

1987 No. 1114

PENSIONS

**The Personal and Occupational Pension Schemes
(Consequential Provisions) Regulations 1987**

<i>Made</i> - - - -	<i>25th June 1987</i>
<i>Laid before Parliament</i>	<i>6th July 1987</i>
<i>Coming into force</i>	
<i>Regulations 1, 2, 4(1), (14) and (24)(b) and 7(1) and (2)(a)</i>	<i>27th July 1987</i>
<i>Regulations 4(2), (6), (10), (15), (25) and (26) and 7(2)(b)</i>	<i>4th January 1988</i>
<i>Remainder</i>	<i>6th April 1988</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 66(7) and 67(4) of the Social Security Act 1973(a), section 168(1) of, and Schedule 20 to, the Social Security Act 1975(b), and sections 31(1), (2), (5) and (7), 32(2), 38(1), 39(1) and (4), 41B(3), 41C(7), 43(4), 45(1), 51, 52, 52C(4) and (5) and 66(4) of, and paragraphs 1, 6 and 9 of Schedule 2 to, the Social Security Pensions Act 1975(c), and all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential on sections 2, 6, 9(3) and (6) and 86(1) of, and Schedule 2 and paragraph 18 of Schedule 10 to, the Social Security Act 1986(d) and is made before the end of a period of 12 months from the commencement of those enactments, makes the following Regulations:—

Citation and commencement

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Consequential Provisions) Regulations 1987.

(2) Regulations 2, 4(1), (14) and (24)(b) and 7(1) and (2)(a) and this regulation shall come into force on 27th July 1987, regulations 4(2), (6), (10), (15), (25) and (26) and 7(2)(b) on 4th January 1988 and the remainder of these Regulations on 6th April 1988.

(a) 1973 c.38.

(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 38(1) was substituted by the Social Security Act 1986 (c.50), section 86(1) and Schedule 10, paragraph 18. Sections 41B and 41C were inserted by the Health and Social Security Act 1984 (c.48), section 20 and Schedule 6, and section 41B was amended by the Social Security Act 1985 (c.53), sections 6 and 29(1) and Schedule 5, paragraph 24. Section 45(1) was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c.5), section 22(7), and the Social Security Act 1985 (c.53), section 29(1) and Schedule 5, paragraph 25. Section 52C was inserted by the Social Security Act 1985 (c.53), section 2 and Schedule 1, and amended by the Social Security Act 1986 (c.50), section 86(1) and Schedule 10, paragraph 26.

(d) 1986 c.50.

Amendment of the Occupational Pensions Board (Determinations and Review Procedure) Regulations 1973

2.—(1) The Occupational Pensions Board (Determinations and Review Procedure) Regulations 1973(a) shall be amended in accordance with the provisions of this regulation.

(2) In regulation 1(2), at the end of the definition of “scheme”, there shall be added the words “or personal pension scheme”.

Amendments of the Occupational Pensions Board (Determinations and Review Procedure) Regulations 1976

3.—(1) The Occupational Pensions Board (Determinations and Review Procedure) Regulations 1976(b) shall be amended in accordance with the provisions of this regulation.

(2) In regulation 1(2), after the definition of “employer”, there shall be inserted the following definition—

“‘money purchase contracted-out scheme’ has the same meaning as in the Social Security Pensions Act 1975(c)”.

(3) In regulation 4(2)—

(a) in each of sub-paragraphs (a) and (b), after “where” there shall be inserted “the scheme is not a money purchase contracted-out scheme, and”; and

(b) after sub-paragraph (b) there shall be added “or” and the following sub-paragraph—

“(c) in a case where the scheme is a money purchase contracted-out scheme, and the Board consider that the scheme has ceased to satisfy the requirements for continuing to be a contracted-out scheme, in which case the date may be a date not earlier than the date on which, in the opinion of the Board, it ceased to satisfy those requirements.”.

Amendments of the Occupational Pension Schemes (Contracting-out) Regulations 1984

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1984(d) shall be amended in accordance with the provisions of this regulation.

