

This draft Statutory Instrument supersedes in part the draft of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014 which was laid before Parliament on 6th May 2014 and published on 9th May 2014 (ISBN 978-0-11-111456-8). It is being issued free of charge to all known recipients of that draft Statutory Instrument.

Draft Regulations laid before Parliament under section 33(3) of the Pensions Act 2011, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

PENSIONS

The Pensions Act 2011(Consequential and Supplementary Provisions) Regulations 2014

*Made - - - - - ***
Coming into force in accordance with regulation 1(2)*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 31(1) and 33(1)(a), (b) and (c) of the Pensions Act 2011⁽¹⁾.

A draft of these Regulations has been laid before and approved by resolution of each House of Parliament in accordance with section 33(3) of the Pensions Act 2011.

Citation and commencement

1.—(1) These Regulations may be cited as the Pensions Act 2011 (Consequential and Supplementary Provisions) Regulations 2014.

(2) These Regulations come into force on the day after the day on which they are made.

Application to the Imperial Home Decor Pension Scheme

2. These Regulations do not apply to or in relation to the Imperial Home Decor Pension Scheme.

Amendment of the Pension Schemes Act 1993

3.—(1) The Pension Schemes Act 1993⁽²⁾ is amended as follows.

(1) 2011 c. 19.
(2) 1993 c. 48.

- (2) In section 84 (basis of revaluation)(3)—
- (a) in subsection (1), for “Subject to subsections (2) and (3)” substitute “Subject to subsections (2) to (3B)”;
 - (b) after subsection (3) insert—
 - “(3A) If—
 - (a) any such benefit as is mentioned in section 83(1)(a) is a cash balance benefit in respect of which the available sum is not calculated by reference to final salary;
 - (b) the benefit is attributable to periods of pensionable service falling on or after the day on which section 29 of the Pensions Act 2011 (definition of money purchase benefits) comes into force; and
 - (c) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue the benefit by the cash balance method,
 then the benefit shall be revalued using that method.
 - (3B) Where a cash balance benefit in respect of which the available sum is not calculated by reference to final salary—
 - (a) is attributable to periods of pensionable service falling partly before and partly on or after the day on which section 29 of that Act comes into force; and
 - (b) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue so much of the benefit as is attributable to the member’s pensionable service falling on or after that day by the cash balance method,
 then so much of the benefit as is attributable to the member’s pensionable service falling on or after that day shall be revalued using that method.”; and
 - (c) in subsection (4)—
 - (i) after the definition of “average salary benefit” insert—
 - ““cash balance benefit” has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014;
 - “final salary”, in relation to a member to or in respect of whom benefits under a pension scheme are payable, means the member’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to, the time when the member’s pensionable service in relation to that scheme ends;”;
 - (ii) in the definition of ““average salary method”, “final salary method”, “flat rate method” and “money purchase method””, after ““average salary method”,” insert ““cash balance method”,”; and
 - (iii) after the definition of ““average salary method”, “final salary method”, “flat rate method” and “money purchase method”” insert—
 - ““pensionable earnings”, in relation to a member of a pension scheme, means earnings by reference to which benefits under the scheme are calculated.”.
- (3) After paragraph 3 of Schedule 3 (the average salary method) insert—

(3) Section 84 was amended by sections 151 and 177 of, paragraph 62 of Schedule 5 to, and Part III of Schedule 7 to the Pensions Act 1995 (c. 26); section 281 of the Pensions Act 2004 (c. 35), section 19(1), (2) and (3) of the Pensions Act 2011 (c. 19) and S.I. 2005/2053.

“The cash balance method

3A. The cash balance method of revaluing a cash balance benefit is to revalue the available sum in respect of the benefit in any way in which it would have been revalued if the member’s pensionable service had not terminated.”.

Amendment of Schedule 9 to the Pensions Act 2004 (reviewable matters)

4. After paragraph 16F(4)of Schedule 9 to the Pensions Act 2004 (reviewable matters)(5) insert—

“16G. Any determination by the Board, or the failure to make a determination, under regulation 54(1) of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014 (determination to discharge benefits as money purchase benefits in certain transitional cases).

16H. Any determination by the Board, or the failure to make a determination, under regulation 55(2) of those Regulations (closed schemes: Board’s assumption of responsibility after the appointed day).

16I. Any direction given by the Board, or the failure to give a direction, under regulation 57(1) of those Regulations (directions to trustees or managers about the exercise of certain powers under those Regulations).”.

Signed by authority of the Secretary of State for Work and Pensions

Date

Steve Webb
Minister of State
Department for Work and Pensions

(4) Paragraph 16F was inserted by S.I. 2011/731.

(5) 2004 (c.35). Schedule 9 was amended by section 22 of and Schedule 4 to the Pensions Act 2011 and by S.I.s 2005/600, 2005/2113, 2006/685, 2007/771, 2010/560 and 2011/731.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are one of two sets of regulations implementing Part 4 of the Pensions Act 2011 (c. 19), section 29 of which inserts provisions to clarify the definition of “money purchase benefits” in section 181 of the Pension Schemes Act 1993 (c. 48) (“the 1993 Act”) and other Acts. Section 29 has retrospective effect to 1st January 1997 and these Regulations make consequential and supplementary amendments to other Acts with prospective effect. The Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014 [S.I no] (“the Transitional Regulations”) make transitional, consequential and supplementary provision, with retrospective and prospective effect, to support the commencement of this section.

Regulation 2 exempts the Imperial Home Decor Pension Scheme (which was the subject of the Supreme Court’s judgment in *Houldsworth and another v Bridge Trustees Ltd and another* (“*Bridge Trustees*”)) from the application of these Regulations.

Regulation 3 amends the 1993 Act to allow trustees or managers of an occupational pension scheme to revalue cash balance benefits which are not calculated by reference to a member’s final salary by the “cash balance method”.

Regulation 4 makes consequential and supplementary amendments to Schedule 9 of the Pensions Act 2004 (c. 35).

An assessment of the impact of Part 4 of the Act on the private sector and civil society organisations has been made. A copy of this impact assessment is available in the libraries of both Houses of Parliament and alongside this instrument on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D, Caxton House, Tothill Street, London SW1H 9NA.