

STATUTORY INSTRUMENTS

1997 No. 664

The Pensions Act 1995 (Commencement No. 10) Order 1997

Citation, interpretation and appointed days

Citation and interpretation

1.—(1) This Order may be cited as the Pensions Act 1995 (Commencement No. 10) Order 1997.

(2) In this Order—

“the 1993 Act” means the Pension Schemes Act 1993 ^{M1};

“the 1995 Act” means the Pensions Act 1995;

“the Authority” means the Occupational Pensions Regulatory Authority ^{M2}; and

“the Board” means the Occupational Pensions Board ^{M3}.

Marginal Citations

M1 1993 c.48.

M2 See section 1 of the Pensions Act 1995.

M3 See section 2 of the Pension Schemes Act 1993.

Appointed days

2.—(1) For the purposes of making regulations relating to the compensation provisions ^{M4} the day appointed for the coming into force of section 81(7) of the 1995 Act is the day on which this Order is made.

(2) The day appointed for the coming into force of the provisions specified in Part I of the Schedule to this Order, insofar as they are not already in force, is 1st April 1997.

(3) The day appointed for the coming into force of the provisions specified in Part II of the Schedule to this Order, insofar as they are not already in force, is 6th April 1997.

Marginal Citations

M4 See section 81(3) of the Pensions Act 1995.

Transitional adaptations, modifications and savings

Revaluation of earnings factors: early leavers

3. Section 16(3) of the 1993 Act (revaluation of earnings factors: early leavers) shall continue to have effect as if this Order had not come into force in relation to an earner whose service in contracted-out employment in relation to the scheme in question has terminated before the principal appointed day ^{M5}.

Marginal Citations

M5 6th April 1997: see section 135 of the Pensions Act 1995 and the Pensions Act 1995 (Commencement No. 3) Order 1996, [S.I. 1996/778](#) (C.13).

Termination of contracted-out or appropriate scheme status and state scheme premiums

4.—^{F1}(1)

(2) Sections 55 to 68, 170(1) and 171(1) of the 1993 Act (state scheme premiums) shall continue to have effect as if this Order had not come into force in relation to any state scheme premium which has been paid before the principal appointed day or is payable immediately before that day, and nothing in this Order shall affect the operation of any other provision of the 1993 Act or any provision of any other Act in relation to any such premium.

(3) Any function of the Board in relation to state scheme premiums under the provisions referred to in paragraph (2) falling to be exercised after the principal appointed day shall be exercised by the Secretary of State.

Textual Amendments

F1 [Art. 4\(1\)](#) omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **11**

Modifications etc. (not altering text)

C1 [Art. 4](#) cert. functs trans. (pt.prosp.) (coming into force in accordance with art. 2(b) Sch. 2 of the amending Act) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 1(2), **Sch. 2**

Transfer Values—extensions granted by the Board

5. Section 99 of the 1993 Act (trustees’ duties after exercise of option under section 95) shall have effect in relation to any extension granted or refused by the Board under subsection (4) of that section before the principal appointed day as though it had been granted or refused by the Authority.

Payments to employers

6. For the purposes of—

- (a) any payment to the employer out of funds held for the purposes of a scheme where an application to modify the scheme rules for the purposes of making that payment has been made in accordance with the Occupational Pension Schemes (Modification) Regulations 1990 ^{M6} before the principal appointed day; or
- (b) any distribution of excess assets to the employer in relation to a scheme which begins to be wound up before the principal appointed day,

section 108 of the 1993 Act (no payments to employers from non-complying schemes) shall continue to have effect as if this Order had not come into force.

Marginal Citations

M6 S.I. 1990 No. 2021; the relevant amending instruments are S.I. 1994/1062 and S.I. 1996/2156.

