
STATUTORY INSTRUMENTS

1992 No. 1531

PENSIONS

**The Occupational and Personal Pension Schemes
(Miscellaneous Amendments) Regulations 1992**

<i>Made</i>	- - - -	<i>29th June 1992</i>
<i>Laid before Parliament</i>		<i>29th June 1992</i>
<i>Coming into force</i>		
<i>regulations 1 to 3 and 25 to 33</i>		<i>20th July 1992</i>
<i>regulations 4 to 24 and 34 to 36</i>		<i>28th September 1992</i>

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 39(1), 52C(4)(a)(ii), 56A(1) and (3), 56E(1), (3) and (4), 59K(1)(a) and (5), 60ZA(1), (2) and (4) and 66(4) of the Social Security Pensions Act 1975(1), sections 166(1) to (3) and 168(1) of, and Schedule 20 to, the Social Security Act 1975(2) and section 2 of, and paragraph 9(3)(b) and (4) of Schedule 1 to, the Social Security Act 1986(3) and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the proposals referred to them(4) and after agreement by the Social Security Advisory Committee that proposals to make these Regulations in so far as they are made under sections 59K and 60ZA of the Social Security Pensions Act 1975 should not be referred to it(5), hereby makes the following Regulations:

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1992 and shall come into force—

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- (1) 1975 c. 60; section 52C was inserted by paragraph 2 of Schedule 1 to the Social Security Act 1985 (c. 53); subsection (4)(a) was substituted by paragraph 10 of Schedule 4 to the Social Security Act 1990 (c. 27). Sections 56A and 56E were added by Schedule 2 to the Social Security Act 1985 (c. 53). Section 56A has effect, as modified in relation to personal pension schemes, by virtue of the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I.1987/1116), regulation 3(8) and Schedule 3. Section 59K was inserted by section 13(1) of the Social Security Act 1990 (c. 27). Section 60ZA was inserted by paragraph 12 of Schedule 4 to the Social Security Act 1990.
- (2) 1975 c. 14. See definitions of “prescribe” and “regulations” in Schedule 20. Sections 166(1) to (3) and 168(1) apply by virtue of section 66(2) of the Social Security Pensions Act 1975 (c. 60), to the exercise of certain powers conferred by that Act.
- (3) 1986 c. 50.
- (4) See section 61(2) of the Social Security Pensions Act 1975.
- (5) See section 61(1)(b) and (10) of the Social Security Act 1986. The Social Security Act 1989 (c. 24), Schedule 8, paragraph 12(4) added a definition of “regulations” to section 61(10) of the Social Security Act 1986.

- (a) for the purposes of this regulation and regulations 2, 3 and 25 to 33, on 20th July 1992 and
- (b) for the purposes of regulations 4 to 24 and 34 to 36 on 28th September 1992.

(2) This regulation insofar as it applies to regulation 32, and regulation 32 insofar as it applies to regulations 1, 3 and 6 of the Register of Occupational and Personal Pension Schemes Regulations 1990(6), shall extend to Northern Ireland.

“the Occupational Pension Schemes Disclosure Regulations” means the Occupational Pension Schemes (Disclosure of Information) Regulations 1986(7);

“the Personal Pension Schemes Disclosure Regulations” means the Personal Pension Schemes (Disclosure of Information) Regulations 1987(8);

“the Protected Rights Regulations” means the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987(9);

“the Levy Regulations” means the Occupational and Personal Pension Schemes (Levy) Regulations 1990(10);

“the Register Regulations” means the Register of Occupational and Personal Pension Schemes Regulations 1990;

“the Preservation of Benefit Regulations” means the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(11).

Amendment of regulation 34 of the Occupational Pension Schemes (Contracting-out) Regulations 1984

2. In regulation 34 of the Occupational Pension Schemes (Contracting-out) Regulations 1984(12) (commutation of pension) in paragraphs (1)(c) and (2) for the sum of “£104” there shall, on each occasion where it appears, be substituted the sum of “£260”.

Amendment of regulation 3 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985

3. In regulation 3 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985(13) (conditions on which policies of insurance and annuity contracts may be commuted) in paragraph (1)(a) for the sum of “£104” there shall be substituted the sum of “£260”.

Amendment of regulation 1 of the Occupational Pension Schemes Disclosure Regulations

4. In regulation 1(2) of the Occupational Pension Schemes Disclosure Regulations (interpretation)—

- (a) after the definition of “employer” there shall be inserted the following definition—

““excluded person” means a person whose present address is not known to the trustees and in respect of whom correspondence sent by the trustees to his last known address has been returned, but who is not—

- (a) employed in employment to which the scheme relates; or
- (b) entitled to receive a pension or other periodic payment under the scheme;”;

(6) S.I.1990/2278.

(7) S.I.1986/1046; relevant amending instruments are S.I.1986/1717, 1987/1105, 1988/476, 1989/1641.

(8) S.I.1987/1110 amended by S.I.1988/474.

(9) S.I.1987/1117.

(10) S.I.1990/2277.

(11) S.I.1991/167.

(12) S.I.1984/380; relevant amending instruments are S.I.1985/1928, 1987/1114, 1990/1142.

(13) S.I.1985/1929; the relevant amending instrument is S.I.1987/1114.

