
 STATUTORY INSTRUMENTS

1985 No. 1926

PENSIONS

**The Occupational Pension Schemes (Preservation of Benefit)
Amendment Regulations 1985**

Made - - - - 10th December 1985
Laid before Parliament 11th December 1985
Coming into Operation 1st January 1986

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 99(1) and (3) of, and paragraphs 9(2) and (3) and 12(2) and 26 of Schedule 16 to, the Social Security Act 1973(a), section 168(1) of, and Schedule 20 to, the Social Security Act 1975(b) and section 41C(7) of the Social Security Pensions Act 1975(c) and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the proposals submitted to them(d), hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Occupational Pension Schemes (Preservation of Benefit) Amendment Regulations 1985 and shall come into operation on 1st January 1986.

(2) In these regulations “the principal regulations” means the Occupational Pension Schemes (Preservation of Benefit) Regulations 1984(e).

Amendments of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with the provisions of this regulation.

(2) Regulation 12(4)(b)(ii), and the word “and” immediately preceding it, are revoked.

(a) 1973 c. 38. See definition of “prescribed” in section 99(1).

(b) 1975 c. 14. See definitions of “prescribe” and “regulations” in Schedule 20. Section 168(1) applies, 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.

(c) 1975 c. 60; section 41C was inserted by section 20 of, and Schedule 6 to, the Health and Social Security Act 1984 (c. 48).

(d) See section 68(1) and (2) of the Social Security Act 1973 and section 61(2) and (3) of the Social Security Pensions Act 1975; sections 68(1) and 61(2) are amended in ways not relevant to these regulations.

(e) S.I. 1984/614, amended by S.I. 1985/1323.

(3) The following paragraphs are added at the end of regulation 12, namely—

“(5) In any case where the rules of the scheme make provision for either or both of the alternatives mentioned in paragraph (1)(a) and (b) to be substituted for short service benefit, they shall also contain provisions requiring the trustees or managers of the scheme to be reasonably satisfied that, on the date when the alternative (if a lump sum) is or (if a pension) becomes payable, the value of the alternative equals or exceeds the value specified in paragraph (10).

(6) In any case where the rules of the scheme make provision for the alternative in paragraph (1)(e) to be substituted for short service benefit, they shall also contain provisions requiring the trustees or managers of the scheme to be reasonably satisfied that where, on the date when the insurance company or friendly society assumes an obligation to pay benefits either to the member and, if appropriate, dependants of his, or to trustees of a trust for the benefit of the member and, if appropriate, dependants of his, the circumstances specified in paragraph (9) obtain, the payment made by the trustees or managers of the scheme to the insurance company or friendly society equals or exceeds the value specified in paragraph (10).

(7) In any case where the rules of the scheme make provision for the alternative specified in paragraph 9(2)(a) of Schedule 16 (transfer of member's accrued rights to another scheme with a view to the acquisition for him of transfer credits under the other scheme) to be substituted for short service benefit without the member's consent (whether under paragraph (4)(b)(i) or regulation 19(2)), they shall also contain provisions requiring the trustees or managers of the scheme to be reasonably satisfied that where, on the date when the accrued rights are transferred, the circumstances specified in paragraph (9) obtain, the payment made by them to the trustees of the other scheme equals or exceeds the value specified in paragraph (10).

(8) Paragraphs (5) to (7) apply only in relation to members of schemes whose service in relevant employment is terminated on or after 1st January 1986.

(9) The circumstances mentioned in paragraphs (5) to (7) are that either—

- (a) the member in question has not made a timeous application in writing under paragraphs 15 and 16 of Schedule 1A to the Pensions Act(a) (transfer values); or
- (b) he has made such an application, but—
 - (i) it has been withdrawn, or
 - (ii) he has lost his right to any cash equivalent under paragraph 15(3)(a) or (c) of Schedule 1A, or
 - (iii) he never had such a right.

(10) The value mentioned in each of paragraphs (5) to (7) is—

- (a) where the alternative is by way of complete substitute for short

(a) Schedule 1A was inserted into the Pensions Act by section 2 of, and Schedule 1 to, the Social Security Act 1985 (c. 53).

service benefit, the value, on the date mentioned in that paragraph, of any benefits which have accrued to or in respect of the member in question under the applicable rules;

(b) where the alternative is by way of partial substitute for short service benefit, the value, on that date, of the relevant part of any benefits which have so accrued.

(11) In paragraph (10), 'the applicable rules' has the same meaning as in paragraph 12(2) of Schedule 1A to the Social Security Pensions Act 1975."

(4) Regulation 26 is revoked.

Amendment of the Contracting-out (Protection of Pensions) Regulations 1984

3. Regulation 3 of the Contracting-out (Protection of Pensions) Regulations 1984(a) is revoked.

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

Tony Newton,
Minister of State,
Department of Health and Social Security.

10th December 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Occupational Pension Schemes (Preservation of Benefit) Regulations 1984 so as to require that where under a scheme an alternative to short service benefit such as is mentioned in regulation 12(1)(a), (b) or (e) may be provided for a member, the alternative must equal or exceed in value the member's accrued rights. They also revoke other regulations which are no longer required.

The report of the Occupational Pensions Board on the draft of these regulations, dated 11th November 1985, is contained in Command Paper (Cmnd. 9693) published by Her Majesty's Stationery Office.

(a) S.I. 1984/1921.

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