
STATUTORY INSTRUMENTS

1997 No. 371

PENSIONS

**The Register of Occupational and Personal
Pension Schemes Regulations 1997**

Made - - - - 18th February 1997

Coming into force - - 1st April 1997

Whereas a draft of these Regulations was laid before Parliament in accordance with the provisions of section 186(3)(d) of the Pension Schemes Act 1993(1) and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 6, 168(1), (2) and (4), 181(1), 182(2) and (3), 183(1) and 192(2) of the Pension Schemes Act 1993(2), and of all other powers enabling him in that behalf, the Occupational Pensions Board having agreed that the proposals to make these Regulations need not be referred to them(3), by this instrument, hereby makes the following Regulations:

Citation, extent, commencement and interpretation

1.—(1) These Regulations may be cited as the Register of Occupational and Personal Pension Schemes Regulations 1997.

(2) Regulations 2, 3, 4(2), 6(1), (3) to (8), 8 and 9, and this regulation, in so far as it applies to those regulations, extend to Northern Ireland.

(3) These Regulations shall come into force on 1st April 1997.

(4) In these Regulations—

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

“the 1988 Act” means the Income and Corporation Taxes Act 1988(4);

“address of the scheme” means the place in the United Kingdom, or if more than one, the principal place, at which the management of the scheme is conducted;

(1) 1993 c. 48.

(2) Section 6 was amended by paragraph 23 of Schedule 3 and paragraph 20 of Schedule 5 to the Pensions Act 1995 (c. 26). Section 168 was substituted by section 155(1) of that Act. Section 181(1) is cited because of the meaning ascribed to “prescribed” and “regulations”.

(3) See section 185(2)(b) and (6) of the Pension Schemes Act 1993 and section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(4) 1988 c. 1.

“closed scheme” means a registrable scheme to which no new members may be admitted, but to which contributions are or may be payable by or in respect of, and under which benefits accrue to, existing members;

“frozen scheme” means a registrable scheme under which benefits continue to be payable to existing members and to which—

- (a) no new members may be admitted;
- (b) no further contributions are payable by or in respect of existing members; and
- (c) no further benefits accrue to existing members although benefits which have already accrued to them may be increased;

“member” means—

- (a) in relation to an occupational pension scheme, any person who—
 - (i) is in pensionable service under the scheme,
 - (ii) has rights under the scheme by virtue of his pensionable service under the scheme, or
 - (iii) has rights under the scheme by virtue of having been allowed transfer credits under the scheme;
- (b) in relation to a personal pension scheme or a scheme treated as such, a member of the scheme;

other than a member in respect of whom entitlement under the scheme is only for benefits payable on his death;

“open scheme” means a registrable scheme which has members who are in pensionable service under the scheme and to which new members may be admitted;

“register” means the register of occupational and personal pension schemes compiled and maintained under regulation 3;

“registrable scheme” means an occupational or personal pension scheme—

- (a) which either—
 - (i) is established in the United Kingdom, or
 - (ii) has a place at which its management is conducted in the United Kingdom and has a representative appointed to carry out the functions of a trustee in the United Kingdom; and
- (b) which either—
 - (i) is a scheme in respect of which a person has applied for, or received, the approval of the Board of Inland Revenue for the purposes of section 590 or section 591 (other than subsection (2)(g)) of the 1988 Act (conditions for approval of retirement benefit schemes and discretionary approval), or for the purposes of Chapter IV of Part XIV of that Act (personal pension schemes), or
 - (ii) is a scheme which is a public service pension scheme; and
- (c) which—
 - (i) has more than one member, and
 - (ii) provides benefits which are not solely payable on the death of a member;

and for the purposes of these Regulations, an occupational pension scheme which is a retirement benefits scheme approved under section 591(2)(h) (discretionary approval) of the 1988 Act shall be treated as a personal pension scheme;

“Registrar” means the Registrar of Occupational and Personal Pension Schemes appointed under regulation 2;

“the 1990 Regulations” means the Register of Occupational and Personal Pension Schemes Regulations 1990⁽⁵⁾;

“Regulatory Authority” means the Occupational Pensions Regulatory Authority⁽⁶⁾;

“scheme administrator” means the person in the United Kingdom having the management of the scheme;

“scheme year” in relation to a registrable scheme means—

- (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, a period of 12 months commencing on 1st April or on such other date as the trustees select; or
- (b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees—
 - (i) in connection with the commencement or termination of the scheme, or
 - (ii) in connection with a variation of the date on which the year or period referred to in paragraph (a) is to commence;

“total membership” means the number of members—

- (a) on the day on which the scheme becomes a registrable scheme, then
- (b) at the end of the second scheme year, then
- (c) at the end of each subsequent scheme year;

“trustees”, in the case of a scheme which is not set up under a trust, means the managers of the scheme, except in relation to a scheme established outside the United Kingdom, and in such a case “trustees” means the person treated by the Commissioners of Inland Revenue for the time being as administrator of the scheme for the purposes of Chapter I or Chapter IV of Part XIV of the 1988 Act;

The Registrar of Occupational and Personal Pension Schemes

- 2.—(1) There shall continue to be a Registrar of Occupational and Personal Pension Schemes.
- (2) The Regulatory Authority shall be the Registrar.
- (3) The Registrar may appoint an agent to perform any function of the Registrar.