- (b) for the definition of “scheme year” there shall be substituted the following definition—
- ““scheme year”, in relation to a scheme, means—
- (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, a period of 12 months commencing on 1st April or on such other date as the trustees select; or
 - (b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees—
 - (i) in respect of the scheme year in which the scheme commences or terminates, or
 - (ii) in connection with a variation of the date on which the scheme year is to commence;”;
- (c) the definition of “self-investment” shall be deleted.

Amendment of regulation 2 of the Occupational Pension Schemes Disclosure Regulations

5. In regulation 2 of the Occupational Pension Schemes Disclosure Regulations (meaning of expressions “member” and “prospective member” in relation to a scheme), for paragraphs (2) and (3) there shall be substituted the following paragraphs—

- “(2) There are to be regarded as members of an occupational pension scheme any persons who—
- (a) are in pensionable service under the scheme;
 - (b) have rights under the scheme by virtue of such pensionable service; or
 - (c) have rights under the scheme by virtue of having been allowed transfer credits under the scheme.
- (3) There are to be regarded as prospective members of an occupational pension scheme—
- (a) any persons who are able, at their own option, to become members of the scheme, and
 - (b) any persons who, under the terms of their contracts of service and the scheme rules, will become so able if they continue in the same employment for a sufficiently long period.”.

Amendment of regulation 3 of the Occupational Pension Schemes Disclosure Regulations

6. In regulation 3 of the Occupational Pension Schemes Disclosure Regulations (cases where regulations 4 to 9 do not apply)—

- (a) in sub-paragraph (1)(c) the words from “it has” to “it relates and” shall be deleted;
- (b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) None of the requirements of regulations 4 to 9 shall apply to a scheme unless it—

 - (a) has been approved for the purposes of section 590 or section 591 (other than subsection (2)(g)) of the Income and Corporation Taxes Act 1988(14) (conditions for approval of retirement benefit schemes and discretionary approval); or
 - (b) has been the subject of an application for such approval which has not been determined; or

(c) is a public service pension scheme.”.

Amendment of regulation 4 of the Occupational Pension Schemes Disclosure Regulations

7. In regulation 4 of the Occupational Pension Schemes Disclosure Regulations (constitution of scheme), the following paragraphs shall be added after paragraph (5)(15)—

“(6) Nothing in this regulation shall require the disclosure of any provision in relation to a member, or prospective member, that is not relevant to his rights under the scheme.

(7) Where any provision of an Act or statutory instrument has been set out in a document which is required to be disclosed by paragraph (1), or has been incorporated in such a document by reference, that provision shall be disclosed either—

- (a) by giving a reference to it and to the Act or statutory instrument in which it is contained; or
- (b) by setting out its text.”.

Amendment of regulation 5 of the Occupational Pension Schemes Disclosure Regulations

8. In regulation 5 of the Occupational Pension Schemes Disclosure Regulations (basic information about the scheme)—

(a) for paragraph (2) there shall be substituted the following paragraph—

“(2) The information specified in Schedule 1 shall be given as of course to every member of the scheme within 13 weeks of his becoming a member and the information specified in paragraphs 18 to 20 of Schedule 1 shall be given as of course to every member of the scheme on 28th September 1992 by 31st December 1992.”;

(b) in paragraph (3)—

- (i) for the words “within 3 years” there shall be substituted the words “within one year”;
- (ii) for the words “after he or, as the case may be, that trade union requests it” there shall be substituted the words “and in any event within one month of the date of receipt by the trustees of the request”;

(c) in paragraph (5) after the words “All members of and beneficiaries under the scheme” there shall be inserted the words “except an excluded person”;

(d) for paragraph (6) there shall be substituted the following paragraph—

“(6) The trustees shall—

- (a) where it is practicable for them to do so, draw to the attention of all members of the scheme any change in relation to the scheme which will result in a material alteration in the information referred to in paragraphs 1 to 16B and 18 to 20 of Schedule 1 before that change takes effect; and
- (b) where it has not been practicable for them to draw to the attention of any member of the scheme any change in accordance with paragraph (a) and a change has taken effect which has resulted in a material alteration in the information referred to in those paragraphs of Schedule 1, draw it to the attention of that member not later than one month after that change has taken effect.”.

Amendment of regulation 6 of the Occupational Pension Schemes Disclosure Regulations

9. In regulation 6 of the Occupational Pension Schemes Disclosure Regulations (information to be made available to individuals)—

