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STATUTORY INSTRUMENTS

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**1995 No. 35**

**PENSIONS**

**The Occupational and Personal Pension Schemes  
(Miscellaneous Amendments) Regulations 1995**

<i>Made</i>	- - - -	<i>11th January 1995</i>
<i>Laid before Parliament</i>		<i>17th January 1995</i>
<i>Coming into force</i>	- -	<i>7th February 1995</i>

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 9(3) and (5), 19(4), 23(1), 26, 29(3), 31(1), 73(1), 113(1) and (3), 162, 181 and 182(2) and (3) of the Pension Schemes Act 1993<sup>(1)</sup> and of all other powers enabling him in that behalf, after consultation with the Friendly Societies Commission<sup>(2)</sup> and after referring the proposals to make these Regulations to the Occupational Pensions Board and considering their Report<sup>(3)</sup>, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1995 and shall come into force on 7th February 1995.

**Amendment of regulation 30 of the Occupational Pension Schemes (Contracting-out) Regulations 1984**

2. In regulation 30 of the Occupational Pension Schemes (Contracting-out) Regulations 1984<sup>(4)</sup> (means of securing guaranteed minimum pensions)—

(a) in paragraph (2), for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) in the case of a policy of insurance or annuity contract, that the policy is taken out, or the contract is entered into, with—

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(1) 1993 c. 48. Section 181 is cited because of the meaning ascribed to the words “prescribe” and “regulations”.

(2) See section 185(7) of the Pension Schemes Act 1993.

(3) See section 185(1) of the Pension Schemes Act 1993.

(4) S.I.1984/380; relevant amending instruments are S.I. 1991/2273 and 1994/1062.

- (i) an insurance company which is authorised under section 3 or 4 of the Insurance Companies Act 1982<sup>(5)</sup> to carry on ordinary long-term insurance business as defined in that Act; or
  - (ii) an EC company as defined in section 2(6) of the Insurance Companies Act 1982<sup>(6)</sup> falling within paragraph (4) below; or
  - (iii) a friendly society which is authorised under section 32 of the Friendly Societies Act 1992<sup>(7)</sup> to carry on long term business under any of the Classes specified in Head A of Schedule 2 to that Act provided that the terms of such a policy or such a contract are not capable of being amended, revoked or rescinded.”;
- (b) after paragraph (3) there shall be inserted the following paragraph—
- “(4) An EC company falls within this paragraph if it—
- (a) carries on ordinary long-term insurance business in the United Kingdom through a branch in respect of which such of the requirements of Part I of Schedule 2F to the Insurance Companies Act 1982 as are applicable have been complied with; or
  - (b) provides ordinary long-term insurance in the United Kingdom and such of the requirements of Part I of Schedule 2F to the Insurance Companies Act 1982 as are applicable have been complied with in respect of the insurance.”.

### **Amendment of regulation 1A of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985**

**3.** In the Occupational Pension Schemes (Discharge of Liability) Regulations 1985<sup>(8)</sup> for regulation 1A there shall be substituted the following regulation—

#### **“Applicants applying to policies of insurance and annuity contracts**

**1A.—(1)** The requirements referred to in section 19(4)(a)(ii) (requirements applying to policies of insurance or annuity contracts for the purposes of discharging liabilities to guaranteed minimum pensions) are that the insurance policy is taken out or the annuity contract is entered into with an insurance company which is—

- (a) an insurance company which is authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on ordinary long-term insurance business as defined in that Act; or
  - (b) an EC company as defined in section 2(6) of the Insurance Companies Act 1982 falling within paragraph (2) below.
- (2) An EC company falls within this paragraph if it—
- (a) carries on ordinary long-term insurance business in the United Kingdom through a branch in respect of which such of the requirements of Part I of Schedule 2F to the Insurance Companies Act 1982 as are applicable have been complied with; or

<sup>(5)</sup> 1982 c. 50.

<sup>(6)</sup> Section 2(6) was inserted by regulation 4(2) of S.I. 1994/1696. See also regulation 3 of S.I. 1994/3132 which extends the meaning of “Member State”.

<sup>(7)</sup> 1992 c. 40.

<sup>(8)</sup> S.I. 1985/1929; regulation 1A was inserted by regulation 3 of the Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1991 (S.I. 1991/2273) and also amended by S.I. 1994/1062.