The register

- 3.—(1) The Registrar shall continue to compile and maintain the register established under the 1990 Regulations.
- (2) The register shall contain the following information in so far as it is applicable to the scheme—
 - (a) the name and address of the scheme;
 - (b) the names of the trustees of the scheme;
 - (c) the address to which communications for the attention of the trustees are to be directed if other than that specified in sub-paragraph (a);
 - (d) the name of the scheme administrator;
 - (e) whether the scheme is an open, closed or frozen scheme;

(5) S.I.1990/2278, amended by S.I. 1992/1531 and 1994/1062.

(6) The Occupational Pensions Regulatory Authority is established under section 1(1) of the Pensions Act 1995.

- (f) the name (and, if there has been a change of name, the previous name) and address of every employer of earners in employment to which the scheme relates or has at any time since 6th April 1975 related;
 - (g) the total membership;
 - (h) whether the scheme provides—
 - (i) money purchase benefits,
 - (ii) benefits other than money purchase benefits, or
 - (iii) a combination of the benefits specified under heads (i) and (ii),
 and for the purposes of this regulation, benefits derived from transfer credits, or from a member's voluntary contributions, or which are payable on a member's death shall be disregarded;
 - (i) whether scheme benefits, or any of them, are secured by a contract of insurance or annuity contract, and if so, the name and address of the insurer with which the benefits are secured;
 - (j) the date the scheme became registrable; and
 - (k) any reference number assigned to the scheme by the Board of Inland Revenue.
- (3) The register may also contain a compilation of statistical data derived from information held on the register.

Information required in respect of a registrable scheme

- 4.—(1) It is the duty of the trustees of a registrable scheme to provide the Registrar—
- (a) within 3 months of the date upon which the scheme becomes a registrable scheme, where that date is on or after the date of the coming into force of these Regulations, with the information specified in regulation 3(2); and
 - (b) within 3 months of the receipt of a written notice issued by the Registrar on or after the date of the coming into force of these Regulations, with such information incidental to that specified in regulation 3(2) as the Registrar may reasonably require for the purposes of the register.
- (2) Where the Registrar has received all or a part of the information required by paragraph (1) (a), and by the corresponding Northern Ireland legislation, from the trustees of a registrable scheme, the Registrar shall make an entry relating to that scheme in the register.

Notification of changes

- 5.—(1) Except in relation to the information specified in regulation 3(2)(g), it is the duty of the trustees of a registrable scheme to notify the Registrar—
- (a) of any change in the information provided to the Registrar under regulation 4(1), or which is treated as so provided by virtue of regulation 8(1); and
 - (b) of the date of any change such as is referred to in paragraph (a),
- within 12 months of the occurrence of that change, or of the date of the coming into force of these Regulations, whichever is the later.
- (2) The trustees of a registrable scheme must notify the Registrar of any change in the total membership within twelve months of the change.

Availability of information held on the register

6.—(1) The Registrar shall, on receipt of a written request containing sufficient information to enable the Registrar to identify the scheme in question, supply a copy of an extract from the register relating to a registrable scheme to—

- (a) any person who is, or may be, or may become entitled to benefit under the scheme or any person acting on behalf of such a person;
- (b) the Pensions Ombudsman appointed under section 145 of the 1993 Act⁽⁷⁾;
- (c) the Official Receiver or insolvency practitioner where section 22 of the Pensions Act 1995⁽⁸⁾ applies;
- (d) the Official Receiver for Northern Ireland or insolvency practitioner where Article 22 of the Pensions (Northern Ireland) Order 1995⁽⁹⁾ applies.

(2) The Registrar shall make available to the Pensions Compensation Board⁽¹⁰⁾, and to the Regulatory Authority in connection with its functions other than under these Regulations, the information received under regulation 4(1) and 5.

(3) The trustees of a registrable scheme shall be entitled, on the first written request by them in any period of 12 months, to a copy of the information held on the register relating to that scheme.

(4) The Registrar shall on receipt of a written request supply to any person, other than a person the Registrar believes to have failed previously to comply with the condition imposed under paragraph (5), a copy of the information held on the register, or any part of it, except the information specified under paragraphs (b), (d) and (f) of regulation 3(2), subject to that person's furnishing his written agreement to the condition specified in paragraph (5).