- (a) in paragraph (1) after the reference “paragraphs (2) to (11)” there shall be inserted the reference “and paragraphs (13) to (16)”;
- (b) in paragraph (2) for the reference “paragraphs 1 to 3” there shall be substituted the reference “paragraphs 1 to 3 and 5” and for the words “as soon as practicable” there shall be substituted the words “within one month”;
- (c) in paragraph (3) for the reference “paragraph 1” there shall be substituted the reference “paragraphs 1 and 5” and for the words “as soon as practicable” there shall be substituted the words “within one month”;
- (d) in paragraphs (4), (4B), (5)(a) and (b), (6)(a) and (b), (7) and (9) after the words “as soon as practicable” there shall be inserted the words “and, in any event, within 2 months”;
- (e) in paragraph (10) after the words “as soon as practicable” to the end there shall be inserted the words “and, in any event, within one month, inform all members of and beneficiaries under the scheme except an excluded person that they have done so and state the name and address of a person to whom any further enquiries about the scheme should be sent.”;
- (f) in paragraph (11)—
 - (i) after the words “as soon as practicable” there shall be inserted the words “and, in any event, within 3 months”;
 - (ii) in sub-paragraph (a), after the words “to every beneficiary and to every member who is entitled to payment of benefits” and after the words “to all other members” there shall in both cases be inserted the words “except an excluded person”;
- (g) after paragraph (12) there shall be added the following paragraphs—
 - “(13) The information mentioned in paragraph 13 of Schedule 2 shall be furnished to any member to whom the paragraph refers not less than one month before the date on which the proposed transfer is due to take place.
 - (14) The information mentioned in paragraphs 14 and 15 of Schedule 2 shall be furnished on request (not being a request made less than 12 months after the last occasion on which such information was furnished to the same person) to any member or prospective member as soon as practicable and, in any event, within one month after he requests it.
 - (15) The information mentioned in paragraph 16 of Schedule 2 shall be furnished as soon as practicable and, in any event, within one month of the date on which the practitioner or official receiver commences to act in accordance with section 57C(1)(b) of the Act (requirement for independent trustee where employer becomes insolvent).
 - (16) The information mentioned in paragraph 17 of Schedule 2 shall be furnished to any member to whom that paragraph refers within one month of the information coming to the notice of the trustees.”.

Amendment of regulation 7 of the Occupational Pension Schemes Disclosure Regulations

10. In regulation 7 of the Occupational Pension Schemes Disclosure Regulations (audited accounts)—

- (a) in paragraph (1)—
 - (i) for the reference “paragraph (2)” there shall be substituted the reference “paragraphs (2) and (6)”;

- (ii) for the words “the trustees of any scheme shall obtain as soon as reasonably practicable” there shall be substituted the words “the trustees of any scheme, including any scheme which is being wound up, or has been wound up in the relevant scheme year, shall obtain as soon as reasonably practicable and, in any event, not more than one year”;
- (b) in paragraph (3)—
 - (i) for the words “qualified to act as an auditor of a company under section 389 of the Companies Act 1985” there shall be substituted the words “eligible for appointment as a company auditor under section 25 of the Companies Act 1989(16)”;
 - (ii) in sub-paragraph (e) for the words from “a director” to the end there shall be substituted the words “a person who is ineligible to audit the accounts of that company by virtue of section 27 of the Companies Act 1989.”;
- (c) for paragraph (6)(17) there shall be substituted the following paragraph—

“(6) This regulation shall not apply where a scheme is established outside the United Kingdom and no audited accounts in respect of it fall to be prepared in the United Kingdom.”.

11. In regulation 8 of the Occupational Pension Schemes Disclosure Regulations (actuarial valuation and statement)—

- (a) in paragraph (5) after the words “as soon as reasonably practicable” there shall be inserted the words “and, in any event, not more than 2 years”;
- (b) in paragraph (8), after sub-paragraph (b), there shall be inserted the following sub-paragraph—

“(bb) in relation to members whose pensionable service was continuing on the effective date and who had not accrued any rights under the scheme on that date because the length of their service was too short, the accrued rights and liabilities referred to in paragraph 1 of the statement shall mean respectively the accrued rights to, and the liabilities to provide, benefits for each member himself and his survivors which would have been payable from normal pension age or from his”
- (c) for paragraph (9) there shall be substituted the following paragraph—

“(9) Where the trustees have sought and obtained an actuarial valuation (whether in accordance with the foregoing provisions of this regulation or otherwise), within 3 months of it being obtained by them they shall make available copies of it to the persons and trade unions, and in the circumstances, specified in paragraphs (10) to (12).”.

Amendment of regulation 9 of the Occupational Pension Schemes Disclosure Regulations

12. In regulation 9 of the Occupational Pension Schemes Disclosure Regulations (availability of audited accounts, actuarial statements and other information)—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a), the words “subject to sub-paragraph (aa);” shall be omitted;
 - (ii) sub-paragraph (aa) shall be omitted;
- (b) in paragraph (3)—
 - (i) after the word “persons” there shall be inserted the words “, except an excluded person,”;

(16) 1989 c. 40.

(17) Regulation 7(6) was inserted by regulation 8(5) of S.I. 1988/476.

- (ii) at the end there shall be added the words “within one month in the case of members in pensionable service and trade unions, but otherwise within 3 months, of it becoming available.”;
- (c) in paragraph (4) for the words “a reasonable time after the request is made” there shall be substituted the words “one month of the date of receipt of the request by the trustees”;
- (d) in paragraph (5) for the words “as soon as practicable” to the end there shall be substituted the words “within one month of the date of receipt of the request by the trustees.”.

