

2004 No. 2416

PARLIAMENT

**The Parliamentary Pensions (Amendment)
Regulations 2004**

Made - - - - - 15th September 2004

Laid before Parliament 17th September 2004

Coming into force - - 8th October 2004

The Leader of the House of Commons in exercise of the powers conferred on him by section 2(1) and (4) of the Parliamentary and other Pensions Act 1987^(a) with the consent of the Minister for the Civil Service^(b) and after consultation with the Trustees of the Parliamentary Contributory Pension Fund and with such persons as appeared to him to represent persons likely to be affected by the Regulations, hereby makes the following Regulations:

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Parliamentary Pensions (Amendment) Regulations 2004 and shall come into force on 8th October 2004, but regulations 2(b) and (g) to (i), 3 to 5 and 8 to 11 shall have effect from 26th November 2003.

(2) In these Regulations, the “Principal Regulations” means the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993^(c).

Amendments to the Principal Regulations

Interpretation

2. In paragraph (1) of regulation A2 of the Principal Regulations—
- (a) there shall be inserted after the definition of “the Taxes Act 1988”—
 - ““the 1993 Act” means the Pension Schemes Act 1993;
 - “the 1995 Act” means the Pensions Act 1995;”;
 - (b) there shall be inserted after the definition of “basic or prospective pension or pensions”—
 - ““Chairman of a Select Committee” means the Chairman of a select committee appointed under Standing Order no. 152 (select committees related to government departments), the Chairman of the Environmental Audit Committee, the Chairman of the European Scrutiny Committee, the Chairman of the Committee of Public Accounts, the Chairman of the Select Committee on Public Administration, the Chairman of the Regulatory Reform Committee, the Chairman of the Joint Committee on Human Rights or the Chairman of the Joint Committee on Statutory Instruments;”;

(a) 1987 c. 45.
(b) See the Transfer of Functions (Treasury and Minister for the Civil Service) Order 1995 (S.I. 1995/269), article 3 and the Schedule.
(c) S.I. 1993/3253, amended by S.I. 1995/2867, S.I. 1996/2406, S.I. 1999/2100, S.I. 2001/835, S.I. 2001/2649, S.I. 2002/1807 and S.I. 2002/1887.

- (c) there shall be inserted after the definition of “the Consolidated Fund”—
““contracted-out employment” shall be construed in accordance with section 8 of the 1993 Act;”;
- (d) there shall be substituted for the definition of “contracted-out scheme”—
““contracted-out scheme” means an occupational scheme which is for the time being specified in a contracting-out certificate issued by the Inland Revenue under regulations made in accordance with section 7 of the 1993 Act;”;
- (e) there shall be substituted for the definition of “contributions equivalent premium”—
““contributions equivalent premium” has the same meaning as in section 55(2) of the 1993 Act;”;
- (f) there shall be substituted for the definition of “guaranteed minimum pension”—
““guaranteed minimum pension” has the same meaning as in section 8(2) of the 1993 Act;”;
- (g) there shall be substituted for the definition of “a Member’s ordinary salary”—
““a Member’s ordinary salary” means a Member’s yearly salary at the rate determined in accordance with an effective resolution which is for the time being in force but does not include salary paid in respect of a Member’s service as the Chairman of a Select Committee;”
- (h) there shall be substituted for the definition of “office holder”—
““office holder” has the meaning assigned to it by regulation C3(3) and by virtue of regulation C3(3A) shall be deemed to include a participating Member who is entitled to receive a salary as a Chairman of a Select Committee;”;
- (i) in the definition of “participating Member”, there shall be inserted “under regulation D1” after the words “as a Member of the House of Commons”.

