

1996 No. 1679

PENSIONS

The Occupational Pensions Schemes (Indexation)
Regulations 1996*Made - - - -**26th June 1996**Laid before Parliament**3rd July 1996**Coming into force**6th April 1997*

The Secretary of State for Social Security, in exercise of the powers conferred by sections 51(5), 124(1) and 174(2) and (3) of the Pensions Act 1995^(a), and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of six months beginning with the coming into force of the provisions of Part I of the Act by virtue of which they are made^(b), hereby makes the following Regulations:

Citation, commencement and interpretation

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

(2) In these Regulations—

►¹“abolition date” means the day appointed for the commencement of section 15(1) of the Pensions Act 2007^(c).◄

“the Act” means the Pensions Act 1995;

“appointed day” means the day appointed for the coming into force of section 51 of the Act for purposes other than authorising the making of these Regulations;

“indexation requirement” means the requirement under section 51(2) and (3) of the Act for certain occupational pension schemes to provide annual increases in the rate of pension;

“pension scheme” means an occupational pension ►²scheme, or a personal pension scheme registered under section 153 of the Finance Act 2004; and◄

►¹“protected rights” has the meaning given in section 10 of the Pension Schemes Act 1993^(d), as it had effect immediately prior to the abolition date;◄

►³“section 9(2B)” means—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a pension scheme contracted-out by virtue of section 9(2B) of the Pension Schemes Act 1993, so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day (including service of an earner who is not in employment at the time of the transfer or transfer payment);

¹Defns. of “abolition date” & “protected rights” inserted by art. 12(a) of S.I. 2011/1246 as from 6.4.12.

²Words in defn. of “pension scheme” substituted by art. 11(2) of S.I. 2006/744 as from 6.4.06.

³Defn. of “section 9(2B) rights” inserted by reg. 7 of S.I. 2005/704 as from 6.4.05.

(a) 1995 c. 26. Section 124(1) is cited because of the meaning ascribed to “prescribed” and “regulations”.

(b) See section 120(2)(c) of the Pensions Act 1995 which provides that the requirement to consult does not apply where regulations are made before the end of the period of six months beginning with the coming into force of the provisions of Part I of the Act by virtue of which they are made.

(c) 2007 c. 22.

(d) 1993 c. 48.

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- (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 pension 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 employment on or after the principal appointed day ►¹where that transfer payment was made before the abolition date◄.◄
- “transfer credits” has the meaning given in section 124(1) of the Act.

¹Words inserted in sub-para. (b)(ii) by art. 12(b) of S.I. 2011/1246 as from 6.4.12.

²Para. 3 inserted by reg. 7(3) of S.I. 2005/704 as from 6.4.05.

³Heading and words in reg. 2 substituted by reg. 8(2) of S.I. 2005/704 as from 6.4.05.

⁴Regs. 2(3) and 2A, inserted by regs. 8 and 9 of S.I. 2005/704 as from 6.4.05.

►²(3) For the purposes of the definition of “section 9(2B) rights” in paragraph (2) of this regulation, references to the principal appointed day are to the day designated as the principal appointed day for the purposes of Part 3 of the Pensions Act 1995 (certification of pension schemes and effects on member’s state scheme rights and duties).◄

►³Indexation of occupational pensions derived from the acceptance of transfers from pension schemes: transfers made before 6th April 2005◄.

2.—(1) ►³Subject to the following provisions◄ of this regulation, where a person’s accrued rights to a pension payable under an occupational pension scheme to which section 51 of the Act applies, or any part of them, derive from the allowance by the scheme of a transfer credit in respect of rights which were subject to the indexation requirement, or to the requirements of section 162 of the Act, in any pension scheme of which that person has previously been a member, subsections (2) and (3) of section 51 of the Act shall apply to such part of that pension as is attributable to those rights as if they were attributable to pensionable service or to payments in respect of employment on or after the appointed day.

(2) Paragraph (1) of this regulation shall not apply in any case where a person’s accrued rights to a pension payable by an occupational pension scheme referred to in that paragraph, or any part of them, derive from rights which have, at any time prior to the allowance by such a scheme of a transfer credit in respect of them, been held in a personal pension scheme and which were not subject to the requirements of section 162 of the Act in that scheme.

►⁴(3) Paragraph (1) of this regulation shall not apply in any case where the transfer credit referred to in that paragraph is allowed by reference to a transfer which is made on or after 6th April 2005.

Indexation of occupational pensions derived from the acceptance of transfers from pension schemes: transfers made on or after 6th April 2005.

2A.—(1) This regulation applies where—

- (a) a person’s accrued rights to a pension payable under an occupational pension scheme (“scheme A”) to which section 51 of the Act applies, or any part of them, derive from the allowance by the scheme of a transfer credit in respect of rights in any pension scheme (“scheme B”) of which that person has previously been a member; and
- (b) the transfer credit is allowed by reference to a transfer which is made on or after 6th April 2005.