Amendment of Schedule 1 to the Occupational Pension Schemes Disclosure Regulations

13. In Schedule 1 to the Occupational Pension Schemes Disclosure Regulations (basic information about the scheme)—

- (a) for paragraph 2 there shall be substituted the following paragraph—
 - “**2.** Whether persons who are eligible to be members of the scheme are admitted to it—
 - (a) only on their own application; or
 - (b) automatically unless the person in question makes an election not to be admitted.”;
 - (b) at the end of paragraph 15 there shall be added the words “and details of the information specified in paragraph 7 of Schedule 5 as to how that power has been exercised over the last 10 years or since the scheme commenced if within the last 10 years.”;
 - (c) after paragraph 16 there shall be inserted the following paragraphs—
 - “**16A.** Whether, and the circumstances in which, the trustees will accept cash equivalents and provide transfer credits within the meaning of Part II of Schedule 1A(**18**) (transfer values) and whether such acceptance is subject to the discretion of the trustees.
 - “**16B.** Whether the trustees have directed under regulation 4(1) of the Occupational Pension Schemes (Transfer Values) Regulations 1985(**19**) (increases and reductions of cash equivalents) that any cash equivalent shall not be increased to take into account any such additional benefits as might accrue to the member in question resulting from the exercise of any discretion vested in the trustees or the employer.”;
 - (d) after paragraph 17 there shall be added the following paragraphs—
 - “**18.** Whether information about the scheme (including information as to an address at which the trustees of the scheme in question may be contacted) has been given to the registrar of occupational and personal pension schemes appointed by regulation 2 of the Register of Occupational and Personal Pension Schemes Regulations 1990(**20**) in accordance with those Regulations.
 - “**19.** A statement that the Pensions Ombudsman appointed under section 59B(2) of the Act(**21**) may investigate and determine any complaint or dispute of fact or law in relation to an occupational pension scheme made or referred in accordance with that Act and the address at which he may be contacted.
 - “**20.** A statement that the Occupational Pensions Advisory Service Limited(**22**) is available to assist members and beneficiaries of the scheme in connection with difficulties

(18) Schedule 1A was inserted by paragraph 3 of Schedule 1 to the Social Security Act 1985 (c. 53).

(19) S.I.1985/1931; the relevant amending instrument is S.I.1988/476.

(20) S.I.1990/2278.

(21) Section 59B was inserted by Schedule 3 to the Social Security Act 1990 (c. 27).

(22) A company limited by guarantee under the Companies Act 1985 (c. 6): registered number 2459671.

which they have failed to resolve with the trustees or administrators of the scheme and the address at which it may be contacted.”.

Amendment of Schedule 2 to the Occupational Pension Schemes Disclosure Regulations

14. In Schedule 2 to the Occupational Pension Schemes Disclosure Regulations (information to be made available to individuals)—

- (a) in paragraphs 4(a)(i) and 4(b) for the word “on” in the first place in which it occurs in each of those paragraphs there shall be substituted the words “within one month of”;
- (b) in paragraph 4(a)(iii) for the words “the date on which the information is furnished to him” there shall be substituted the words “a specified date being the date on which the information is furnished to him or a date within one month thereof”;
- (c) in paragraph 4B, for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) The amount of contributions (before the making of any deductions) credited to the member under the scheme during the immediately preceding scheme year and, where the scheme was for the whole or any part of the period a contracted-out scheme, the amount of those contributions which is attributable to—

- (i) the minimum payments to the scheme made in respect of the member by his employer during the immediately preceding scheme year; and
- (ii) the payments (if any) made to the scheme by the Secretary of State in accordance with section 7(1) of the Social Security Act 1986⁽²³⁾ (schemes becoming contracted-out between 1986 and 1993) in respect of the member during the immediately preceding scheme year.”;

- (d) in paragraph 4C, for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) The value of—

- (i) the member’s protected rights under the scheme as at a specified date; and
- (ii) the member’s accrued rights (other than his protected rights) under the scheme at the same or another specified date.”;

- (e) after paragraph 12 there shall be added the following paragraphs—

“**13.** Where it is proposed that a member’s accrued rights are to be transferred to another scheme in accordance with regulation 12 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991⁽²⁴⁾ (transfer of member’s accrued rights without consent), information about the proposed transfer, including full information on the value of all the rights to be transferred including accrued rights, rights of survivors and rights in respect of death in service benefits.

- (a) an independent person who has been appointed as an independent trustee of the scheme under section 57C(2)(b) of the Act (requirement for independent trustee where employer is insolvent etc.);
- (b) a person who was appointed as an independent trustee of the scheme under that section but who has ceased to be an independent trustee.

15. Where more than one independent trustee of the scheme has been appointed under section 57C(2)(b) of the Act, details of any arrangements made between those independent trustees concerning the exercise of powers by them under section 57D(5) of the Act.

⁽²³⁾ 1986 c. 50.

⁽²⁴⁾ S.I.1991/167. Amendment of regulation 8 of the Occupational Pension Schemes Disclosure Regulations

16. Where no independent trustee has been appointed under section 57C(2)(b) the name and address of each trustee who is an independent person as referred to in that section.

17. Where payments have been, or should in accordance with scheme rules have been, deducted by an employer from a member's remuneration to meet the member's liability to contribute to the scheme, any failure by the employer to forward the sums deducted, or due to be deducted, to the trustees within 3 months of the date on which they were, or were due to be, deducted."

15. In Schedule 3 to the Occupational Pension Schemes Disclosure Regulations (contents of accounts) for paragraph 6 there shall be substituted the following paragraph—

"6. Particulars of employer-related investments, within the meaning of section 57A of the Act(25) including those in excess of the restriction prescribed in the Occupational Pension Schemes (Investment of Scheme's Resources) Regulations 1992(26) and details of action taken during the scheme year to which the accounts relate to reduce that excess."