(5) Where information, other than that specified in regulation 3(3), is supplied to a person pursuant to paragraph (4), that person shall not use or permit the use of the information, or any part of it, for the purposes of marketing a product or service.

(6) Paragraph (5) shall not apply to a copy of any information which is treated as being supplied pursuant to paragraph (4) by virtue of regulation 8(1).

(7) Information supplied under this regulation shall be made available in such form as the Registrar may in its discretion determine.

(8) There shall be payable in connection with the supply of information under paragraph (4), a sum to defray the cost attributable to its production and, where applicable, packaging and postage.

Offences and penalties

7.—(1) Where any person, without reasonable cause, fails to comply with the condition specified in regulation 4(1), 5, 8(2) or (3) he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where any person, without reasonable cause, fails to comply with any requirement imposed under regulation 6(5) the Regulatory Authority may require that person to pay within 28 days a penalty which shall—

- (a) in the case of an individual, not exceed £1,000; and
- (b) in any other case, not exceed £10,000.

(7) Section 145 was amended by section 156 of, and paragraph 7 of Schedule 6 to, the Pensions Act 1995.

(8) 1995 c. 26.

(9) S.I. 1995/3213 (N.I. 22).

(10) The Pensions Compensation Board is established under section 78(1) of the Pensions Act 1995.

Transitional provisions

8.—(1) Subject to any specific transitional provision or to any express provision to the contrary, anything done under, or for the purposes of the 1990 Regulations has effect as if done under or for the purposes of the corresponding provision of these Regulations.

(2) Where the trustees of a scheme which became a registrable scheme before 1st April 1997 have not provided the Registrar with the information specified in regulation 3(2) of the 1990 Regulations before that date, it is the duty of the trustees to provide the Registrar with the information specified in paragraphs (a) to (f) and (i) of those Regulations by 30th June 1997.

(3) Where a scheme became a registrable scheme before 1st April 1997, it is the duty of the trustees to provide the Registrar with the information specified in paragraphs (c) and (g) to (j) of regulation 3(2) of these Regulations by 30th June 1997.

Revocations

9. The Regulations listed in column 2 of the Schedule to these Regulations are revoked to the extent specified in column 3 of the Schedule.

Signed by authority of the Secretary of State for Social Security

18th February 1997

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

SCHEDULE

Regulation 9

REVOCATIONS

Column 1 <i>Statutory Instrument Number</i>	Column 2 <i>Statutory Instrument</i>	Column 3 <i>Provision Revoked</i>
S.I. 1990/2278	The Register of Occupational and Personal Pension Schemes Regulations 1990	The whole of the Regulations
S.I. 1992/1531	The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1992	Regulations 32 and 33
S.I. 1994/1062	The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations 1994	Schedule 2, paragraph 28 and regulation 2 as far as it relates to that paragraph

EXPLANATORY NOTE*(This note is not part of the Regulations)*

These Regulations replace the Register of Occupational and Personal Pension Schemes Regulations 1990 (“the 1990 Regulations”) which are now revoked and provide that there shall continue to be a register of occupational and personal pension schemes. They also make provision for the appointment of the Occupational Pensions Regulatory Authority as the Registrar of such schemes.

Regulations 2, 3, 4(2), 6(1), (3) to (8), 8 and 9 extend to Northern Ireland, as does regulation 1 in so far as it applies to those regulations. Provision for Northern Ireland corresponding to other provisions of these Regulations will be contained in separate regulations to be made by the Department of Health and Social Services for Northern Ireland.

Regulation 1 provides for the citation, extent, commencement and interpretation of the Regulations.

Regulation 2 provides for the Occupational Pensions Regulatory Authority to be the Registrar and allows for the appointment of an agent to perform any of the functions of the Registrar.

Regulation 3 requires the Registrar to continue to compile and maintain the register of occupational and personal pension schemes established under the 1990 Regulations and specifies what information is to be contained in it.

Regulation 4 imposes a duty on the trustees of a scheme to supply information to the Registrar.

Regulation 5 requires notification to the Registrar of any change in the information supplied under regulation 4.

Regulation 6 specifies the persons who are to be supplied with information held on the register, and the circumstances in which that may be done.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 7(1) makes it an offence punishable by a fine for a person to breach these Regulations by failing, without reasonable cause, to provide information to the Registrar or to notify the Registrar of a change in the information provided. Regulation 7(2) provides for the imposition of penalties by the Occupational Pensions Regulatory Authority where conditions upon which information is supplied by the Registrar are not complied with.

Regulation 8 makes transitional provisions.

Revocations are made by regulation 9 and the Schedule.

An assessment of the compliance cost for employers of the measures arising from the Pensions Act 1995, 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, Private Pensions Directorate, 11th floor, The Adelphi, 1—11 John Adam Street, London WC2N 6HT.