(2) Subsections (2) and (3) of section 51 of the Act shall apply to such part of the pension payable by scheme A as is attributable to any accrued rights deriving from the allowance of the transfer credit—

- (a) only to the extent that those accrued rights are—
 - (i) section 9(2B) rights; or
 - (ii) rights (other than section 9(2B) rights) which are allowed by reference to rights in scheme B that were subject to the indexation requirement at the time of the transfer; and
- (b) as if those accrued rights were attributable to pensionable service on or after the appointed day.◄

►¹Indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made before 6th April 2005◄

¹Reg. 3 heading substituted, reg. 3 renumbered 3(1) & words inserted by reg. 10 of S.I. 2005/704 as from 6.4.05.

3.►¹—(1) Subject to paragraph (2) of this regulation◄ where a person's accrued rights to a pension payable under an occupational pension scheme to which section 51 of the Act applies, or any part of them, derive from the acceptance by the scheme of a payment from a policy of insurance or annuity contract in respect of rights which were subject to the indexation requirement, or to the requirements of section 162 of the Act, in any pension scheme of which that person has previously been a member, subsections (2) and (3) of section 51 of the Act shall apply to such part of that pension as is attributable to those rights as if they were attributable to pensionable service or to payments in respect of employment on or after the appointed day.

►²(2) Paragraph (1) of this regulation shall not apply in any case where the payment from the policy of insurance or annuity contract referred to in that paragraph is made on or after 6th April 2005.

²Reg. 3(2) & 4 inserted by regs. 10 & 11 of S.I. 2005/704 as from 6.4.05.

Indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made on or before 6th April 2005

4.—(1) This regulation applies where—

- (a) a person's accrued rights to a pension payable under an occupational pension scheme ("scheme A") to which section 51 of the Act applies, or any part of them, derive from the acceptance by the scheme of a payment from a policy of insurance or annuity contract in respect of rights in any pension scheme of which that person has previously been a member; and
- (b) the payment was made on or after 6th April 2005.

(2) Subsections (2) and (3) of section 51 of the Act shall apply to such part of the pension payable by scheme A as is attributable to any accrued rights deriving from the acceptance of the payment from the policy of insurance or annuity contract—

- (a) only to the extent that those accrued rights are—
 - (i) section 9(2B) rights; or
 - (ii) rights (other than section 9(2B) rights) which are allowed by reference to rights specified in paragraph (3) of this regulation; and
- (b) as if those accrued rights were attributable to pensionable service on or after the appointed day.

(3) The rights specified in this paragraph are rights to payment under the policy of insurance or annuity contract which—

- (a) were subject to provision contained in (or endorsed on) the policy or contract requiring an increase in the annual rate of payment; and
- (b) in any case where the policy or contract was entered into before 6th April 2005, would have been subject to such provision if the policy or contract had been entered into on or after that date.◄

►³Purpose for which trustees may modify the scheme

³Reg. 5 inserted by reg. 7(2) of S.I. 2009/615 as from 6.4.09.

5.—(1) This regulation prescribes a purpose for which the trustees of a trust scheme may by resolution modify the scheme under section 68 of the Act (power of trustees to modify schemes by resolution).

(2) The purpose is to—

- (a) reduce the amount of the annual increase in the rate of any pension(a) that accrues after the date of the resolution; or
- (b) change the method for determining that amount in order to make such a reduction.

(a) See section 51 of the Pensions Act 1995.

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(3) No modification may be made for the purpose in paragraph (2) without the consent of—

- (a) where there is one employer in relation to the scheme, that employer; or
- (b) where there is more than one employer in relation to the scheme—
 - (i) all those employers; or
 - (ii) a person nominated by all those employers, or in accordance with the scheme rules, to act as their representative. ◀

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

26th June 1996

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of Part I of the Pensions Act 1995 (c. 26) (“the Act”) by virtue of which they are made. They are accordingly exempt by section 120(2)(c) of the Act from the requirement for the Secretary of State to consult such persons as he considers appropriate.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2(1) provides for subsections (2) and (3) of section 51 of the Act to apply, on or after the day appointed for the coming into force of section 51 of the Act for the purposes other than authorising the making of these Regulations (“the appointed day”), to such part of a pension payable by an occupational pension scheme to which that section applies as is derived from the transfer credit allowed by the scheme in respect of rights which have previously been subject to indexation under the requirements of section 51 or section 162 of the Act as if those rights were attributable to pensionable service or to payments in respect of employment on or after the appointed day.

Regulation 2(2) provides an exception from the provisions of regulation 2(1) in any case where a transfer credit has been allowed by an occupational pension scheme to which section 51 of the Act applies in respect of rights which have previously been held in a personal pension scheme and which were not subject to the requirements of section 162 of the Act in that same scheme.

Regulation 3 provides for subsections (2) and (3) of section 51 of the Act to apply, on or after the appointed day, to such part of a pension payable by an occupational pension scheme to which that section applies as is derived from a transfer payment accepted by the scheme from a policy of insurance or annuity contract in respect of rights which have previously been subject to indexation under the requirements of section 51 or section 162 of the Act as if those rights were attributable to pensionable service or to payments in respect of employment on or after the appointed day.

An assessment of the compliance cost to business of the measures arising from the Act, including these 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.