(2) In regulation 1—

(a) in paragraph (2), immediately before “other expressions have the same meaning as in the Act”, there shall be inserted “subject to paragraph (2A)”; and

(b) after paragraph (2), there shall be inserted the following paragraph—

“(2A) In these regulations, the expression ‘state scheme premium’ does not include a personal pension protected rights premium under section 5 of the Social Security Act 1986.”.

(3) In regulation 8(2)(d), for “6th April 1978” there shall be substituted “6th April 1988 in a case where the scheme whose name is specified under sub-paragraph (b) is a money purchase contracted-out scheme, or 6th April 1978 in any other case”.

(4) In regulation 10(1), for the words from “the categories” to “the relevant scheme” there shall be substituted—

“(i) the categories of descriptions of the earners affected by the certificate, or

(ii) in the case of a money purchase contracted-out scheme, the protected rights under, or in the case of any other scheme, the benefits provided by, the relevant scheme, or

(iii) the contributions (if any) payable by those earners to the relevant scheme”.

(5) In regulation 11(1)—

(a) in sub-paragraph (a), after “guaranteed minimum pensions” there shall be inserted “or protected rights, as the case may be,”; and

(a) S.I. 1973/1776, to which there are amendments not relevant to these Regulations.

(b) S.I. 1976/185; the relevant amending instruments are S.I. 1981/129, 1986/1716.

(c) 1975 c.60. For the definition, see section 66(1) as amended by the Social Security Act 1986 (c.50), section 6 and Schedule 2, paragraph 11(b).

(d) S.I. 1984/380; the relevant amending instruments are S.I. 1985/1323, 1928, 1986/317, 1716.

- (b) in sub-paragraph (b), after "guaranteed minimum pensions" there shall be inserted ", or the protected rights, as the case may be,".
- (6) In regulation 18–
- (a) in paragraph (1B), for "and 45" there shall be substituted "and, subject to paragraph (1C) below, 45"; and
- (b) after paragraph (1B) there shall be inserted the following paragraph–
- “(1C) In a case where–
- (a) a transfer payment has been made to a scheme in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations 1987; and
- (b) the scheme receiving that payment is to exclude one or more of the guaranteed minimum pensions resulting from the payment from full revaluation in accordance with paragraph 2 of Schedule 3 to those regulations,
- for the purposes of section 45 (premium where guaranteed minimum pension excluded from full revaluation) the prescribed person is the trustees of the receiving scheme.”.
- (7) In regulation 18(3), after "state scheme premium", there shall be inserted ", other than a contracted-out protected rights premium,".
- (8) In regulation 18(4)–
- (a) after "(accrued rights premiums and pensioner's rights premiums)" there shall be inserted ", section 44ZA (contracted-out protected rights premiums)";(a)
- (b) in sub-paragraph (a), after "section 44" there shall be inserted "or, in the case of a contracted-out protected rights premium, whether or not a person's protected rights are subject to approved arrangements as mentioned in section 44ZA"; and
- (c) in sub-paragraph (c), after "section 44" there shall be inserted "or 44ZA, as the case may be,".
- (9) In regulation 19(1)(c), there shall be inserted–
- (a) after "widow", "or her widower"; and
- (b) after "widow's", in both places where it occurs, "or widower's".
- (10) In regulation 22(4), after "regulations made thereunder" there shall be inserted "or for members as regards their accrued rights to guaranteed minimum pensions which have arisen under the scheme by reason of a transfer payment made to it in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations 1987".
- (11) In regulation 24(1), after "where the premium", there shall be inserted "was not a contracted-out protected rights premium and".
- (12) After paragraph (2) of regulation 24 there shall be inserted the following paragraph–
- “(2A) Where a contracted-out protected rights premium has been paid in connection with a person's protected rights and another such premium subsequently becomes payable in connection with the same protected rights or protected rights including those rights, the Secretary of State may treat all or part of the first premium as paid (wholly or in part) in discharge of a liability for the second premium.”.
- (13) In regulation 24(3)–
- (a) after sub-paragraph (d) there shall be inserted the following sub-paragraph–
- “(dd) in the case of a contracted-out protected rights premium, he is satisfied that a transfer of the protected rights will be made in accordance with Schedule 1 to the Social Security Act 1986 as modified by section 32(2B); or”;(b)
- (b) after the words "and where a premium" (following sub-paragraph (e)) there shall be inserted "other than a contracted-out protected rights premium"; and

(a) Section 44ZA was inserted into the Social Security Pensions Act 1975 by the Social Security Act 1986 (c.50), section 6 and Schedule 2, paragraph 7.