- (b) provides ordinary long-term insurance in the United Kingdom and such of the requirements of Part I of Schedule 2F to the Insurance Companies Act 1982 as are applicable have been complied with in respect of the insurance.”.

#### **Amendment of the Money Purchase Contracted-out Schemes Regulations 1987**

##### **4. In the Money Purchase Contracted-out Schemes Regulations 1987(9)—**

- (a) in regulation 1(2)—
  - (i) for the definition of “Friendly Society” there shall be substituted the following definition—

““Friendly Society” has the same meaning as in the Friendly Societies Act 1992 (including any society which by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act);”;
  - (ii) for the definition of “recognised Stock Exchange” there shall be substituted the following definition—

““recognised Stock Exchange” means a stock exchange which is a regulated market;”;
  - (iii) after the definition of “recognised Stock Exchange” there shall be inserted the following new definition—

““regulated market” has the meaning assigned to that expression by regulation 44 of the Insurance Companies Regulations 1994(10);”;
- (b) in the Schedule—
  - (i) in paragraph 1, for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) issued by—

    - (i) an insurance company which is authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on ordinary long-term insurance business as defined in that Act; or
    - (ii) an EC company as defined in section 2(6) of the Insurance Companies Act 1982 which carries on ordinary long-term insurance business in the United Kingdom through a branch in respect of which such of the requirements of Part I of Schedule 2F to that Act as are applicable have been complied with; or
    - (iii) an EC company as defined in section 2(6) of the Insurance Companies Act 1982 which provides ordinary long-term insurance in the United Kingdom provided that such of the requirements of Part I of Schedule 2F to that Act as are applicable have been complied with in respect of the insurance; or
    - (iv) a Friendly Society which is authorised under section 32 of the Friendly Societies Act 1992 to carry on long term business under any of the Classes specified in Head A of Schedule 2 to that Act;

and which are—”;
  - (ii) for paragraph 2, there shall be substituted the following paragraph—

“2. The units of—

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(9) S.I. 1987/1101; relevant amending instruments are S.I. 1988/474 and 1990/1141.

(10) S.I. 1994/1516.

- (a) any unit trust scheme which has been authorised under section 78(1) of, or by virtue of paragraph 9 of Schedule 15 to, the Financial Services Act 1986<sup>(11)</sup>; or
  - (b) any undertaking for collective investment in transferable securities which is an undertaking authorised by the competent authority of a member State under Article 4 of Council Directive 85/611/EEC<sup>(12)</sup> on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities.”;
- (iii) in paragraph 9, for the words “not authorised under section 78(1) of, or by virtue of paragraph 9 of Schedule 15 to, the Financial Services Act 1986” there shall be substituted the words “other than a unit trust scheme or an undertaking for collective investment specified in paragraph 2 of this Schedule”.

#### **Amendment of Schedule 3 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987**

5. In sub-paragraph 2(a)(i) of Schedule 3 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987<sup>(13)</sup> for the words “Schedule 13 to the Insurance Companies Regulations 1981” there shall be substituted the words “Schedule 10 to the Insurance Companies Regulations 1994”.

#### **Amendment of regulation 9 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987**

6. In regulation 9 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987<sup>(14)</sup> (insurance companies that may provide protected rights by way of annuities)

- (a) for paragraph (a) there shall be substituted the following paragraph—
  - “(i) is authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on ordinary long-term insurance business as defined in that Act; or
  - (ii) is an EC company as defined in section 2(6) of the Insurance Companies Act 1982 which carries on ordinary long-term insurance business in the United Kingdom through a branch in respect of which such of the requirements of Part I of Schedule 2F to that Act as are applicable have been complied with; or
  - (iii) is an EC company as defined in section 2(6) of the Insurance Companies Act 1982 which provides ordinary long-term insurance in the United Kingdom and has complied with such of the requirements of Part I of Schedule 2F to that Act as are applicable in respect of the insurance; or
  - (iv) is a friendly society which is authorised under section 32 of the Friendly Societies Act 1992 to carry on long term business under any of the Classes specified in Head A of Schedule 2 to that Act; and”;
- (b) at the end of paragraph (b) there shall be added the word “and” and following that paragraph, there shall be added the following new paragraph—

(11) 1986 c. 60.

