

**2010 No. 909**

**PENSIONS**

**The European Parliamentary (United Kingdom Representatives)  
Pensions (Amendment) Order 2010**

<i>Made</i> - - - -	<i>22nd March 2010</i>
<i>Laid before Parliament</i>	<i>24th March 2010</i>
<i>Coming into force</i> - -	<i>1st May 2010</i>

The Leader of the House of Commons, in exercise of the powers conferred by section 4(1), (2), (3) and (3A) of the European Parliament (Pay and Pensions) Act 1979(a) and now vested in the Leader of the House of Commons(b), makes the following Order:

**Citation, commencement, interpretation and application**

1.—(1) This Order may be cited as the European Parliamentary (United Kingdom Representatives) Pensions (Amendment) Order 2010.

(2) This Order comes into force on 1st May 2010 but articles 2 to 5 and 8(3) have effect from 14th July 2009.

(3) In this Order—

“participant” has the meaning set out in article 2(1) of the Principal Order; and

“the Principal Order” means the European Parliamentary (United Kingdom Representatives) Pensions (Consolidation and Amendment) Order 1994(c).

(4) The amendments to the Principal Order provided for in articles 5(2), 6, 8(3) and 9 have effect only in relation to a person who is a participant on or after the date this Order comes into force.

**Interpretation**

2.—(1) Article 2 of the Principal Order is amended as follows.

(2) After the definition of “basic or prospective pension” insert—

““Category 1 contributor” means—

- (a) in respect of any period beginning on or after 5th July 2001 and ending before 15th July 2002, a participant who is a Representative on 15th July 2002 who opts, before 31st July 2003, to make contributions on or after 5th July 2001 at a rate of 9 per cent;

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(a) 1979 c.50; (Section 3 of the European Communities (Amendment) Act 1986 (c.58) substituted references to the European Parliament for references in enactments to the Assembly of the European Communities).

(b) See the Transfer of Functions (European Parliamentary Pay and Pensions) Order 1995 (S.I. 1995/2995), article 2 and the Transfer of Functions (European Parliamentary Pay and Pensions) Order 2003 (S.I. 2003/2922), article 2.

(c) S.I. 1994/1662, relevant amending instruments are S.I. 1996/1493, S.I. 2003/1416, S.I. 2005/1924 and S.I. 2006/919.

- (b) in respect of any period beginning on or after 15th July 2002 and ending before 14th July 2009, a participant who does not opt, before 1st May 2010, to make contributions at a reduced rate; and
- (c) in respect of any period beginning on or after 14th July 2009, a participant who—
  - (i) does not opt, before 1st May 2010, to make contributions at a reduced rate, and on or after that date does not exercise the option to select a membership category in article 5(2A); or
  - (ii) exercises the option to select a membership category in article 5(2A) and whose qualifying notice specifies that the participant wishes to make contributions as a Category 1 contributor.

“Category 2 contributor” means—

- (a) in respect of any period beginning on or after 5th July 2001 and ending before 15th July 2002, a participant who does not opt, before 31st July 2003, to make contributions on or after 5th July 2001 at a rate of 9 per cent;
- (b) in respect of any period beginning on or after 15th July 2002 and ending before 14th July 2009, a participant who opts, before 1st May 2010, to make contributions at a reduced rate; and
- (c) in respect of any period beginning on or after 14th July 2009, a participant who—
  - (i) opts, before 1st May 2010, to make contributions at a reduced rate and has not subsequently exercised the option to select a membership category in article 5(2A); or
  - (ii) exercises the option to select a membership category in article 5(2A) and whose qualifying notice specifies that the participant wishes to make contributions as a Category 2 contributor.

“Category 3 contributor” means, in respect of any period beginning on or after 14th July 2009, a participant who exercises the option to select a membership category in article 5(2A) and whose qualifying notice specifies that the participant wishes to make contributions as a Category 3 contributor.”.

- (3) For the definition of “participant” substitute—
  - ““participant” means a person (“P”)—
    - (a) making contributions under article 5;
    - (b) who is excused from making such contributions because P’s aggregate period of reckonable service exceeds that which would give rise to the maximum pension allowed in respect of P under the scheme; or
    - (c) who is excused from making such contributions because article 5(2F)(b) applies.”.

## **Membership**

- 3.—(1) Article 4 of the Principal Order is amended as follows.
- (2) For paragraph (1) substitute—
  - “(1) An opted-out Representative who was making contributions to the scheme before 14th July 2009 shall be a participant in the scheme.”.
- (3) In paragraph (2) for “A participant” substitute “An opted-out Representative”.
- (4) In paragraph (3)—
  - (a) for “opt-out date in respect of” substitute “date on which”; and
  - (b) after “Representative” insert “who exercises the option in paragraph (2) will cease to be a participant”.
- (5) Omit paragraph (5).
- (6) In paragraph (6), after “An opted-out Representative” insert “who has exercised his right under paragraph (2) to opt out of the scheme”.