Amendment of Schedule 4 to the Occupational Pension Schemes Disclosure Regulations

16. In Schedule 4 to the Occupational Pension Schemes Disclosure Regulations (form of actuary's statement)—

- (a) in paragraph 1 of the form there set out, after the words "at that date" there shall be inserted the words ", including liabilities arising in respect of the service of pensioners and deferred pensioners prior to the effective date and on the basis that the service of active members terminates on that date,";
- (b) in paragraph 2, at the end of the space provided for the description of contributions there shall be inserted the words "Subject to review at future actuarial valuations";
- (c) in paragraph 3, at the end of the space provided for the summary of methods and assumptions used there shall be inserted the words "Further details of the methods and assumptions used are set out in my actuarial valuation addressed to the trustees dated...".

Amendment of Schedule 5 to the Occupational Pension Schemes Disclosure Regulations

17. In Schedule 5 to the Occupational Pension Schemes Disclosure Regulations (information to accompany audited accounts and actuarial statement) at the end of paragraph 1 there shall be added the following words "and information as to whether a copy of a statement on pension trust principles issued by the Occupational Pensions Board is available for inspection by those persons and if so the address at which they may inspect it."(27).

Amendment of regulation 1 of the Personal Pension Schemes Disclosure Regulations

18. In regulation 1(2) of the Personal Pension Schemes Disclosure Regulations (interpretation)—

- (a) after the definition of "beneficiary" there shall be inserted the following definition—

""excluded person" means a person whose present address is not known to the trustee and in respect of whom—

 - (i) correspondence sent by the trustees to his last known address has been returned, and

(25) Section 57A was inserted by paragraph 3 of Schedule 4 to the Social Security Act 1990 (c. 27).

(26) S.I. 1992/246.

(27) Copies may be obtained from 191–195 Southampton Way, London SE5 7EF until 31st October 1992 and from the Occupational Pensions Board, PO Box 2EE, Newcastle-Upon-Tyne NE99 2EE thereafter.

- (ii) no contribution has been made to the scheme during the 2 calendar years preceding the date on which the information in question would otherwise fall to be disclosed.”;
- (b) for the definition of “scheme year”, there shall be substituted the following definition—
 - ““scheme year” in relation to a scheme means—
 - (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, a period of 12 months commencing on 1st April or on such other date as the trustees select; or
 - (b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees—
 - (i) in respect of the scheme year in which the scheme commences or terminates, or
 - (ii) in connection with a variation of the date on which the scheme year is to commence;”.

Amendment of regulation 4 of the Personal Pension Schemes Disclosure Regulations

19. In regulation 4 of the Personal Pension Schemes Disclosure Regulations (basic information about the scheme) in paragraphs (5) and (6) for the words “Any member who is entitled” there shall be substituted the words “Any member except an excluded person who is otherwise entitled”.

Amendment of regulation 5 of the Personal Pension Schemes Disclosure Regulations

20. In regulation 5 of the Personal Pension Schemes Disclosure Regulations (information to be made available to individuals)—

- (a) in paragraph (2) after the words “each member of the scheme” there shall be inserted the words “except an excluded person”;
- (b) in paragraph (3)—
 - (i) in sub-paragraph (b) after the words “he has given the trustees not” there shall be inserted the words “more than 12 nor”;
 - (ii) for the words “not less than 4 months before that expected date” there shall be substituted “within one month of the date on which the trustees receive that notice”;
- (c) in paragraphs (8) and (9) after the words “each member” in each place where they appear there shall be inserted the words “except an excluded person”.

Amendment of regulation 6 of the Personal Pension Schemes Disclosure Regulations

21. In regulation 6 of the Personal Pension Schemes Disclosure Regulations (availability of other information)—

- (a) in paragraph (1) for the reference “paragraphs (3) and (4)” there shall be substituted the reference “paragraphs (3) to (5)”;
- (b) in paragraph (2) for the words “scheme members” there shall be substituted the words “each scheme member except an excluded person”;
- (c) at the beginning of paragraphs (3) and (4) there shall in each place be inserted the words “Subject to paragraph (5).”; (d) after paragraph (4) there shall be added the following paragraph—
 - “(5) The information mentioned in paragraph 4 of Schedule 3 shall be made available to scheme members in the circumstances mentioned in Part 10 (reports) of the Financial

Services (Regulated Schemes) Regulations 1991 issued by the Securities and Investments Board.”(28).

Amendment of Schedule 1 to the Personal Pension Schemes Disclosure Regulations

22. In Schedule 1 to the Personal Pension Schemes Disclosure Regulations (basic information about the scheme)—

- (a) in paragraph 9—
 - (i) after the words “Illustrative estimates of the cash equivalents” there shall be inserted the words “, clearly labelled as such and stating the period for which they will be honoured by the scheme,”;
 - (ii) after the words “stating the assumptions made” there shall be inserted the words “and whether the same basis of calculation has been used for all members of the scheme,”;
- (b) after paragraph 13 there shall be added the following paragraphs—

“**14.A** statement that the Pensions Ombudsman appointed under section 59B(2) of the Social Security Pensions Act 1975(29) may investigate and determine any complaint or dispute of fact or law in relation to an occupational pension scheme made or referred in accordance with that Act and the address at which he may be contacted.