(b) Subsection (2B) was inserted into section 32 by the Social Security Act 1986 (c.50), section 6 and Schedule 2, paragraph 5(b).

(c) at the end there shall be inserted “, and where a contracted-out protected rights premium is so refunded, the protected rights which were extinguished by payment of the premium and the corresponding reduction in any guaranteed minimum pension to which any person was treated as entitled shall be restored”.

(14) In regulation 24(4), after “regulation 45(d)(iii),” there shall be inserted “or where the earner’s rights were appropriately secured for the purposes of section 52C in circumstances analogous to those specified in that provision,”(a).

(15) After regulation 24(4) there shall be inserted the following paragraph–

“(4A) Where a limited revaluation premium has been paid and a transfer payment under regulation 2B of the Contracting-out (Transfer) Regulations 1985 is made thereafter in respect of the accrued rights of the earner in respect of whom that premium was paid, the Secretary of State shall repay the amount of the premium to the trustees of the scheme, or the administrators of the policy, who made the transfer payment.”.

(16) In regulation 24(8)(a) and (c), there shall be inserted, after “widow”, “or widower”.

(17) In regulation 24(8), after sub-paragraph (c) there shall be inserted the following sub-paragraph–

“(d) where it was paid under section 44ZA(4) and the person in respect of whom it was paid has died, without leaving a widow or widower, on or before the later of the days first mentioned in sub-paragraphs (a) and (b) respectively of regulation 20(1).”.

(18) For paragraph (1) of regulation 28 there shall be substituted the following paragraph–

“(1) For a scheme to be contracted-out in relation to an earner’s employment it must include a specific rule to the effect that if the earner has a guaranteed minimum under section 35–

- (a) the weekly rate of his pension under the scheme at pensionable age shall not be less than that guaranteed minimum;
- (b) the weekly rate of pension payable to any widow of the earner under the scheme shall be not less than half that guaranteed minimum; and
- (c) the weekly rate of pension payable to any widower of the earner under the scheme shall be not less than half of that part of the earner’s guaranteed minimum which is attributable to earnings factors for the tax year 1988/89 and subsequent tax years,

that rule to be expressed to override all other provisions of the scheme, except any that are in accordance with the provisions of the Act.”.

(19) In regulation 34, there shall be inserted–

- (a) after “his widow” in paragraph (1)(c), “or her widower”;
- (b) after “him” in paragraph (2), “or her”;
- (c) after “widow’s”, in both places where it occurs in paragraph (2), “or widower’s”.

(20) In regulation 35, there shall be inserted–

- (a) after “widow’s”, in paragraph (1) and in both places where it occurs in paragraph (2), “or widower’s”; and
- (b) after “widow” in paragraph (2)(c), “or widower”.

(21) In regulation 36–

- (a) in each of sub-paragraphs (c), (d) and (e) of paragraph (1), after “guaranteed minimum pensions” there shall be inserted “or his protected rights, as the case may be,”;
- (b) in paragraph (3)(a)(iii) there shall be inserted, at the end, “or, as the case may be, effect has not been given to protected rights under the scheme arising out of his service in that employment by the making of a transfer payment in accordance with the provisions of the scheme under paragraph 9(1)(b) of

(a) Section 52C was inserted into the Social Security Pensions Act 1975 by the Social Security Act 1985 (c.53), section 2 and Schedule 1, paragraph 2.

Schedule 1 to the Social Security Act 1986 as modified by section 32(2B).”(a);
and

(c) in paragraph (5)(a)–

(i) after “guaranteed minimum pensions” there shall be inserted “or protected rights, as the case may be,” and

(ii) after “benefits” there shall be inserted “or such rights”.

