bodies who operate with a pension scheme which is part of a non-associated multi employer scheme, primarily due to historic arrangements. We have concerns that a number of these charities are prevented from seeking alternative pension schemes as s75 debt would be triggered.

We therefore welcome the proposed amendments to allow employers of non associated multi employer schemes to enter into a deferred debt arrangement. This will allow charities to manage their ongoing liabilities more effectively, ensuring that decisions about future pension provisions can be made based upon the best long term course of action for a charity rather than the consideration of an immediate debt.

We also highlighted the fact that many charities seek to change legal form to allow them ensure that they are fit for purpose in carrying on their activities and supporting their beneficiaries. Where these charities operate a pension scheme which sits within a multi employer scheme it has required substantial work to allow the pension scheme to be transferred without triggering s75 debt.

The proposed substitution in paragraph 3(A)(b)(ii) does more clearly reflect the situation where a charity changes its legal form.

Paragraph 3(cc) should be extended to include a change of legal form to a 'Scottish Charitable Incorporated Organisation', which is a separate legal form to the 'Charitable Incorporated Organisation'.

In addition, the definitions in relation to 'charity' and 'charitable company' refer to English charity law. These require to be extended to include Scottish charities which are registered under the Charities and Trustee Investment (Scotland) Act 2005.

We would also bring to your attention the fact that, although rare, we have had instances where a charity has changed from a charitable company to an unincorporated organisation.

Should you wish to discuss any aspect of the response please contact: Claire Morrison, Accounting Advisor on 01382 346884 or by email at claire.morrison@oscr.org.uk