

1991 No. 168

PENSIONS

The Occupational Pension Schemes (Revaluation) Regulations 1991

<i>Made</i> - - - -	<i>1st February 1991</i>
<i>Laid before Parliament</i>	<i>7th February 1991</i>
<i>Coming into force</i> -	<i>28th February 1991</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 166(1) to (3A) and 168(1) of, and Schedule 20 to, the Social Security Act 1975^(a) and section 66(2) of, and paragraphs 5(4) and 20 of Schedule 1A to, the Social Security Pensions Act 1975^(b), and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the proposals referred to them^(c), hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Revaluation) Regulations 1991.

(2) These Regulations come into force on 28th February 1991.

Interpretation

2. In these Regulations—

►“the Act” means the Pension Schemes Act 1993◄; and
“short service benefit” means the same as in►the Act◄.

Defn. of “the Act” substituted for defn. of “Schedule 1A”, and words substituted in defn. of “short service benefit”, in reg. 2 by para. 31(2) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

Benefits payable later than normal pension age

3.—(1) This regulation applies where the member’s normal pension age is earlier than 60.

(2) The references to “normal pension age” in►section 83(1)(a)(iii) of and paragraph 2(7) of Schedule 3 to the Act◄ are to be treated as references to the age at which short service benefit is made payable to the member under the rules of the scheme. ►Section 83(1)(a)(iii) of and paragraph 2(7) of Schedule 3 to the Act◄ are modified accordingly.

Words in reg. 3(2) substituted by para. 31(3) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

(a) 1975 c.14. See definitions of “prescribe” and “regulations” in Schedule 20. Sections 166(1) to (3A) 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.

(b) 1975 c.60. Schedule 1A was inserted by paragraph 3 of Schedule 1 to the Social Security Act 1985 (c.53).

(c) See section 61(2) of the Social Security Pensions Act 1975.

Hybrid benefits

4.—(1) This regulation applies to hybrid benefits.

(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 of the following—

- (a) an average salary benefit,
- (b) a flat rate benefit,
- (c) a money purchase benefit, and
- (d) some other benefit to which ►section 84 of the Act◄ applies.

Words in reg. 4 substituted by para. 31(4) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

(3) ►Chapter II of Part IV of the Act◄ is modified so as to require that—

- (a) before deciding which benefit is the greatest of smallest, each benefit must be revalued in accordance with ►whichever method applies to it in accordance with section 84 of the Act◄, and
- (b) the rate or amount of the hybrid benefit must be calculated by reference to the greatest, or smallest, of those benefits as revalued.

Benefits consisting of two or more components

5.—(1) This regulation applies to any benefit consisting partly of a component to which ►the final salary method, within the meaning of paragraph 1 of Schedule 3 to the Act, applies and partly of a component to which that method◄ does not apply.

Words in reg. 5 substituted by para. 31(5) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

(2) ►Paragraph 1 of Schedule 3 to the Act◄ is modified so that, for the purpose of revaluing the component to which ►the final salary method applies, the pensionable service and the amount of pension or other benefit referred to in sub-paragraph (1) of that paragraph◄ are to be calculated by reference only to the component to which ►that method◄ applies and the pensionable service which qualified the member for that component.

Administrative expenses in relation to money purchase benefits

6.—(1) This regulation applies in relation to money purchase benefits that are revalued in accordance with ►paragraph 5 of Schedule 3 to the Act◄.

Words in reg. 6 substituted by para. 31(6) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

(2) The trustees or managers of the scheme may deduct from any pension or other retirement benefit that is revalued in accordance with ►paragraph 5 of Schedule 3 to the Act◄ an amount in respect of the administrative expenses incurred by them in carrying that paragraph into effect. The amount deducted must not exceed an amount equal to the smaller of—

- (a) the administrative expenses incurred, and
- (b) the administrative expenses that would have been incurred in providing the corresponding benefit if the member’s pensionable service had not terminated before normal pension age.

Benefits other than short service benefit

7.—(1) This regulation applies where a scheme provides so that a member becomes entitled to benefit when his pensionable service terminates before normal pension age, even if the member does not become entitled to short service benefit.

Words in reg. 7(2) substituted by para. 31(7) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

(2) For the purposes of ►section 129 of the Act as is applies as respects Chapter II of Part IV of the Act◄, any provision contained in the scheme that would be a protected provision in relation to short service benefit is to be treated as a protected provision in relation to any benefit to which a member becomes entitled as described in paragraph (1) above. ►Section 129◄ is modified accordingly.

Commutation, forfeiture and surrender

8.—(1) ▶Section 86(1) of the Act◀ is modified so that it does not apply in the cases specified in this regulation.

Words in reg. 8 substituted by para. 31(8) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

(2) ▶Section 86(1) of the Act◀ does not apply to commutation of a benefit where the lump sum to which the whole or part of the pension is commuted is, itself, revalued in accordance with▶Chapter II of Part IV of the Act◀.

(3) ▶Section 86(1) of the Act◀ does not apply to forfeiture of the whole or part of a pension where the forfeiture applies only after the pension has been revalued in accordance with▶Chapter II of Part IV of the Act◀.

(4) ▶Section 86(1) of the Act◀ does not apply to surrender of the whole or part of a pension where it is to provide benefit for the widow or widower or a dependant of the member and the scheme provides for that benefit to be revalued in accordance with▶Chapter II of Part IV of the Act◀.

Retirement benefits varied at pensionable age

9.—(1) This regulation applies where—

- (a) a scheme provides that the pension or other retirement benefit payable under the scheme to a member at normal pension age is to be varied at pensionable age, and
- (b) that benefit is subject to revaluation by▶the final salary method, within the meaning of paragraph 1 of Schedule 3 to the Act◀.

