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STATUTORY INSTRUMENTS

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**2007 No. 1749**

**The Social Security (Miscellaneous  
Amendments) (No. 3) Regulations 2007**

**Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

5.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(1)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “pension fund holder”—

- (i) for “retirement annuity contract” substitute “an occupational pension scheme”;
- (ii) omit “or contract”;

(b) for the definition of “personal pension scheme”, substitute—

““personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993;
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004;
- (c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;”;

(c) omit the definition of “retirement annuity contract”.

(3) In regulation 39(11) (calculation of net profit of self-employed earners), omit “a retirement annuity contract or”.

(4) In regulation 41 (notional income)—

(a) for paragraph (4) substitute—

“(4) This paragraph applies where a person aged not less than 60—

- (a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;
- (b) fails to purchase an annuity with the funds available in that scheme; and
- (c) either—
  - (i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or

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- (ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
  - (iii) income withdrawal is not available to him under that scheme.
- (4A) Where paragraph (4) applies, the amount of any income foregone shall be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.”;
- (b) in paragraph (5), for “to which either head (i) or (ii) of paragraph (4)(a)” substitute “where paragraph (4)(c)(i) or (ii)”;
- (c) in paragraph (6)—
  - (i) for “to which either head (iii) of paragraph (4)(a) or paragraph (4)(b)” substitute “where paragraph (4)(c)(iii)”;
  - (ii) omit “or retirement annuity contract”.
- (5) In regulation 67 (evidence and information)—
  - (a) in paragraph (5), omit “or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract,”;
  - (b) in paragraphs (5)(b) and (6), omit “ or retirement annuity contract”;
  - (c) in paragraph (7)(b)(ii), omit “or a retirement annuity contract,”.
- (6) In Schedule 6 (capital to be disregarded), omit paragraph 25.