
STATUTORY INSTRUMENTS

1996 No. 776

PENSIONS

**The Personal and Occupational Pension Schemes
(Miscellaneous Amendments) Regulations 1996**

<i>Made</i>	- - - -	<i>13th March 1996</i>
<i>Laid before Parliament</i>		<i>15th March 1996</i>
<i>Coming into force</i>	- -	<i>6th April 1996</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 28(1A), (4) and (5), 28A(3) and (5), 29(4), 44, 48(2), 113, 155, 181(1) and 182(2) of the Pension Schemes Act 1993⁽¹⁾, and all other powers enabling him in that behalf, after agreement by the Occupational Pensions Board that certain proposals within regulations 3 and 6 of these Regulations need not be referred to it, by this instrument, which otherwise contains regulations which are made before the end of the period of 6 months beginning with the coming into force of sections 140(2), 142, 143, 144 and 146 of the Pensions Act 1995⁽²⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

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

(2) In these Regulations—

“the Appropriate Schemes Regulations” means the Personal Pension Schemes (Appropriate Schemes) Regulations 1988⁽³⁾;

“the Abatement Regulations” means the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987⁽⁴⁾;

(1) 1993 c. 48. Section 28 was amended, and section 28A was inserted, by sections 142 and 143 respectively of the Pensions Act 1995 (c. 26). Section 48 was amended by section 140(2) of the Pensions Act 1995. Section 48 shall cease to have effect in relation to minimum payments made, or contributions paid, on or after the principal appointed day under section 135 of the Pensions Act 1995 by virtue of section 140(3) of that Act. Section 181(1) is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(2) See section 185(6) 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 the Board agree or where regulations 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.

(3) S.I. 1988/137; relevant amending instruments are S.I. 1989/500 and 1994/1062.

(4) S.I. 1987/1113; relevant amending instrument is S.I. 1994/1062.

“the Disclosure Regulations” means the Personal Pension Schemes (Disclosure of Information) Regulations 1987⁽⁵⁾;

“the Protected Rights Regulations” means the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987⁽⁶⁾; and

“the Contracting-out Regulations” means the Occupational Pension Schemes (Contracting-out) Regulations 1984⁽⁷⁾.

Amendment of the Contracting-out Regulations

2. In regulation 43 of the Contracting-out Regulations (notifications to the Secretary of State) after sub-paragraph (d) in paragraph (4A) there shall be added—

“(e) where effect has been given by means of an appropriate policy of insurance under section 32A(1)(a) or (b) (discharge of protected rights on winding up: insurance policies), to identify the member in respect of whom, and the insurance company with which, that policy was taken out or entered into.⁽⁸⁾”.

Amendment of the Protected Rights Regulations

3.—(1) The Protected Rights Regulations shall be amended in accordance with the following provisions of this regulation.

(2) After regulation 5 there shall be inserted—

“Conditions applying to payments under an interim arrangement

5A. For the purposes of section 28(1A) of the Act (in the case of a personal pension scheme effect may be given to protected rights by the making of payments under an interim arrangement which among other things satisfy such conditions as may be prescribed) the prescribed conditions are that—

- (a) payments are to be made to the member throughout the interim period at monthly intervals unless, subject to section 28A(1) of the Act (payments to be made at intervals not exceeding twelve months), the member elects for those payments to be made less frequently than by monthly payments; and
- (b) the interim arrangement provides for the member to be able to elect to terminate the interim arrangement at any time during the interim period; and
- (c) the interim arrangement provides for, in the event of the death of an unmarried member or, where section 28A(2) of the Act would apply, the death of the widow or widower, the balance of the value of the protected rights to be paid to any person in accordance with directions given by that member, widow or widower in writing, or where no such directions are given, to his or her estate.

Requirements for interim arrangements

5B.—(1) For the purposes of section 28A(3)(b) of the Act (aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months must not be less than the prescribed percentage of the annual amount of the annuity which would have been purchasable by him on the relevant reference date) the prescribed percentage is 35 per cent.

(5) S.I. 1987/1110; relevant amending instruments are S.I. 1988/474, 1992/1531 and 1994/1062.

(6) S.I. 1987/1117; relevant amending instruments are S.I. 1990/1142, 1992/1531 and 1994/1062.

(7) S.I. 1984/380; relevant amending instruments are S.I. 1987/1114 and 1117, 1988/475, 1989/500 and 1994/1062.

(8) Section 32A was inserted by section 146(1) of the Pensions Act 1995.

