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STATUTORY INSTRUMENTS

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**1989 No. 1641**

**PENSIONS**

**The Personal and Occupational Pension Schemes  
(Miscellaneous Amendments) (No. 2) Regulations 1989**

<i>Made</i>	- - - -	<i>7th September 1989</i>
<i>Laid before Parliament</i>		<i>8th September 1989</i>
<i>Coming into force</i>	- -	<i>1st October 1989</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 96(1) and 99(1) and (3) of, and paragraphs 15(4) and 26 of Schedule 16 to, the Social Security Act 1973(1), sections 166(1) and 168(1) of, and Schedule 20 to, the Social Security Act 1975(2), sections 56A(1) and (3) and 66(2) of the Social Security Pensions Act 1975(3), and sections 3(2), 61(1), 83(1) and 84(1) of the Social Security Act 1986(4), not being required to refer the proposals in respect of these Regulations to the Occupational Pensions Board because it appears to him that by reason of the urgency of the matter it is inexpedient so to refer them(5), hereby makes the following Regulations:

**Citation and commencement**

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Miscellaneous Amendments) (No. 2) Regulations 1989.

(2) These Regulations come into force on 1st October 1989.

**Amendments to the Occupational Pension Schemes (Preservation of Benefit) Regulations 1984**

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations 1984(6) are amended as described in paragraphs (2) and (3) of this regulation.

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- (1) 1973 c. 38. See definition of “prescribed” in section 99(1) and explanation of “regulations” in section 99(3).
- (2) 1975 c. 14. See definitions of “prescribe” and “regulations” in Schedule 20. Sections 166(1) 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. Section 166(1) applies, by virtue of section 83(1) of the Social Security Act 1986, to the exercise of powers to make Regulations under that Act.
- (3) 1975 c. 60. Section 56A was inserted by section 3 of, and Schedule 2 to, the Social Security Act 1985 (c. 53).
- (4) 1986 c. 50. See definitions of “prescribed” and “regulations” in section 84(1).
- (5) See section 68(1) of the Social Security Act 1973 (c. 38), section 61(2) of the Social Security Pensions Act 1975 (c. 60) and section 61(1) of the Social Security Act 1986 (c. 50).
- (6) S.I.1984/614, to which there are amendments not relevant to these Regulations.

(2) Regulation 11(3) (which deals with commutation of benefit) is amended by changing “widow” to “widow, widower” in both places where that word is used.

(3) Regulation 24 is replaced with the following-

**“Widows, widowers and dependants**

**24.** This regulation applies to schemes that provide long service benefit payable to a person other than the member only if the person is married to, or dependent on, the member when the member reaches normal pension age. These schemes are required to provide short service benefit payable to the person concerned only if the person was also married to, or dependent on, the member when the member’s pensionable service terminated.”.

**Amendments to the Occupational Pension Schemes (Disclosure of Information) Regulations 1986**

**3.—**(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1986(7) are amended as described in paragraphs (2) to (4) of this regulation.

(2) Regulation 1(2) is amended by adding the following definition immediately after the definition of “self-investment”—

““simplified defined contribution scheme” means a scheme approved by the Commissioners of Inland Revenue under section 591 of the Income and Corporation Taxes Act 1988(8) by reference to limits on—

- (a) the aggregate amount of the contributions which can be paid by a member and his employer,
- (b) the maximum lump sum which may be provided under the scheme, and
- (c) the benefits payable on death which may be provided under the scheme.”.

(3) Schedule 1 (basic information about the scheme) is amended by inserting the following paragraph immediately after paragraph 7—

**7A.** Except in the case of a simplified defined contribution scheme, normal pension age under the scheme.”.

(4) Schedule 2 (information to be made available to individuals) is amended as follows—

(a) Paragraph 4 is replaced with the following—

- (a) The information specified in any one (the trustees having the option to choose which one) of the following paragraphs, namely—
  - (i) the amounts of the member’s own benefits and of his survivors' benefits which would be payable from normal pension age or death thereafter if his pensionable service were to terminate on the date on which the information is furnished to him, calculated without regard to possible increases in his salary;
  - (ii) the amounts of the member’s own benefits and of his survivors' benefits which would be payable from normal pension age or death thereafter if his pensionable service were to terminate on his attaining normal pension age, calculated without regard to possible increases in his salary; and
  - (iii) the method by which the amounts mentioned in one of paragraphs (i) and (ii) may be calculated, together with sufficient information about the member’s past salaries and service to enable the calculation to be made.

