
 S T A T U T O R Y I N S T R U M E N T S

1985 No. 1929

PENSIONS

**The Occupational Pension Schemes (Discharge of Liability)
Regulations 1985**

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

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 168(1) of, and Schedule 20 to, the Social Security Act 1975(a) and sections 52C and 62(4) of the Social Security Pensions Act 1975(b) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

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

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Pensions Act 1975;

“actuary” means a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries;

“scheme” means an occupational pension scheme as defined in section 66(1) of the Act;

“supplementary credits” has the same meaning as in Schedule 16 to the Social Security Act 1973(c);

“trustees”, in relation to a scheme which is not set up or established under a trust, means the managers of the scheme;

and other expressions have the same meaning as in the Act.

(3) Except in so far as the context otherwise requires, any reference—

(a) in these regulations to a numbered section or Schedule is to the section of, or Schedule to, the Act bearing that number;

(b) in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

(a) 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.

(b) 1975 c. 60; section 52C was added by section 2 of and Schedule 1 to the Social Security Act 1985 (c. 53).

(c) 1973 c. 38.

Conditions on which policies of insurance and annuity contracts may be assigned or surrendered

2. The conditions referred to in section 52C(4)(b) (policies of insurance or annuity contracts are appropriate for the purposes of section 52C if among other things they may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed) are—

- (a) that the consent of the earner concerned to the assignment or surrender is given in writing; and
- (b) that in consideration of the assignment or surrender the benefits previously secured by the policy of insurance or annuity contract become secured by means of either or both of the following, namely—
 - (i) another policy of insurance or annuity contract which is appropriate within the meaning of section 52C(4), and
 - (ii) in the case only of benefits which are not and do not include guaranteed minimum pensions, the award of supplementary credits under a scheme which applies to the employment of the earner at the time of the assignment or surrender.

Conditions on which policies of insurance and annuity contracts may be commuted

3.—(1) The conditions referred to in section 52C(4)(c) (policies of insurance or annuity contracts are appropriate for the purposes of section 52C if among other things the amount secured may not be commuted except on conditions which satisfy such requirements as may be prescribed) are—

- (a) that the benefits secured by the policy of insurance or annuity contract have become payable, and the aggregate of those benefits and all other benefits currently payable or prospectively payable to the earner or, as the case may be, to his widow under all schemes relating to employment with the same employer as the employment in respect of which the benefits secured by the policy of insurance or annuity contract are payable does not exceed £104 per annum; or
 - (b) that the benefits secured by the policy of insurance or annuity contract have become payable, the commutation does not apply to that part of those benefits which consists of the earner's and his widow's guaranteed minimum pensions, the earner has requested or consented to the commutation, and either—
 - (i) he has attained the age of 50, or
 - (ii) his earning capacity is destroyed or seriously impaired by physical or mental deterioration, or
 - (iii) he is in exceptional circumstances of serious ill-health;
- or
- (c) such other conditions as the Occupational Pensions Board consider suitable.

- (2) For the purposes of paragraph (1)(a)—
- (a) any benefit in lump sum form shall be treated as the annual amount of benefit in pension form which, in the reasonable opinion of an actuary, is its equivalent;
 - (b) any benefit secured by means of another policy of insurance or annuity contract which is appropriate within the meaning of section 52C(4) shall be treated as payable or prospectively payable under the scheme which was liable to provide it before it was so secured; and
 - (c) any guaranteed minimum pension which is prospectively payable shall be reckoned as having the value that it will have (in accordance with the provisions of the scheme in question) when the earner reaches pensionable age.

