

1996 No. 1537

PENSIONS

The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

<i>Made</i> - - - -	<i>12th June 1996</i>
<i>Laid before Parliament</i>	<i>19th June 1996</i>
<i>Coming into force</i>	<i>6th April 1997</i>

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 9(3) and (5), 10(2) and (3), 27(3), 28(1A) and (2) to (5), 28A(3) and (5), 29(1), (3) and (4), 32, 155, 181(1), 182(2) and (3) and 183(3) of the Pension Schemes Act 1993(a) and of all other powers enabling him in that behalf, after agreement with the Occupational Pensions Board that certain proposals within these Regulations need not be referred to it, by this instrument, which otherwise contains regulations made for the purposes of consolidating regulations revoked herein and regulations which are consequential upon Part III of the Pensions Act 1995(b) and are made before the end of the period of 6 months beginning with the coming into force of the enactments of that Part by virtue of which they are made(c), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 and shall come into force on 6th April 1997.

Regulation 1(2) is revoked by S.I.'s 2011/1245 & 2011/1246 in so far as it relates to regs. 2-6 and 8-15 & 16(2). It will be kept in force for all other regulations.

(2) In these Regulations, unless the context otherwise requires—

“the 1993 Act” means the Pension Schemes Act 1993;

▶¹◀

“child benefit” has the same meaning as in the Social Security Contributions and Benefits Act 1992(d);

▶²“marital or civil partnership status”, in relation to a person, means whether that person has previously formed a marriage or a civil partnership and, if so, whether that marriage or civil partnership has ended;”◀

“member” means member of an occupational pension scheme or a personal pension scheme;

“money purchase contracted-out scheme” has the same meaning as in section 8(1)(a)(ii) of the 1993 Act;

¹Defn. of “the Board for Actuarial Standards” omitted by Sch. 2 para. 2(a) to S.I. 2008/1050 as from 1.10.08.

²Defn. of “marital or civil partnership status” inserted by para. 26 of Sch. 2 to S.I. 2005/2050 as from 5.12.05.

(a) 1993 c. 48 as amended by Part III of the Pensions Act 1995 (c. 26). See definition in section 181(1) of “prescribed” and “regulations”.

(b) 1995 c. 26.

(c) See section 185 of the Pension Schemes Act 1993 and section 173 of the Social Security Administration Act 1992 (c. 5), under which the requirement to consult does not apply where regulations are made only for the purpose of consolidating other regulations revoked by them or are consequential upon a specific enactment and are made before the end of the period of six months beginning with the coming into force of that enactment.

(d) 1992 c. 4. See Part IX of that Act.

“normal pension age” has the meaning given in section 180 of the 1993 Act;
 “pensionable age” has the meaning given by the rules in paragraph 1 of Part I of Schedule 4 to the Pensions Act 1995;

“principal appointed day” means the day designated as the principal appointed day for the purposes of Part III of the Pensions Act 1995;

“scheme” means an occupational pension scheme or a personal pension scheme;

▶¹◀

▶² “section 9(2B) rights” are—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a scheme contracted-out by virtue of section 9(2B) of the 1993 Act, so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day; and
- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—
 - (i) such rights as are referred to in sub-paragraph (a) under another scheme contracted-out by virtue of section 9(2B) of that Act; or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of ▶³◀ employment on or after the principal appointed day;”◀

¹Word omitted in reg. 1(2) by reg. 3(a) of S.I. 2005/704 as from 6.4.05.

²Defn. “section 9(2B) rights” substituted by reg. 9(2) of S.I. 1997/786 as from 6.4.97.

³Words deleted in reg. 1(2)(b)(ii) by reg. 12 of S.I. 1999/3198 as from 30.12.99.

⁴Defn. of “specified pension or annuity” inserted by reg. 3(b) of S.I. 2005/704 as from 6.4.05.

▶⁴and

“specified pension or annuity” means any pension or annuity which became a pension or annuity in payment before 6th April 2005.◀

(3) In these Regulations, except in so far as the context otherwise requires, any reference—

- (a) to a regulation is to the regulation in these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number; and
- (c) in a paragraph to a lettered sub-paragraph is to the sub-paragraph of that paragraph bearing that letter.

⁵Regs. 2, 4, 5, 6, 8 & 10-15 revoked by reg. 7(b)-(1) of S.I. 2011/1245 as from 6.4.12.

⁶Regs. 3 & 9 revoked by art. 10(b) & (c) of S.I. 2011/1246 as from 6.4.12.

