
DRAFT STATUTORY INSTRUMENTS

2014 No.

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

PART 8

Revaluation, indexation and preservation of benefits

Amendment of the Pension Schemes Act 1993

25.—(1) The 1993 Act is amended as follows.

(2) In section 84 (basis of revaluation)(1)—

(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—

(1) 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) (“the 1995 Act”); section 281 of the 2004 Act, section 19(1), (2) and (3) of the Act and [S.I. 2005/2053](#).

““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—

“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.”.

Revaluation of cash balance benefits etc: pensionable service before the appointed day

26.—(1) Where—

- (a) a member of an occupational pension scheme has, under the applicable rules, accrued rights to—
 - (i) cash balance benefits in respect of which the available sum is not calculated by reference to final salary;
 - (ii) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits); or
 - (iii) top-up benefits,
- (b) the accrued rights to benefits specified in sub-paragraph (a) are attributable to periods of pensionable service before the appointed day; and
- (c) the trustees or managers of the scheme have before that day treated those benefits as if they were money purchase benefits,

if the trustees or managers of the scheme think it appropriate, those benefits or (as the case may be) the available sum in respect of which those benefits are calculated shall be revalued by the money purchase method.

(2) Where—

- (a) the conditions specified in paragraph (1)(a) and (c) are satisfied; and
- (b) the accrued rights to benefits specified in paragraph (1)(a) which were treated as money purchase benefits are attributable to periods of pensionable service falling partly before and partly on or after the appointed day,

if the trustees or managers of the scheme think it appropriate, so much of those benefits or of the available sum in respect of which those benefits are calculated as is attributable to periods of pensionable service before that day shall be revalued by the money purchase method.

(3) In this regulation—

- (a) “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;
- (b) “money purchase method” has the meaning given by Schedule 3 to the 1993 Act, except that it also includes the application of a guaranteed notional interest rate or investment yield, in accordance with the rules of the scheme, to the benefits or to the available sum in respect of which the benefits are calculated; and
- (c) “pensionable earnings”, in relation to a member of a pension scheme, means earnings by reference to which benefits under the scheme are calculated.

(4) Where the trustees or managers of the scheme determine that benefits should be revalued in accordance with this regulation, section 84 of the 1993 Act applies in relation to those benefits revalued in accordance with this regulation as if they were money purchase benefits.

Indexation of cash balance benefits etc: pensions in payment before the appointed day

27.—(1) Section 51 of the 1995 Act (annual increase in rate of pension)(2) does not apply to a pension or part of a pension payable under an occupational pension scheme which meets the conditions specified in paragraph (2).

(2) The conditions specified in this paragraph are that—

- (a) the pension or part of a pension—
 - (i) is derived from any of the benefits specified in paragraph (3) which were attributable to a member’s pensionable service on or after 6th April 1997; and
 - (ii) first came into payment on or after 6th April 2005 but before the appointed day;
- (b) the trustees or managers of the scheme before the appointed day treated those benefits as if they were money purchase benefits; and
- (c) the pension or part of a pension is not, under the scheme, required to be increased each year or is to be increased at a rate below that required by section 51 of the 1995 Act.

(3) The benefits specified in this paragraph are—

- (a) cash balance benefits;
- (b) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits); and
- (c) top-up benefits.

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991

28.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(3) are amended as follows.

(2) Section 51 was amended by section 84(1) of and Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30) (“the 1999 Act”), section 51(1) of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”), section 278(1), (2) (b) and (c), (3), (5) and (6)(a) and (b) of the 2004 Act, sections 19(7) and (8) and 21(1), (2) and (3) of the Act and [S.I. 2006/745](#).

(3) [S.I.1991/167](#).

(2) In regulation 10(2) (money purchase benefits) for the words after “calculate” to the end substitute—

- “(a) the money purchase benefits, when they become payable, in accordance with the terms of an insurance policy or annuity contract in which the amount allocated to provide the benefits is invested; or
- (b) a pension under the scheme derived from the money purchase benefits, on the basis of actuarial advice.”.

(3) Omit regulation 14 (computation of benefit – money purchase schemes)(4).

(4) For regulation 14A (circumstances in which uniform accrual does not apply – money purchase benefits)(5), substitute—

“Benefits to which section 74(6) does not apply – money purchase benefits

14A. Section 74(6) of the Act (computation of short service benefit) does not apply to money purchase benefits.”.

Amendment of the Occupational Pension Schemes (Revaluation) Regulations 1991

29.—(1) Regulation 4 of the Occupational Pension Schemes (Revaluation) Regulations 1991 (hybrid benefits)(6) is amended as follows.

(2) For paragraph (2), substitute—

- “(2) In this regulation, “hybrid benefit” means a benefit the rate or amount of which is calculated by reference to the greatest, or smallest, of two or more benefits.”.

(4) Regulation 14 was amended by S.I.s [1994/1062](#) and [1996/2131](#).

(5) Regulation 14A was inserted by [S.I. 1996/2131](#).

(6) [S.I. 1991/168](#). Regulation 4 was amended by [S.I. 1994/1062](#).