15. A statement that the Occupational Pensions Advisory Service Limited(30) is available to assist members and beneficiaries of the scheme in connection with difficulties which they have failed to resolve with the trustees or administrators of the scheme and the address at which it may be contacted.”.

Amendment of Schedule 2 to the Personal Pension Schemes Disclosure Regulations

23. In Schedule 2 to the Personal Pension Schemes Disclosure Regulations (information to be made available to individuals) in paragraph 1 after the words “The amount of contributions” there shall be inserted “, including a nil amount,”.

Amendment of Schedule 3 to the Personal Pension Schemes Disclosure Regulations

24. In Schedule 3 to the Personal Pension Schemes Disclosure Regulations (other information) after paragraph 3 there shall be added the following paragraph—

“**4.** Where investments are held by a unit trust scheme within the meaning of regulation 2(1) (b) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1988(31) (forms of schemes which may be appropriate schemes) the information required to be specified in the annual and half-yearly reports by Schedule 3 to the Financial Services (Regulated Schemes) Regulations 1991 issued by the Securities and Investments Board and—

- (a) a list of any investments which are held on a date specified in the information, being a date falling not earlier than 14 days before the day on which the information is furnished;
- (b) a list of investments which have been acquired during the period of 6 months which falls immediately before that date; and
- (c) a list of investments that have been disposed of within that period.”.

(28) Copies may be purchased from Gavrelle House, 2–14 Bunhill Row, London EC1Y 8RA.

(29) 1975 c. 60 section 59B was inserted by Schedule 3 to the Social Security Act 1990 (c. 27).

(30) A company limited by guarantee under the Companies Act 1985 (c. 6): registered number 2459671. Amendment of Schedule 3 to the Occupational Pension Schemes Disclosure Regulations

(31) S.I. 1988/137, amended by S.I. 1988/830.

Amendment of regulation 6 of the Protected Rights Regulations

25. In regulation 6 of the Protected Rights Regulations (giving effect to protected rights in money purchase contracted-out scheme by providing lump sum) in paragraph (1) for the sum of “£104” there shall be substituted the sum of “£260”.

Amendment of regulation 10 of the Protected Rights Regulations

26. In regulation 10 of the Protected Rights Regulations (death of scheme member before effect given to his protected rights) in sub-paragraph (14)(a) for the sum of “£104” there shall be substituted the sum of “£260”.

Amendment of regulation 1 of the Levy Regulations

27. In regulation 1(2) of the Levy Regulations (interpretation)—

(a) for the definition of “active member” there shall be substituted the following definition—

““active member” means—

(a) in the case of a registrable scheme which is an occupational pension scheme other than one which is treated as a personal pension scheme—

(i) a member of the scheme who is in employment in the United Kingdom by or in respect of whom contributions are payable (whether or not those contributions are being paid) other than a deferred pensioner, a pensioner or a member who is only entitled under the scheme to benefits payable on death while in that employment;

(ii) a member of the scheme who is in employment in the United Kingdom which qualifies him for benefits under the scheme, other than a deferred pensioner, a pensioner or a member who is only entitled under the scheme to benefits payable on death while in that employment;

(b) in the case of a registrable scheme which is, or is treated as, a personal pension scheme, any member of the scheme other than—

(i) a member who has received a lump sum or is currently in receipt of annuity payments representing all of the benefits to which he is entitled under the scheme; or

(ii) a member in respect of whom entitlement under the scheme is only for benefits payable on his death”;

(b) after the definition of “address of the scheme” there shall be inserted the following definition—

““deferred pensioner” means any member of an occupational pension scheme whose pensionable service terminates before normal pension age and, on the date on which it so terminates, has accrued rights to benefit under the scheme;”;

(c) after the definition of “employment in the United Kingdom” there shall be inserted the following definition—

““member” means—

(a) in relation to an occupational pension scheme, any person who—

(i) is in pensionable service under the scheme;

(ii) has rights under the scheme by virtue of such pensionable service; or

(iii) has rights under the scheme by virtue of having been allowed transfer credits under the scheme;

- (b) in relation to a personal pension scheme or a scheme treated as such, a member of the scheme;”;
- (d) in the definition of “number of active members”—
 - (i) in paragraph (a) for the word “established” there shall be substituted the words “a registrable scheme” and for the words “the levy in question is payable” there shall be substituted the words “the trustees of the scheme are responsible for providing information to the registrar in accordance with regulation 4(1) of the Register Regulations;”
 - (ii) in paragraph (b) for the words “was established” there shall be substituted the words “became a registrable scheme”;
- (e) in the definition of “registrable scheme”—
 - (i) in paragraph (c)(i), the word “active” shall be omitted;
 - (ii) at the end there shall be added the words “and for the purposes of these Regulations an occupational pension scheme which is a retirement benefits scheme approved under section 591(2)(h) of the Income and Corporation Taxes Act 1988(32) (discretionary approval) shall be treated as a personal pension scheme”;
- (f) for the definition of “scheme year”, there shall be substituted the following definition—
 - ““scheme year” in relation to a registrable scheme means—
 - (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, the registration year or a period of 12 months commencing on such date as the trustees select; or
 - (b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees—
 - (i) in respect of the scheme year in which the scheme commences or terminates; or
 - (ii) in connection with a variation of the date on which the scheme year is to commence;”;