(22) In regulation 37(2)(d) there shall be inserted, at the end, “or, as the case may be, effect has been given to protected rights under the scheme arising out of his service in the first employment by the making of a transfer payment in accordance with the provisions of the scheme under paragraph 9(1)(b) of Schedule 1 to the Social Security Act 1986 as modified by section 32(2B).”.

(23) In regulation 38(1)(a) and (2)(b), “or widower” shall be inserted after “widow”.

(24) In regulation 43–

(a) in paragraph (3), after “guaranteed minimum pensions” there shall be inserted “(including those to which persons are treated as entitled under section 29(2A))”(b);

(b) for paragraph (4) there shall be substituted the following paragraph–

“(4) In any case where a person or body transfers his or its responsibility for, or makes a transfer payment in respect of, a guaranteed minimum pension to another person or body, the first person or body shall, within 5 weeks from the date of the transfer or transfer payment, notify the Secretary of State of its occurrence, giving such particulars as the Secretary of State may reasonably require to enable him to identify the second person or body.”;

and

(c) in paragraph (5), for “guaranteed minimum pensions and for related purposes” there shall be substituted “guaranteed minimum pensions (including those to which persons are treated as entitled under section 29(2A)), and in order to know for what, if any, protected rights the scheme is responsible, and from what minimum contributions, minimum payments or transfer payments they derive, and for related purposes.”.

(25) In regulation 44(e)(ii), after “in such cases” there shall be inserted “, except in such a case to which regulation 18(1C) applies,”.

(26) In regulation 49–

(a) in paragraph (1)–

(i) after “paragraph (2)”, there shall be inserted “and paragraph (3)”, and

(ii) after “another contracted-out scheme”, there shall be inserted “or have arisen in such a scheme by reason of a transfer payment giving effect to his protected rights in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations 1987”(c);

and

(b) after paragraph (2), there shall be inserted the following paragraph–

“(3) For the purposes of paragraph (1), where an earner has a guaranteed minimum pension in consequence of a transfer payment made in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations 1987–

(a) that pension shall be treated as if it had arisen as a result of his service in the employment by reference to which the scheme ceasing to be contracted-out was contracted-out; and

(b) the reference to earnings factors, to the extent that they relate to that pension, shall be construed so as to include only those which do not fall to be revalued in accordance with section 35(7) as modified by regulation 4(6) of those regulations.”.

(a) Subsection (2B) was inserted into section 32 by the Social Security Act 1986 (c.50), section 6 and Schedule 2, paragraph 5(b).

(b) Subsection (2A) was inserted into section 29 by the Social Security Act 1986 (c.50), section 6 and Schedule 2, paragraph 3.

(c) S.I. 1987/1118.

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

5.—(1) The Contracting-out (Protection of Pensions) Regulations 1984(a) shall be amended in accordance with the provisions of this regulation.

(2) The heading to regulation 4 shall be amended by the insertion, after “Widows”, of “and widowers”; and regulation 4 shall be amended by—

- (a) the insertion, after “his widow”, of “or her widower”; and
- (b) the insertion, after “that widow”, of “or widower”.

(3) Regulation 6(2) shall be amended by the insertion, after “widow’s”, in both places where it occurs, of “or widower’s”.

(4) For the heading to regulation 7 there shall be substituted “Widows’ and widowers’ pensions increased during initial period of payment”; and regulation 7 shall be amended by the insertion, after “widow”, of “or widower”.

(5) The heading to regulation 7A shall be amended by the insertion, after “widow’s”, of “and widower’s”; and regulation 7A shall be amended by—

- (a) the insertion, after “wife”, of “or husband”;
- (b) the insertion, after “he”, in both places where it occurs, of “or she”; and
- (c) the insertion, after “his”, in both places where it occurs, of “or her”.

(6) Regulation 10(2) shall be amended by—

- (a) the insertion, after “he”, of “or she”;
- (b) the insertion, after “him”, in both places where it occurs, of “or her”;
- (c) the insertion, after “his”, of “or her”; and
- (d) the insertion, at the end, of “, or if he is the widower, to whom a widower’s guaranteed minimum pension is payable, of such a person”.

Amendment of the Contracting-out (Transfer) Regulations 1985

6.—(1) The Contracting-out (Transfer) Regulations 1985(b) shall be amended in accordance with the provisions of this regulation.

