
STATUTORY INSTRUMENTS

1995 No. 1215

PENSIONS

The Occupational Pension Schemes (Equal Access to Membership) Amendment Regulations 1995

<i>Made</i>	- - - -	<i>3rd May 1995</i>
<i>Laid before Parliament</i>		<i>10th May 1995</i>
<i>Coming into force</i>	- -	<i>31st May 1995</i>

The Secretary of State being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to measures relating to equal pay for men and women and to equal treatment for men and women in matters of employment, self employment and vocational training, in exercise of the powers conferred upon him by the said section 2(2) and sections 118(4), 153(3), 181(1) and 182(2) of the Pension Schemes Act 1993(2) 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, hereby makes the following Regulations—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Equal Access to Membership) Amendment Regulations 1995, and shall come into force on 31st May 1995.

(2) In these Regulations “the principal Regulations” means the Occupational Pension Schemes (Equal Access to Membership) Regulations 1976(3).

Revocation of regulation 4 of the principal Regulations

2. Regulation 4 of the principal Regulations (upper age limit for membership) is hereby revoked.

Insertion of regulation 5A in the principal Regulations

3. After regulation 5 of the principal Regulations there shall be inserted the following regulation—

(1) 1972 c. 68. The Secretary of State is a designated Minister by virtue of the European Communities (Designation) (No. 3) Order 1993 (S.I.1993/2661).
(2) 1993 c. 48. Section 181(1) is cited because of the meaning ascribed to “prescribe” and “regulations”.
(3) S.I. 1976/142 as amended by S.I. 1994/1062.

“Extension of equal access requirements

5A. Section 118 of the Act is modified by adding, after the word “member” in subsection (1), the following words—

“and on terms which do not otherwise discriminate between them, either directly or indirectly.”.

Amendment of regulation 10 of the principal Regulations

4. In regulation 10 of the principal Regulations (modification of the Equal Pay Act in relation to the equal access requirements), in paragraph (1)(b) the words “(subject to regulation 4 above)” are omitted.

Amendment of regulation 12 of the principal Regulations

5. In regulation 12 of the principal Regulations (power for a court or tribunal to declare right to admission to scheme and employer’s duty to provide additional resources)—

- (a) in paragraph (3), after the words “above are”, there shall be inserted the words “, subject to paragraph (4) below,”;
- (b) after paragraph (3), there shall be added the following paragraph—

“(4) Where the equal access requirements apply by virtue of regulation 5A above (extension of equal access requirements), the additional resources to be provided by the employer in accordance with paragraph (3) above are such additional resources as are necessary to secure for the employee prospective entitlement to benefit arising from past service as if he had been a member of the scheme since the deemed entry date or 31st May 1995, whichever is the later..”

Amendment of regulation 13 of the principal Regulations

6. In regulation 13 of the principal Regulations (employer’s duty to provide additional resources when scheme is modified)—

- (a) in paragraph (3), after the words “above are”, there shall be inserted the words “, subject to paragraph (4) below,”;
- (b) after paragraph (3), there shall be added the following paragraph—

“(4) Where the equal access requirements apply by virtue of regulation 5A above (extension of equal access requirements), the additional resources to be provided by the employer in accordance with paragraph (3) above are such additional resources as are necessary to secure for the employee prospective entitlement to benefit arising from past service as if he had been a member of the scheme since the date determined in accordance with that paragraph or 31st May 1995, whichever is the later..”

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

3rd May 1995

James Arbuthnot
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the equal access requirements in section 118 of the Pension Schemes Act 1993 and make related amendments to the Occupational Pension Schemes (Equal Access to Membership) Regulations 1976 (“the principal Regulations”) in order to implement requirements of Article 119 of the Treaty establishing the European Economic Community.

Regulation 2 revokes regulation 4 of the principal Regulations which makes provision for the fixing of different maximum age limits for membership in the case of schemes with different normal pension ages for men and women.

Regulation 3 inserts a new regulation 5A into the principal Regulations which provides for the extension of the equal access requirements.

Regulation 4 makes a consequential amendment to regulation 10 of the principal Regulations.

Regulations 5 and 6 amend regulations 12 and 13 of the principal Regulations by providing for the additional resources to be provided by employers, in cases to which regulation 5A of the principal Regulations (inserted by regulation 3 of these Regulations) applies, to relate to periods of membership after the coming into force of these Regulations.

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 Cm. 2855, published by Her Majesty’s Stationery Office.

As these Regulations implement requirements of Article 119 of the Treaty establishing the European Economic Community, no compliance cost assessment has been prepared.