Other requirements applying to policies of insurance and annuity contracts

4. The requirements referred to in section 52C(4)(d) (policies of insurance or annuity contracts are appropriate for the purposes of section 52C if among other things they satisfy such requirements as may be prescribed) are—

- (a) that the insurance company with which the policy is taken out or the contract entered into assumes an obligation to the earner in question and, if appropriate, dependants of his, or to trustees of a trust for the benefit of the earner and, if appropriate, dependants of his, to pay the benefits secured by the policy or contract to him or, as the case may be, to them;
- (b) that, if any guaranteed minimum pension is due or prospectively due to the earner in question, the policy or contract contains, or is endorsed with, terms so as to provide—
 - (i) that the annuity to be paid thereunder to or for his benefit will be at least equal to the guaranteed minimum pension due to him, or, as the case may be, prospectively due to him at pensionable age, subject to any revaluation or increase under section 35, and
 - (ii) if the earner is a man, that if he dies or has died leaving a widow the annuity to be paid thereunder to her or for her benefit will be at least equal to the guaranteed minimum due to her, or prospectively due to her in the event of her being left as his widow; and
- (c) that the policy or contract is endorsed with a statement of the dates on which the period or periods of service which gave rise to the benefits secured by the policy or contract began and ended.

Further condition on which liability may be discharged

5. For the purpose of section 52C(5)(c) (trustees of scheme to be discharged from their liability in certain cases if such conditions as may be prescribed are satisfied) the prescribed condition is that—

- (a) the earner is dead, benefit is payable to a person other than his widow, and the arrangement for securing the benefit by means of the policy or contract was made at the written request of that person or with his or

her consent given in writing in the form set out in the Schedule to these regulations; or

- (b) the arrangement for securing the benefit by means of the policy or contract was made without the consent of the earner or his widow and either—
- (i) the scheme in question is being wound up, or
 - (ii) the benefit is an alternative substituted for short service benefit under a provision of the scheme made by virtue of regulation 12(4)(a) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1984(a).

Form of consent

6. For the purpose of section 52C(5)(a)(ii) (form of consent to arrangements for securing benefits) the prescribed form is the form set out in the Schedule to these regulations.

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.

(a) S.I. 1984/614, to which there are amendments not relevant to these regulations.

SCHEDULE

Regulations 5 and 6

SOCIAL SECURITY PENSIONS ACT 1975, SECTION 52C(5)

SOCIAL SECURITY ACT 1985, SCHEDULE 1

CONSENT TO ARRANGEMENT FOR SECURING BENEFITS

To the trustees/managers* of the pension scheme

Full name of earner/beneficiary*:

Present address of earner/beneficiary*:

Period of service (including service to which another scheme originally applied) to which the policy/contract* relates:

Name of insurer with whom benefits have been secured:

Policy/contract* number:

I agree to the securing, under the insurance policy/annuity contract* specified above, of the pension rights to which I am entitled.

Signed

Date

*delete whichever is inapplicable.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations are all made under section 52C of the Social Security Pensions Act 1975 and are made before the expiry of the period of 6 months beginning with the commencement (on 1st January 1986) of section 2 of the Social Security Act 1985. Consequently, by virtue of section 26(1)(a) of the Social Security Act 1985, the provisions of section 61(2) and (3) of the Social Security Pensions Act 1975 (which require reference to the Occupational Pensions Board of, and a report by the Board on, proposals to make regulations for certain purposes of that Act) do not apply to them.

If the trustees or managers of an occupational pension scheme are to be discharged under section 52C from their liability to provide certain benefits which have been secured by means of one or more insurance policies or annuity contracts, the benefits must be "appropriately secured" within the meaning of the section, and in some cases it is also necessary for the condition set out in regulation 5 to be satisfied.

Benefits may still be "appropriately secured" for the purposes of section 52C if they are secured by an insurance policy or annuity contract which may be assigned or surrendered, provided that the conditions on which it may be assigned or surrendered satisfy the requirements of regulation 2; or if the amount secured by it may be commuted, provided that the conditions on which it may be commuted satisfy the requirements of regulation 3. If benefits are to be "appropriately secured" they must be secured by an insurance policy or annuity contract which satisfies the requirements of regulation 4.

The Schedule, introduced by regulations 5 and 6, sets out the form of consent to the securing of benefits by means of one or more insurance policies or annuity contracts.

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