(2) In paragraph 5(b) of Schedule 2, after “widow” there shall be inserted “or her widower”.

Amendments of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985

7.—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations 1985(c) shall be amended in accordance with the provisions of this regulation.

(2) Regulation 2(b)(ii) shall be amended by—

- (a) the substitution, for “in the case only of benefits which are not and do not include guaranteed minimum pensions”, of “subject, in the case of benefits which are or include guaranteed minimum pensions, to regulations 2A and 2B of the Contracting-out (Transfer) Regulations 1985”(d); and
- (b) the insertion, at the end, of “or the granting of rights to money purchase benefits under a personal pension scheme”.

(3) Regulation 3(1) shall be amended by—

- (a) the insertion, after “widow” in sub-paragraph (a), of “or her widower”;
- (b) the insertion, after “widow’s” in sub-paragraph (b), of “or her widower’s”;
- (c) the substitution, for “he” in sub-paragraph (b)(i), of “the earner”;
- (d) the substitution, for “his” in sub-paragraph (b)(ii), of “the earner’s”; and
- (e) the substitution, for “he” in sub-paragraph (b)(iii), of “the earner”.

(a) S.I. 1984/1921; the relevant amending instrument is S.I. 1985/1927.

(b) S.I. 1985/1323, to which there are amendments not relevant to these regulations.

(c) S.I. 1985/1929, to which there are amendments not relevant to these regulations.

(d) S.I. 1985/1323; the relevant amending instrument is S.I. 1987/1099.

(4) Regulation 4 shall be amended by the insertion, at the end of paragraph (b), of the following sub-paragraph—

“(iii) if the earner is a woman, that if she dies or has died leaving a widower the annuity to be paid thereunder to him or for his benefit will be at least equal to the guaranteed minimum due to him, or prospectively due to him in the event of his being left as her widower; and”.

(5) Regulation 5 shall be amended by the insertion, after “widow”, in both places where it occurs, of “or her widower”.

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1985

8.—(1) The Occupational Pension Schemes (Transfer Values) Regulations 1985(a) shall be amended in accordance with the provisions of this regulation.

(2) In regulation 3—

(a) at the beginning of paragraphs (1) and (2), there shall be inserted “Except in a case to which paragraph (3) below applies,”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(3) Where a member’s cash equivalent such as is mentioned in paragraph 12(1), or any portion of it—

(a) represents his rights to money purchase benefits under a scheme which is or was formerly a money purchase contracted-out scheme; and

(b) those rights do not fall, either wholly or in part, to be valued in a manner which involves making estimates of the value of benefits,

then that cash equivalent, or that portion of it, shall be calculated and verified in such manner as may be approved in particular cases by the trustees of the scheme, and by adopting methods consistent with the requirements of Schedule 1A.”.

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

25th June 1987

Nicholas Scott
Minister of State,
Department of Health and Social Security

(a) S.I. 1985/1931; the relevant amending instrument is S.I. 1986/751.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain only provisions which are consequential on enactments contained in the Social Security Act 1986 and are made before the end of a period of 12 months from the commencement of those enactments. Consequently, by virtue of section 61(5) of that Act, the provisions of section 68(1) and (2) of the Social Security Act 1973 and 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 under Part II of the Act of 1973 and proposals to make regulations for the purposes of Part III or IV of the Act of 1975 respectively, do not apply to them.

The Social Security Act 1986 introduces the concepts of personal pension schemes, money purchase contracted-out schemes, and guaranteed minimum pensions for widowers; and these Regulations make amendments, which are consequential on the introduction of those concepts, to the Occupational Pensions Board (Determinations and Review Procedure) Regulations 1973, the Occupational Pensions Board (Determinations and Review Procedure) Regulations 1976, the Occupational Pension Schemes (Contracting-out) Regulations 1984, the Contracting-out (Protection of Pensions) Regulations 1984, the Contracting-out (Transfer) Regulations 1985, the Occupational Pension Schemes (Discharge of Liability) Regulations 1985, and the Occupational Pension Schemes (Transfer Values) Regulations 1985.

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