(2) For the purposes of section 28A(5)(a) of the Act (the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner) the prescribed manner is—

(a) in the case of payments to be made to a member in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year up to and including the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(a);

(b) in the case of payments to be made to a widow or widower of a member in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year up to and including the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(b);

(c) in the case of payments to be made—

(i) to a married member; or

(ii) on the first day of a succeeding period of 3 years beginning with the starting date to a member who marries during the interim period,

in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of a tax year after the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(c);

(d) in the case of payments to be made—

(i) to an unmarried member; or

(ii) to a widow or a widower of a member; or

(iii) on the first day of a succeeding period of 3 years beginning with the starting date to a member who becomes a widow or widower and remains so during the interim period; or

(iv) on the first day of a succeeding period of 3 years beginning with the starting date to a member whose marriage is dissolved and remains unmarried during the interim period,

in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of a tax year after the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(d).

(3) For the purposes of section 28A(5)(a)(ii) of the Act (the current published tables of rates of annuities prepared in the prescribed manner by the Government Actuary) the prescribed manner is, in the case referred to in—

(a) paragraph (2)(a), on the basis—

(i) that no distinction shall be made by reference to the sex or marital status of the member;

(ii) that in respect of a member who has died, the rate of the annuity is one-half of the rate at which it would have been payable if the member had been living;

(iii) that the rate of annuity will be increased on each of its anniversaries, by the percentage increase in the retail price index in the preceding twelve month period or by the percentage for that period which corresponds to 3 per cent., whichever is the lesser;

- (iv) of a deduction of 2 per cent. of the purchase price of the annuity to allow for the initial expenses of the insurance company; and
 - (v) that the frequency of payment is monthly in arrears;
 - (b) paragraph (2)(b), on the basis—
 - (i) that no distinction shall be made by reference to the sex of the widow or widower;
 - (ii) that the widow or widower is the last survivor with any rights to an annuity;
 - (iii) of the matters referred to in paragraph (a)(iii) to (v);
 - (c) paragraph (2)(c), on the basis—
 - (i) that no distinction shall be made by reference to the sex of the member;
 - (ii) that the rate of annuity will be increased on each of its anniversaries, by the percentage increase in the retail price index in the preceding twelve month period or by the percentage for that period which corresponds to 5 per cent., whichever is the lesser; and
 - (iii) of the matters referred to in sub-paragraph (a)(ii), (iv) and (v);
 - (d) paragraph (2)(d), on the basis—
 - (i) that no distinction shall be made by reference to the sex of the member or the widow or widower;
 - (ii) that, in the case of a widow or widower, he or she is the last survivor, or in the case of an unmarried member there is no other person, with any rights to an annuity; and
 - (iii) of the matters referred to in sub-paragraph (a)(iv) and (v) and (c)(ii).”.
- (3) In regulation 6(1) and (2) (giving effect to protected rights by providing a lump sum) the words “as it applies to a money purchase contracted-out scheme” shall be omitted in each place they appear.
- (4) In regulation 8 (choice of insurance company by annuitant) for the words “pensionable age” there shall be substituted—
- (a) in paragraph (a), in the first place in which they appear, and in paragraph (b), the words—
 - “, in the case of a money purchase contracted-out scheme, the normal pension age if that age is not less than 60 years or, in the case of a personal pension scheme, the agreed age at which he is entitled to receive benefits under the scheme or pensionable age, whichever is the earlier.”;
 - (b) in paragraph (a), in the second place in which they appear, the words, “that age”.
- (5) In regulation 10(2) and (3) (death of scheme member before effect given to his protected rights) at the beginning there shall be inserted the words “Subject to regulation 10A”.
- (6) After regulation 10 there shall be inserted the following regulation—

“Death of a scheme member before effect is given to protected rights: interim arrangements for widows or widowers

10A.—(1) Where the member has died without effect being given to his protected rights and that member is survived by—

- (a) a qualifying widow or widower; or
- (b) a non-qualifying widow or widower who, in accordance with the member’s written directions is nominated to receive the value of that member’s protected rights,

effect shall be given to those rights if that widow or widower so elects by the making of payments, as soon as practicable, under an interim arrangement such as is described in paragraph (2).

(2) The interim arrangement referred to in paragraph (1) is one which—

(a) complies with—

(i) the requirements of section 28A(3) and (5) of the Act and regulations made under those subsections; and

(ii) the conditions referred to in regulation 5A as if the widow or widower were the member;

(b) at the end of the interim period, enables effect to be given to the deceased's protected rights in such ways as are permitted by the provisions of section 28 of the Act as the rules of the scheme may specify.

(3) In this regulation “qualifying widow or widower” shall have the same meaning as in regulation 10.”.

(7) In regulation 13 (personal pension schemes— notifications to the Secretary of State)—

(a) in paragraph (1)—

(i) in sub-paragraph (b) after the word “annuity” there shall be inserted “, payment under an interim arrangement”;

(ii) after sub-paragraph (d) there shall be added—

“(e) where effect has been given to them by means of a payment under an interim arrangement, to identify the appropriate personal pension scheme which has entered into the interim arrangement and the starting date.”.