Amendment of regulation 2 of the Levy Regulations

- 28.** In regulation 2 of the Levy Regulations (the levy on registrable schemes)—
- (a) in paragraph (1) after the words “every registrable scheme” there shall be inserted the words “with at least 2 active members”;
 - (b) in paragraph (2) at the end there shall be added the words “and the amount payable shall be 3 times the amount calculated at the beginning of the first registration year in that period.”;
 - (c) for paragraph (4), there shall be substituted the following paragraph—
 - “(4) Where, during a period in respect of which the levy is payable in accordance with these Regulations, a scheme—
 - (a) becomes a registrable scheme;
 - (b) ceases to be a registrable scheme;
 - (c) becomes a paid-up or frozen scheme; or
 - (d) is wound up,the levy shall nevertheless be payable in full for that period.”.

Amendment of regulation 3 of the Levy Regulations

29. In regulation 3 of the Levy Regulations (amount of the levy) after the words “following amounts” there shall be inserted the words “in respect of each registration year”.

Amendment of regulation 4 of the Levy Regulations

30. In regulation 4(2) of the Levy Regulations (payment of the levy) there shall be added at the end the words “, at the beginning of that period and no additional levy or refund shall be due in respect of any change taking place within that period”.

Amendment of regulation 6 of the Levy Regulations

31. In regulation 6 of the Levy Regulations (time of payment: transitional provisions)—

- (a) in paragraph (1) in each place where the words “is established” occur there shall be substituted the words “becomes a registrable scheme”;
- (b) in paragraph (2) for the words from “the first application” to the end there shall be substituted the following words—

“as follows—

- (a) the first scheme which is registered is to be assigned the letter “A”;
- (b) the second scheme which is registered is to be assigned the letter “B”;
- (c) the third scheme which is registered is to be assigned the letter “C”;
- (d) the fourth scheme which is registered is to be assigned the letter “A”;

and so on.”.

Amendment of regulation 1(4) of the Register Regulations

32. In regulation 1(4) of the Register Regulations (interpretation)—

- (a) for the definition of “active member” there shall be substituted the following definition—

““active member” means—

- (a) in the case of a registrable scheme which is an occupational pension scheme other than one which is treated as a personal pension scheme—
 - (i) a member of the scheme who is in employment in the United Kingdom by or in respect of whom contributions are payable (whether or not those contributions are being paid) other than a deferred pensioner, a pensioner or a member who is only entitled under the scheme to benefits payable on death while in that employment;
 - (ii) a member of the scheme who is in employment in the United Kingdom which qualifies him for benefits under the scheme, other than a deferred pensioner, a pensioner or a member who is only entitled under the scheme to benefits payable on death while in that employment;
- (b) in the case of a registrable scheme which is, or is treated as, a personal pension scheme, any member of the scheme other than—
 - (i) a member who has received a lump sum or is currently in receipt of annuity payments representing all of the benefits to which he is entitled under the scheme; or
 - (ii) a member in respect of whom entitlement under the scheme is only for benefits payable on his death;”;

- (b) after the definition of “closed scheme” there shall be inserted the following definition—
- ““deferred pensioner” means any member of an occupational pension scheme whose pensionable service terminates before normal pension age and, on the date on which it so terminates, has accrued rights to benefit under the scheme;”;
- (c) the following definitions shall be inserted after the definition of “insured scheme”—
- ““member” means—
- (a) in relation to an occupational pension scheme, any person who—
- (i) is in pensionable service under the scheme;
- (ii) has rights under the scheme by virtue of such pensionable service; or
- (iii) has rights under the scheme by virtue of having been allowed transfer credits under the scheme;
- (b) in relation to a personal pension scheme or a scheme treated as such, a member of the scheme;
- “number of active members” means—
- (a) in the case of a scheme which has been a registrable scheme for not less than one scheme year, the number of active members at the end of the scheme year immediately preceding the start of a period in respect of which the trustees of the scheme are responsible for providing information to the registrar in accordance with regulation 4(1);
- (b) in any other case, the number of active members at the date at which the scheme became a registrable scheme.”;
- (d) in the definition of “registrable scheme”—
- (i) in paragraph (c)(i), the word “active” shall be omitted;
- (ii) at the end there shall be added the words “and for the purposes of these Regulations, an occupational pension scheme which is a retirement benefits scheme approved under section 591(2)(h) of the Income and Corporation Taxes Act 1988(33) shall be treated as a personal pension scheme”;
- (e) after the definition of “scheme administrator” there shall be added the following definition—
- ““scheme year” in relation to a registrable scheme means—
- (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, a period of 12 months commencing on 1st April or on such other date as the trustees select; or
- (b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees—
- (i) in respect of the scheme year in which the scheme commences or terminates, or
- (ii) in connection with a variation of the date on which the scheme year is to commence;”.