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(7) S.I. 1986/1046; the only relevant amending instrument is S.I.1987/1105 which inserted paragraph 4B of Schedule 2.

(8) 1988 c. 1.

In each case, the information must include:

- the date on which the member’s pensionable service commenced;
- the accrual rate or formula for calculating the member’s own benefits and any survivors’ benefits;
- the amount of the member’s pensionable remuneration on the date on which the information is furnished to him; and
- details of how any deduction from benefits (whether on account of benefit payable under the Social Security Act 1975<sup>(9)</sup>, or otherwise) is calculated.

(b) Except in the case of a simplified defined contribution scheme, the amount of any death in service benefits that would be payable if the member were to die on the date on which the information is furnished to him, with details of how those benefits are calculated.”.

(b) Paragraph 4B is replaced with the following—

- (a) The amount of contributions (before the making of any deductions) credited to the member under the scheme during the 12 months preceding a specified date and, where the scheme was for the whole or any part of that 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; and
  - (ii) the payments (if any) made to the trustees of the scheme by the Secretary of State in accordance with section 7(1) of the Social Security Act 1986 in respect of the member.
- (b) If the scheme is a simplified defined contribution scheme, the amount or fraction of contributions applied to insure benefits payable in the event of the member’s death before starting to receive retirement benefits under the scheme.”.

#### **Amendments to the Personal and Occupational Pension Schemes (Incentive Payments) Regulations 1987**

4.—(1) Regulation 2 of the Personal and Occupational Pension Schemes (Incentive Payments) Regulations 1987<sup>(10)</sup> (which specifies employments in relation to which payments under section 3(1)(b) of the Social Security Act 1986 are not to be made) is amended as described in paragraphs (2) and (3) of this regulation.

(2) Paragraph (6) is amended by replacing “(7) or (8)” with “(7), (8) or (12)”.

(3) The following paragraph is added at the end—

“(12) This paragraph applies to any employment which is employment of an earner about whom no notification has been given in accordance with paragraph (2) or (3) where—

- (a) the Secretary of State has reason to suppose that notification ought to have been given; and
- (b) the earner has not satisfied the Secretary of State that either notification was not required or, if notification had been given, neither paragraph (7) nor (8) would apply.”.

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<sup>(9)</sup> 1975 c. 14.

<sup>(10)</sup> S.I.1987/1115; the only relevant amending instrument is S.I.1987/1933.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

7th September 1989

*Nicholas Scott*  
Minister of State,  
Department of Social Security

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make miscellaneous amendments to Regulations about personal and occupational pension schemes.

Regulation 2 amends the Occupational Pension Schemes (Preservation of Benefit) Regulations 1984 to take account of the changes made to Schedule 16 to the Social Security Act 1973 by paragraph 4 of Schedule 6 to the Social Security Act 1989 (c. 24). The changes introduce references to widowers wherever widows are referred to.

Regulation 3 amends the Occupational Pension Schemes (Disclosure of Information) Regulations 1986 to oblige schemes to provide information to enable members to join a scheme approved under section 591(1)(h) of the Income and Corporation Taxes Act 1988 (sometimes called a “freestanding AVC scheme”).

Regulation 4 amends the Personal and Occupational Pension Schemes (Incentive Payments) Regulations 1987 so that the additional 2 per cent of earnings payable by way of minimum contributions to a personal pension scheme under section 3(1)(b) of the Social Security Act 1986 is not payable if the Secretary of State has reason to suppose that notice that the earner is not entitled to that addition ought to have been given under regulation 2(2) or (3). But the addition will be payable if the earner satisfies the Secretary of State either that no notice ought to have been given or that, even if notice had been given, the addition would be payable.

The proposals in respect of these Regulations were not referred to the Occupational Pensions Board because it appeared to the Secretary of State that by reason of the urgency of the matter it was inexpedient so to refer them. The Regulations will be referred to the Board as soon as practicable unless the Board agree that they should not be referred.