Amendment of the Disclosure Regulations

4.—(1) The Disclosure Regulations shall be amended in accordance with the following provisions of this Regulation.

(2) In regulation 1(2) (interpretation) for the meaning of “pensionable age” there shall be substituted—

““pensionable age” has the meaning given by the rules set out in paragraph 1 of Part I of Schedule 4 to the Pensions Act 1995.”.

(3) In regulation 5(4)(a) (information to be made available to individuals) for the words “pensionable age” there shall be substituted—

“the agreed age at which he is entitled to receive benefits under the scheme or pensionable age, whichever is the earlier.”.

(4) In paragraph 7 of Schedule 1 after the word “annuities” there shall be inserted “discharged by the making of payments under an interim arrangement”.

Amendment of the Abatement Regulations

5.—(1) The Abatement Regulations shall be amended in accordance with the following provisions of this Regulation.

(2) In regulation 3(1) (guaranteed minimum pension to which earner's widow or widower is treated as entitled after minimum contributions have been paid) for the words “reaching pensionable age” in each place where they appear there shall be substituted the words “effect is given to his protected rights under section 28(1A), (2)(a), (3) or (4) of the Act(9)”.

(9) Section 28 was amended by sections 142 and 146 of, and paragraph 34 of schedule 5 to, the Pensions Act 1995(c. 26).

(3) In regulation 5(1) (guaranteed minimum pension to which earner's widow or widower is treated as entitled after minimum payments have been made) for the words "reaching pensionable age" in each place where they appear there shall be substituted the words "effect is given to protected rights (including rights treated as protected rights as a consequence of regulation 6(1)(c)(i) of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996)(10) under section 28(2)(a), (3) or (4) of the Act or as a consequence of regulations made under section 145 of the Pensions Act 1995 (extension of interim arrangements to occupational pension schemes)".

Amendment of the Appropriate Schemes Regulations

6. In regulation 12 of the Appropriate Schemes Regulations (notices to the Secretary of State by an earner and trustees or managers)—

(a) for paragraph (2) there shall be substituted the following paragraph—

“(2) Subject to paragraph (3), the date specified in a notice under section 44(1) of the Act as the date from which the scheme is to be the earner's chosen scheme shall, subject to paragraph (2A), be 6th April in that or the next tax year.”;

(b) for paragraph (2A) there shall be substituted the following paragraph—

“(2A) Where notice is given by 17th May in a tax year it may specify 6th April in the preceding tax year.”.

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

13th March 1996

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (“the Regulations”) contain regulations which are consequential upon sections 140(2), 142, 143, 144 and 146 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 those sections and as a consequence there is no requirement to consult. The Regulations also contain regulations (regulations 3(3), (4) (part) and 6) made under sections 28(4), 29(4) and 44 of the Pension Schemes Act 1993 (c. 48) and after agreement with the Occupational Pensions Board, proposals to make these regulations were not referred to it.

The Regulations amend the Occupational Pension Schemes (Contracting-out) Regulations 1984 (“the Contracting-out Regulations”), the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987 (“the Protected Rights Regulations”), the Personal Pension Schemes (Disclosure of Information) Regulations 1987 (“the Disclosure Regulations”), the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987 (“the Abatement Regulations”) and the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 (“the Appropriate Schemes Regulations”).

Regulation 2 amends the Contracting-out Regulations so as to require trustees of a scheme who are discharging a member’s protected rights on winding up of the scheme through insurance policies to notify the Secretary of State of the identity of the member and the insurance company concerned.

Regulation 3(2), (5), (6) and (7) makes amendments to the Protected Rights Regulations to provide for cases where effect may be given to protected rights, under a personal pension scheme, by the making of payments under an interim arrangement if prescribed conditions are satisfied. Regulation 3(4) makes consequential amendment.

Regulation 3(3) amends regulation 6 of the Protected Rights Regulations to enable effect to be given to protected rights by the provision of a lump sum benefit in the case of a personal pension scheme.

Regulation 4 makes miscellaneous amendments to the Disclosure Regulations as a consequence of provisions providing for equal treatment and the introduction of interim arrangements.

Regulation 5 amends the Abatement Regulations to provide that where minimum contributions or minimum payments have been made in respect of an earner who dies, the treatment of his or her widow or widower as being entitled to a guaranteed minimum pension and the rate of such pension depends on whether effect has been given to protected rights at the date of death.

Regulation 6 amends the Appropriate Schemes Regulations with regard to the giving of notices of an earner’s chosen scheme to the Secretary of State under section 44 of the Pension Schemes Act 1993.

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.

Regulations 3(3), (4)(part) and 6 which are not consequential on the Pensions Act 1995 do not impose a cost on business.