Words substituted, and word deleted, in reg. 9 by para. 31(9) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

(2) ▶Paragraph 1 of Schedule 3 to the Act◀ is modified so that, when the pension or other retirement benefit payable under the scheme is varied, there is a corresponding variation in the▶◀ amount to be added to the benefit.

Rounding

10.—(1) This regulation applies where▶the final salary method, within the meaning of paragraph 1 of Schedule 3 to the Act◀ applies to a benefit under the scheme and the scheme provides that, in calculating the amount of that benefit, a member's pensionable service is to be calculated in whole months.

Words in reg. 10(1) substituted by para. 31(10)(a) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

▶(2) Paragraph 1 of Schedule 3 to the Act is modified so that the scheme may provide for the pensionable service referred to in sub-paragraph (1) of that paragraph to be calculated to the nearest, next highest or next lowest whole month. Where a scheme provides for rounding as described in this paragraph it must provide for all pensionable service there referred to to be rounded in the same way.◀

Reg. 10(2) substituted by para. 31(10)(b) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

Schemes with an overseas element

11.—(1) This regulation applies to schemes with any overseas element, as described in▶section 165(6) of the Act◀ (requirements as to preservation of benefit under occupational pension schemes).

Words in reg. 11 substituted by para. 31(11) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

(2) ▶Chapter II of Part IV of the Act◀ applies to schemes with any overseas element only to the extent that the preservation requirements apply to the scheme◀(a).

Breaks in pensionable service

12.—(1) This regulation applies in the case of a member whose pensionable service is broken. For this purpose, a member's pensionable service is broken if, after it terminates, the member returns to pensionable service under the same scheme.

(a) See regulation 25 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167).

Regs. 12–14

Words in reg. 12(2)
substituted by para.
31(12) of Sch. 2 to S.I.
1994/1062 as from
12.5.94.

(2) ►Chapter II of Part IV of the Act◄ is modified so that it does not apply if, when the member returns to pensionable service under the scheme—

- (a) the member exercises an option to surrender the benefits that had accrued before the break to acquire entitlement to further benefits under the same scheme, or
- (b) the scheme provides that the member's pensionable service before and after the break is to be treated as continuous for the purpose of qualifying the member for long service benefit under the scheme.

Lump sum in respect of service before 6th April 1975

13.—(1) This regulation applies where a lump sum (whether or not being or including a payment by way of a refund of contributions) has been paid to a member in respect of any period of pensionable service before 6th April 1975.

Words in reg. 13(2)
substituted by para.
31(13) of Sch. 2 to S.I.
1994/1062 as from
12.5.94.

(2) ►Paragraph 1 of Schedule 3 to the Act is◄ modified so that—

- (a) the period of pensionable service in respect of which the lump sum is paid is excluded from ►the total pensionable service referred to in sub-paragraph 1(b) of that paragraph◄, and
- (b) ►the amount of the pension or other benefit which has accrued on the termination date as referred to in sub-paragraph (1) of that paragraph◄ is reduced by an amount equal to the part of the pension or other benefit that would have been payable in respect of that period if the lump sum had not been paid.

Revocations

14. The Regulations specified in Column 1 of the Schedule to these Regulations are revoked to the extent specified in Column 2.

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

1st February 1991

Nicholas Scott
Minister of State,
Department of Social Security

SCHEDULE

Regulation 14

Column 1 <i>Regulations</i>	Column 2 <i>Extent of Revocation</i>
The Occupational Pension Schemes (Revaluation) Regulations 1985 (S.I. 1985/1930)	The whole of the Regulations except regulation 9.
The Occupational Pension Schemes (Revaluation and Transfer Values) Amendment Regulations 1986 (S.I. 1986/751)	Regulation 2.
The Occupational Pension Schemes (Qualifying Service—Consequential and other Provisions) Regulations 1987 (S.I. 1987/1106)	Regulation 5.
The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1988 (S.I. 1988/476)	Regulation 5.
The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1990 (S.I. 1990/1141)	Regulation 5.
The Personal and Occupational Pension Schemes (Miscellaneous Amendments) (No. 2) Regulations 1990 (S.I. 1990/1142)	Regulation 4.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate, with amendments, Regulations relating to the revaluation of pensions under occupational pension schemes.

The requirements as to the revaluation of pensions under occupational pension schemes are contained in Part I of Schedule 1A to the Social Security Pensions Act 1975, Part I of Schedule 1A overrides any conflicting provision of a scheme, as described in paragraph 7 of Schedule 1A.

These Regulations modify the provisions of Part I of Schedule 1A in their application to benefits payable later than normal pension age (regulation 3), hybrid benefits (regulation 4), benefits consisting of two or more components (regulation 5), benefits other than short service benefit (regulation 7) and schemes with an overseas element (regulation 11).

These Regulations also modify Part I of Schedule 1A in certain cases where benefits are commuted, forfeited or surrendered (regulation 8) and varied at state pension age (regulation 9).

In addition, regulation 6 specifies the amount that may be deducted from money purchase benefits in respect of administrative expenses, regulation 10 allows periods of pensionable service to be rounded to a whole month for the purpose of calculating the amount by which revaluation requires a benefit to be increased, regulation 12 provides for cases where a member's pensionable service is interrupted rather than terminated and regulation 13 provides for cases where a lump sum has been paid to a member in respect of his pensionable service before 6th April 1975.

The report of the Occupational Pensions Board on the draft of these Regulations which was referred to them, together with a statement by the Secretary of State showing that these Regulations give effect to the Board's recommendations, is contained in Command Paper No. 1408, published by Her Majesty's Stationery Office.