Membership for Office Holders

- 3. Regulation C3 of the Principal Regulations shall be amended as follows—
 - (a) In paragraph (2), for the words “In these Regulations” there shall be substituted the words “Subject to paragraph (2A), in these Regulations”.
 - (b) After paragraph (2), there shall be inserted—
““(2A) In these Regulations, “period of tenure of a qualifying office” means, in relation to a Chairman of a Select Committee, any continuous period beginning on or after 26th November 2003 for which a participating Member is entitled to receive a salary as a Chairman of a Select Committee.”.
 - (c) After paragraph (3), there shall be inserted—
““(3A) In these Regulations, the position of Chairman of a Select Committee (if held by a participating Member on or after 26th November 2003) shall be treated as a “qualifying office” and “office holder” shall be deemed to include a participating Member who is entitled to receive a salary as a Chairman of a Select Committee.”.

Contributions by participating office holders

- 4. For paragraph (2) of regulation D2 of the Principal Regulations, there shall be substituted—
“In this regulation, “salary” means—
 - (a) in relation to a participating office holder (other than the Chairman of a Select Committee), the annual amount payable to him as an office holder in respect of his tenure of that office; or
 - (b) in relation to a participating office holder who is a Chairman of a Select Committee, the annual amount payable to him, pursuant to an effective resolution for the time being in force, which is in excess of a Member’s ordinary salary and is attributable to his service as a Chairman of a Select Committee.”.

Earnings Cap

5. For regulation D3 of the Principal Regulations there shall be substituted—

“D3 Earnings Cap

(1) Where in respect of any person who became a participant in the principal scheme on or after 1st June 1989, his annual salary—

- (a) as a Member of the House of Commons; or
- (b) as an office holder; or
- (c) as both (a) and (b) cumulatively

exceeds the permitted maximum, the contributions deducted from that annual salary shall be limited to the appropriate percentage (as defined in regulations D1 and D2) of that permitted maximum and where sub-paragraph (c) applies his contributions under regulation D2 shall be reduced before his contributions under regulation D1.

(2) For the purpose of this regulation, a person’s annual salary as a Member of the House of Commons is a Member’s ordinary salary and a person’s annual salary as an office holder is his salary as defined in regulation D2(2).”.

Guaranteed Minimum pensions

6. For regulation F7 of the Principal Regulations, there shall be substituted—

“F7 Guaranteed minimum pensions

(1) This regulation applies where a qualifying person’s principal scheme service is contracted-out employment and he has a guaranteed minimum in relation to benefits under the principal scheme in respect of service before 6th April 1997.

(2) Except to the extent that regulation F2(6) or regulation F4(7) applies, a qualifying person is entitled to receive a pension payable for the rest of his life at a rate equivalent to a weekly rate of not less than the guaranteed minimum pension unless his rights thereto have been extinguished by payment of a contributions equivalent premium pursuant to section 60 of the 1993 Act.

(3) In this regulation, “qualifying person” means—

- (a) any person who is entitled to receive a pension under regulation F1 or regulation F3 (including an early retirement pension or an ill-health pension by virtue of Part H or Part J),
- (b) any woman who has attained pensionable age and who would be entitled to receive a pension under regulation F1 or regulation F3 but for the fact only that she has not attained the age of sixty-five years,
- (c) subject to paragraph (4) below, any person who would be entitled to receive a pension under regulation F1 or regulation F3 but for the fact that the person is—
 - (i) a Member of the House of Commons or an office holder, and
 - (ii) a participating Member or office holder, and
 - (iii) in the case of a woman, of pensionable age but not having attained the age of sixty-five years, or
- (d) subject to paragraph (5) below, any person who would be entitled to receive a pension under regulation F1 or regulation F3 but for the fact that the person is—
 - (i) a candidate for election to the House of Commons, and
 - (ii) in the case of a woman, of pensionable age but not having attained the age of sixty-five years.

(4) In the case of a person within paragraph (3)(c) above, the commencement of the payment of a guaranteed minimum pension shall be postponed—

- (a) for the period, not exceeding five years, during which the person continues to be a Member of the House of Commons or an office holder after attaining pensionable age, and

(b) with his consent, for any further period during which he continues to be a Member of the House of Commons or an office holder after attaining pensionable age.