(12) O.J. No. L 375, 31.12.85, p. 3.

(13) S.I. 1987/1110; to which there are amendments not relevant to these Regulations.

(14) S.I. 1987/1117; relevant amending instruments are S.I. 1988/474 and 1994/1062.

- “(c) here the annuities are issued by a friendly society as described in subparagraph (a)(iv) above, the terms of the annuities are not capable of being amended, revoked or rescinded.”.

### **Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations 1988**

7. In the Personal Pension Schemes (Appropriate Schemes) Regulations 1988~~(15)~~—
- (a) in regulation 1(2) for the definition of “Friendly Society” there shall be substituted the following definition—
- ““Friendly Society” has the same meaning as in the Friendly Societies Act 1992 (including any society which by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act);”;
- (b) in regulation 2 (forms of schemes which may be appropriate schemes), for the words “Chapter II of Part I of the Finance (No.2) Act 1987 or Chapter II of Part II of the Finance Act 1970 by reference to section 20(2)(h) of that Act” and “Chapter II of Part I of the Finance (No.2) Act 1987” there shall be substituted respectively “Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988~~(16)~~ or Chapter I of Part XIV of the Income and Corporation Taxes Act 1988 by reference to section 591(2)(h) of that Act” and “Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988”;
- (c) in regulation 3 (persons who and bodies which may establish schemes), for paragraph (2) there shall be substituted the following paragraph—
- “(2) This paragraph applies to a Friendly Society which is authorised under section 32 of the Friendly Societies Act 1992 to carry on long term business under any of the Classes specified in Head A of Schedule 2 to that Act.”.

### **Amendment of regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991**

8. In regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991~~(17)~~ (means of assuring short service benefit)—
- (a) in paragraph (3), at the end, there shall be added the words “provided the terms of such policy or contract are not capable of being amended, revoked or rescinded”;
- (b) in paragraph (4), for the definitions of “friendly society” and of “authorised friendly society” there shall be substituted respectively the following definitions—
- ““friendly society” has the same meaning as in the Friendly Societies Act 1992 (including any society which by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act);”;
- and
- ““authorised friendly society” means a friendly society which is authorised under section 32 of the Friendly Societies Act 1992 to carry on long term business under any of the Classes specified in Head A of Schedule 2 to that Act.”.

### **Revocation of the Occupational Pension Schemes (Friendly Societies) Regulations 1976**

9. The Occupational Pension Schemes (Friendly Societies) Regulations 1976~~(18)~~ are revoked.

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<sup>(15)</sup> S.I. 1988/137; relevant amending instruments are S.I. 1988/830, 1990/1141 and 1994/1062.

<sup>(16)</sup> 1988 c. 1.

<sup>(17)</sup> S.I. 1991/167; relevant amending instrument is S.I. 1994/1062.

<sup>(18)</sup> S.I. 1976/598.

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

11th January 1995

*James Arbuthnot*  
Parliamentary Under-Secretary 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 occupational and personal pension schemes.

Regulation 2 amends regulation 30 of the Occupational Pension Schemes (Contracting-out) Regulations 1984. It revises the list of bodies with whom an insurance policy or annuity contract may be taken out for the purpose of securing guaranteed minimum pensions.

Regulation 3 amends regulation 1A of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985. It revises the conditions which an insurance company must satisfy if a policy of insurance or annuity contract is to be appropriate for the purposes of section 19 of the Pension Schemes Act 1993.

Regulation 4 amends the Money Purchase Contracted-out Schemes Regulations 1987. It substitutes the definitions of a friendly society and recognised stock exchange and revises the conditions subject to which insurance policies and annuity contracts may be permitted investments.

Regulation 5 makes consequential amendments to Schedule 3 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987 to reflect changes to the Insurance Companies Regulations 1981.

Regulation 6 amends regulation 9 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987. It revises the list of insurance companies which may provide for rights by way of annuities.

Regulation 7 makes consequential amendments to the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 arising out of changes in the Income and Corporation Taxes Act 1988. It also revises the list of bodies which may establish schemes.

Regulation 8 amends regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991. It revises the means by which short service benefits may be secured.

Regulation 9 revokes the Occupational Pension Schemes (Friendly Societies) Regulations 1976.

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. 2727, published by Her Majesty's Stationery Office.

These Regulations do not impose any costs on business.