⁷Reg. 7 omitted by art. 21(2) of S.I. 2006/745 as from 6.4.06.

⁸Reg. 8(2) omitted by reg. 7(2) of S.I. 2007/814 as from 6.4.07.

2. ▶⁵◀

3. ▶⁶◀

4.-6. ▶⁵◀

7. ▶⁷◀

8. ▶⁵◀

8(2). ▶⁸◀

9. ▶⁶◀

10.-15. ▶⁵◀

Personal pension schemes—notifications to the Secretary of State

16.—(1) Within 5 weeks after effect has been given to the protected rights of a member of a personal pension scheme, the trustees or managers of that scheme shall notify the Secretary of State in writing that effect has been given to those rights, giving such particulars as the Secretary of State may require to enable him—

- (a) to identify the means by which effect has been given to them;
- (b) where effect has been given to them by means of a pension, annuity or by the making of payments under an interim arrangement or lump sum, to identify the recipient of it;

(a) Section 9(2B) was inserted by section 136(3) of the Pensions Act 1995.

- (c) where effect has been given to them by means of an annuity, to identify the insurance company responsible for paying the annuity;
- (d) where effect has been given to them by means of a transfer payment, to identify the personal or occupational pension scheme to which the transfer payment was made; and
- (e) where effect has been given to them by means of a payment under an interim arrangement, to identify the appropriate personal pension scheme in respect of the interim arrangement and the starting date.

(2) ▶¹◀

17. ▶²◀

¹Reg. 16(2) revoked by art. 10(d) of S.I. 2011/1246 as from 6.4.12.

²Reg. 17 revoked by reg. 7(m) of S.I. 2011/1245 as from 6.4.12.

Revocations

18. The Regulations set out in column (1) of the Schedule are revoked to the extent mentioned in column (3) of that Schedule.

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

Oliver Heald
Parliamentary Under-Secretary of State,
Department of Social Security

12th June 1996

SCHEDULE
REVOCATIONS

Regulation 18

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987	S.I. 1987/1117	The whole of the Regulations
The Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988	S.I. 1988/474	Regulation 9.
The Personal and Occupational Pension Schemes (Amendments) (No. 2) Regulations 1990	S.I. 1990/1142	Regulation 7.
The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1992	S.I. 1992/1531	Regulations 25 and 26.
The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations 1994	S.I. 1994/1062	Regulations 2 insofar as it relates to the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987 and paragraph 19 of Schedule 2.
The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1995	S.I. 1995/35	Regulation 6.
The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1995	S.I. 1996/776	Regulation 3.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (“the Regulations”) consolidate the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987 with amendments and in addition make minor and drafting amendments. The Regulations also make provisions which are consequential upon Part III of the Pensions Act 1995 (c. 26) and are made before the end of the period of six months beginning with the coming into force of that Part and as a consequence there is no requirement to consult. As regards the other regulations, the Occupational Pensions Board has agreed that proposals to make regulations need not be referred to it.

The Regulations prescribed the manner of calculation and verification of protected rights (regulation 2); the rights which a scheme may designate as protected rights, in addition to those so designated by the Pension Schemes Act 1993 (c. 48) (regulation 3); the conditions which are to apply to pensions and annuities which give effect to protected rights (regulation 4); the circumstances in which and periods for which a pension or annuity is to be paid to a widow or widower after a scheme member’s death (regulation 5); the conditions which are to apply to payments under an interim arrangement (regulation 6); the requirements which interim arrangements must satisfy (regulation 7); the circumstances in which a lump sum benefit may be provided (regulation 8); the circumstances in which protected rights may be surrendered or forfeited (regulation 9); the manner in which and the period within which an insurance company may be chosen by an annuitant (regulation 10); the conditions that an insurance company must satisfy if it is to provide an annuity which is to give effect to protected rights (regulation 11); and the provision that is to be made if a scheme member dies before effect is given to his protected rights (regulations 12 and 13). Regulation 14 requires that a scheme’s provision for giving effect to the protected rights of a member who has died must be such that the person entitled to any payment giving effect to those rights must be able to enforce that entitlement; and regulation 15 requires that a scheme should not, in offering pensions which are to give effect to protected rights, discriminate on grounds of sex or marital status except as permitted by the regulation.

Regulation 16 provides that, when effect has been given to protected rights under a personal pension scheme, certain information must be given to the Secretary of State; and regulation 17 defines the meaning of tax-exemption and tax-approval.

Revocations are made by regulation 18 and the Schedule.

An assessment of the compliance cost of the measures arising from the Pensions Act 1995, including regulations, has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, 11th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