Actuarial statements pending the first minimum funding requirement valuation

7. Section 114 of the 1993 Act and regulations 8 and 9 of the Occupational Pension Schemes (Disclosure of Information) Regulations 1986 shall, in so far as they relate to the actuarial statement, remain in force in respect of a scheme to which section 56 of the 1995 Act applies until such time as the trustees or managers of the scheme are required by regulation 30 of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 to obtain the first valuation.

Preservation—determinations of the Board

8. Where, before the principal appointed day, the Board has determined in accordance with section 134 of the 1993 Act that any provision of Chapter I of Part IV of the 1993 Act (the preservation requirements) shall not apply to a scheme, that determination shall continue to have effect as if this Order had not come into force until there is an alteration to the rules of the scheme relating to any requirement imposed by that provision.

Modification of schemes

9. Nothing in this Order shall affect the operation of sections 136 to 140 of the 1993 Act (application to modify schemes other than public service schemes) in relation to an application made to the Board before the principal appointed day, and any functions of the Board exercisable after the principal appointed day under those sections as saved by this article shall be exercised by the Authority.

Minimum payments and minimum contributions payable before the principal appointed day

10. Notwithstanding section 140(3) of the 1995 Act, section 48 of the 1993 Act shall remain in force in respect of minimum payments and minimum contributions paid or payable before the principal appointed day.

Winding up

11.—(1) Sections 73 and 74 of the 1995 Act (preferential liabilities on winding up and discharge of liabilities by insurance, etc.) do not apply to any scheme which has begun to be wound up before the principal appointed day; and for the purposes of this paragraph the time when a scheme begins to be wound up shall be determined in accordance with regulation 2 of the Occupational Pension Schemes (Winding Up) Regulations 1996^{M7}.

(2) At the end of paragraph 31 of Schedule 5 to the 1995 Act insert the words “ and for the purposes of this paragraph the time when a scheme begins to be wound up shall be determined in accordance with regulation 2 of the Occupational Pension Schemes (Winding Up) Regulations 1996 ”.

(3) Section 144 of the 1993 Act (which is repealed by the 1995 Act, Schedule 7, Part I) shall remain in force as regards schemes that began to wind up before 19th December 1996 and in respect of debts which arose at any applicable time before 6th April 1997.

Marginal Citations

M7 [S.I. 1996/3126](#).

Schedules of payments to money purchase schemes

12.—(1) The trustees or managers of an occupational pension scheme to which section 87 of the 1995 Act (schedules of payments to money purchase schemes) applies, shall not be obliged to secure the preparation, maintenance or revision of a payment schedule in respect of any period before the beginning of the first scheme year which begins on or after 6th April 1997.

(2) In paragraph (1) above “scheme year” has the same meaning as in the Occupational Pension Schemes (Scheme Administration) Regulations 1996 ^{M8}.

Marginal Citations

M8 [S.I. 1996/1715](#).

The National Insurance (Non-participation-Certificates) Regulation 1959—functions of the Board

13. Any function of the Board under the National Insurance (Non-participation-Certificates) Regulations 1959 ^{M9} falling to be exercised on or after the principal appointed day, or which fell to be exercised before that day but which has not been exercised may be exercised by the Secretary of State.

Modifications etc. (not altering text)

C2 [Art. 13](#) cert. functs trans. (pt.prosp.) (coming into force in accordance with art. 2(b) Sch. 2 of the amending Act) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 1\(2\), Sch. 2](#)

Marginal Citations

M9 [S.I. 1959/1860](#); the relevant amending instruments are [S.I. 1961/2176](#), [S.I. 1963/676](#), [S.I. 1965/40](#) and [S.I. 1983/118](#).

Property, rights and liabilities of the Board

14. All property, rights and liabilities to which the Board is entitled or subject immediately before the principal appointed day shall become the property, rights and liabilities of the Secretary of State.

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

Department of Social Security

Oliver Heald
Parliamentary Under-Secretary of State,

Changes to legislation:

There are currently no known outstanding effects for the The Pensions Act 1995 (Commencement No. 10) Order 1997.