Amendment of regulation 4 of the Register Regulations

33. In regulation 4 of the Register Regulations (information required in respect of a registrable scheme)—

- (a) in paragraph (2)—
 - (i) at the beginning there shall be inserted the words “Subject to paragraph (5),”;
 - (ii) in sub-paragraph (b) for the words “commenced” there shall be substituted the words “becomes a registrable scheme”;
- (b) in paragraph (4)—
 - (i) after the reference “paragraph (1)” there shall be inserted the word “above”;
 - (ii) after the word “legislation” there shall be deleted the word “above”;
- (c) the following paragraph shall be added after paragraph (4)—

“(5) Where a scheme becomes registrable after the date on which it became established, the information required for the registration of that scheme shall be provided to the registrar before the expiration of 3 months from the date on which the scheme became registrable.”.

Amendment of regulation 3 of the Preservation of Benefit Regulations

34. In regulation 3 of the Preservation of Benefit Regulations (meaning of “member” and “prospective member”) for paragraphs (2) and (3) there shall be substituted the following paragraphs—

- “(2) There are to be regarded as members of an occupational pension scheme any persons who—
- (a) are in pensionable service under the scheme;
 - (b) have rights under the scheme by virtue of such pensionable service; or
 - (c) have rights under the scheme by virtue of having been allowed transfer credits under the scheme.
- (3) There are to be regarded as prospective members of an occupational pension scheme—
- (a) any persons who are able, at their own option, to become members of the scheme, and
 - (b) any persons who under the terms of their contracts of service and the scheme rules will become so able, if they continue in the same employment for a sufficiently long period.”.

Amendment of regulation 12 of the Preservation of Benefit Regulations

35. In regulation 12 of the Preservation of Benefit Regulations (transfer of member’s accrued rights without consent) for paragraph (2) there shall be substituted the following paragraph—

- “(2) The condition set out in this paragraph is that the rights of a member are being transferred from the transferring scheme to the receiving scheme and either—
- (a) the transferring scheme and the receiving scheme apply to employment with the same employer; or
 - (b) the transferring scheme and the receiving scheme apply to employment with different employers, the member concerned is one of a group in respect of whom transfers are being made from the transferring scheme to the receiving scheme, and either—
 - (i) the transfer is a consequence of a financial transaction between the employers; or

- (ii) the employers are companies or partnerships bearing a relationship to each other such as is described in any of sub-paragraphs (a) to (f) of regulation 42(2) of the Occupational Pension Schemes (Contracting-out) Regulations 1984⁽³⁴⁾ (“connected employers”).”.

Revocations

36. Regulation 8(7)(a) and (b) of the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1988⁽³⁵⁾ is hereby revoked.

Signed by authority of the Secretary of State for Social Security.

29th June 1992

Ann Widdecombe
Parliamentary Under-Secretary of State,
Department of Social Security

⁽³⁴⁾ S.I. 1984/380, to which there are amendments not relevant to these Regulations.

⁽³⁵⁾ S.I. 1988/476.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain Regulations concerning occupational and personal pension schemes.

The amendments made to the Occupational Pension Schemes (Contracting-out) Regulations 1984, the Occupational Pension Schemes (Discharge of Liability) Regulations 1985 and the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987 increase the lower limit of the amount of guaranteed minimum pension or protected rights which may be commuted to a lump sum from £104 to £260 (regulations 2, 3 and 26).

The amendments made to the Occupational Pension Schemes (Disclosure of Information) Regulations 1986 provide inter alia—

- (a) for the revision of the definitions of “scheme year”, “member” and “prospective member” (regulations 4 and 5);
- (b) for the imposition of new time limits in respect of various of the disclosure requirements and for the disclosure requirements not to apply in respect of certain excluded persons (regulations 8, 9 and 12);
- (c) for the extension of the basic information about a scheme to be made available to individuals (regulation 13); and
- (d) for changes to certain of the existing requirements to supply information (regulations 14 and 15).

The amendments made to the Personal Pension Schemes (Disclosure of Information) Regulations 1987 provide inter alia—

- (a) for the revision of the definition of “scheme year” (regulation 18);
- (b) for the disclosure requirements not to apply in respect of certain excluded persons (regulation 19);
- (c) for changes in certain of the time limits and circumstances in which information is to be supplied to individuals (regulations 20 and 21); and
- (d) for the extension of the information to be made available to individuals (regulations 22 to 24).

The amendments made to the Occupational and Personal Pension Schemes (Levy) Regulations 1990 provide inter alia—

- (a) for the revision of the definitions of “active member”, “number of active members”, “scheme year” and “registrable scheme” and for the introduction of definitions of “deferred pensioner” and “member” (regulation 27); and
- (b) for the levy to be payable in full notwithstanding that a scheme becomes or ceases to be a registrable scheme in the course of the period in respect of which the levy is payable (regulation 30).

The amendments made to the Register of Occupational and Personal Pension Schemes Regulations 1990 provide, inter alia, for the revision of the definitions of “active member”, “registrable scheme” and for the introduction of definitions of “deferred pensioner”, “member”, “number of active members” and “scheme year” (regulation 32). Some of these amendments extend to Northern Ireland (regulation 1(2)).

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- (a) for the revision of the definitions of “member” and “prospective member” (regulation 34);
and
- (b) for changes in the requirements subject to which a member’s rights may be transferred (regulation 35).

The Report of the Occupational Pensions Board on the draft of these Regulations which was referred to them, together with a statement by the Secretary of State showing why the Regulations give effect to the Board’s recommendations only in part, is contained in Command Paper No. 2007, published by Her Majesty’s Stationery Office.