(5) If a person within paragraph (3)(d) above is elected to the House of Commons, the payment of his guaranteed minimum pension shall be postponed—

(a) for the period, not exceeding five years, during which the person serves as a Member of the House of Commons or an office holder after attaining pensionable age, and

(b) with his consent, for any further period during which he continues as a Member of the House of Commons or an office holder after attaining pensionable age.

(6) Where the payment of a guaranteed minimum pension is postponed in accordance with this regulation F7, the guaranteed minimum pension shall be increased in accordance with section 15 of the 1993 Act.

(7) In this regulation, “pensionable age” has the same meaning as in section 181 of the 1993 Act as it relates to guaranteed minimum pensions.”.

Early retirement for Members

7. For paragraph (2) of regulation H1 of the Principal Regulations, there shall be substituted—

“(2) For the purposes of this regulation, service of a person as a member of another Parliament or Assembly, whether rendered before, on or after 2nd April 1991, may count towards his qualifying period, provided that any period during which he serves concurrently in more than one Parliament or Assembly shall count only once.

(3) In paragraph (2) above, Parliament or Assembly means the House of Commons, the European Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.”.

Refund to contributor

8. In paragraph (4) of regulation N1 of the Principal Regulations for the words “his salary as a member of the House of Commons or as an office holder” there shall be substituted the words “his salary as a Member of the House of Commons as defined in regulation D1(2) or his salary as an officeholder as defined in regulation D2(2)”.

Transfers to other pension schemes

9. In sub-paragraph (1)(b) of regulation P1 of the Principal Regulations, there shall be inserted after “an office holder” the words “(other than a Chairman of a Select Committee)”.

Transfers to other pension schemes after opt out

10. In paragraph (5) of regulation P2 of the Principal Regulations, there shall be inserted after “or an office holder”, the words “(other than a Chairman of a Select Committee)”.

Transfer to overseas pension schemes

11. In sub-paragraph (1)(b) of regulation P3 of the Principal Regulations, there shall be inserted after “an office holder” the words “(other than a Chairman of a Select Committee)”.

Schedule 1—Parliamentary Contributory Pension Fund

12. For paragraph 6(1) of Schedule 1 to the Principal Regulations, there shall be substituted—

“(1) Subject to section 33 of the 1995 Act, each Trustee and former Trustee shall be indemnified out of the Fund against any actions, claims, costs, losses, damages and expenses arising out of anything done or omitted to be done by him in the performance or purported performance of his functions except when the Trustee or former Trustee, as the case may be, has acted dishonestly, in bad faith or recklessly.”.

15th September 2004

Peter Hain
Leader of the House of Commons

I consent

15th September 2004

Ruth Kelly
for the Minister for the Civil Service

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations make various amendments to the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993 (the “Principal Regulations”).

2. Regulations 3 to 5 and 8 to 11 amend the Principal Regulations to make pensionable under the Parliamentary Pension Scheme that part of the salary of a Member of the House of Commons, if any, which is attributable to his service as Chairman of one of the qualifying select committees. The qualifying select committees are select committees appointed under Standing Order no. 152 (select committees related to government departments), the Environmental Audit Committee, the European Scrutiny Committee, the Committee of Public Accounts, the Select Committee on Public Administration, the Regulatory Reform Committee, the Joint Committee on Human Rights and the Joint Committee on Statutory Instruments.

3. Regulation 6 amends regulation F7 in the Principal Regulations to clarify the position on entitlement to a guaranteed minimum pension.

4. Regulation 7 amends regulation H1 in the Principal Regulations to clarify that service in the European Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly also counts towards the qualifying period for an early retirement pension, except that any concurrent service can count only once.

5. Regulation 12 amends paragraph 6 of Schedule 1 to the Principal Regulations to clarify the scope of the indemnity in respect of the Trustees of the Parliamentary Pension Scheme.

6. Regulation 2 amends the definitions in the Principal Regulations to take account of the above changes.

7. Section 2(4) of the Parliamentary and other Pensions Act 1987 confers express power to make regulations retrospective in effect. Regulations 2(b) and (g) to (i), 3 to 5 and 8 to 11 take effect from 26th November 2003.

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