## Contributions from salary

4.—(1) Article 5 of the Principal Order is amended as follows.

(2) For paragraphs (2) to (2E)(a) substitute—

“(2) For the purposes of paragraph (1) the appropriate percentage—

- (a) in relation to a payment of salary made in respect of a period beginning on or after 1st April 1992 and ending before 5th July 2001, is 6 per cent; or
- (b) in relation to a period beginning on or after 5th July 2001 and ending before 1st April 2004—
  - (i) in respect of all or any part of such period as a Category 1 contributor is 9 per cent; or
  - (ii) in respect of all or any part of such period as a Category 2 contributor is 6 per cent; or
- (c) in relation to a period beginning on or after 1st April 2004 and ending before 14th July 2009—
  - (i) in respect of all or any part of such period as a Category 1 contributor is 10 per cent; or
  - (ii) in respect of all or any part of such period as a Category 2 contributor is 6 per cent; or
- (d) in relation to any period beginning on or after 14th July 2009—
  - (i) in respect of all or any part of such period as a Category 1 contributor is 11.9 per cent; or
  - (ii) in respect of all or any part of such period as a Category 2 contributor is 7.9 per cent; or
  - (iii) in respect of all or any part of such period as a Category 3 contributor is 5.9 per cent.

(2A) A participant who is an opted-out Representative may exercise the option to select a membership category by giving a qualifying notice to the Managers no later than 1st August 2010.

(2B) In this article a qualifying notice is a notice in a form acceptable to the Managers which—

- (a) is in writing;
- (b) is signed by the participant to whom it relates (“P”) at a time when P is a participant; and
- (c) specifies whether P wishes to make contributions as a Category 1, Category 2 or Category 3 contributor.

(2C) Where a participant exercises the option in paragraph (2A), the effective date of the option is 14th July 2009.

(2D) Where a participant (“P”) does not exercise the option in paragraph (2A)—

- (a) if P was a Category 1 contributor immediately before 14th July 2009, P continues as a Category 1 contributor on and after that date; and
- (b) if P was a Category 2 contributor immediately before 14th July 2009, P continues as a Category 2 contributor on and after that date.

(2E) Paragraph (2F) applies if, as a result of a participant (“P”) exercising the option in paragraph (2A), the contributions deducted from P’s salary on and after the effective date of

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(a) Paragraphs (2) to (2E) were substituted for paragraph (2) as originally enacted by S.I. 2003/1416. The substituted paragraph (2)(b) was amended by S.I. 2005/1924. The substituted paragraph (2)(c) and the word “; and” immediately preceding it were inserted by S.I. 2005/1924. The substituted paragraph (2A) was substituted again by S.I. 2005/1924.

the option exceed the sums required to be deducted in respect of P under paragraph (1) on and after the effective date of the option.

(2F) If this paragraph applies in respect of a participant (“P”), as soon as reasonably practicable after receiving P’s qualifying notice, the Managers must—

- (a) calculate the difference (“the Excess”) between—
  - (i) the contributions deducted from P’s salary on and after the effective date of the option; and
  - (ii) the contributions required to be deducted in respect of P under paragraph (1) on and after the effective date of the option; and
- (b) cease deducting contributions from P’s salary under paragraph (1).

(2G) Where the Managers have ceased deducting contributions under paragraph (2F), they must resume deducting contributions when the amount of contributions not deducted as a result of paragraph (2F) is equal to the amount of the Excess.

(2H) If an opted-out Representative ceases to be a participant before the amounts referred to in paragraph (2G) are equal, the Managers must repay the difference to the opted-out Representative.”.

### **Pension entitlement**

5.—(1) Article 7 of the Principal Order is amended as follows.

(2) In paragraph (3), after “sixty-five years” insert “and before 14th July 2009”.

(3) For paragraph (11)(a) substitute—

“(11) In paragraph (2) “the appropriate fraction” in relation to a year or part of a year comprised in a person’s aggregate period of reckonable service means—

- (a) in the case of a year or part of a year ending before 20th July 1983, one-sixtieth or, as the case may be, the fraction which bears to one-sixtieth the same proportion as the number of days in that part of a year bears to three hundred and sixty-five;
- (b) in the case of a year or part of a year beginning on or after 20th July 1983 and ending before 5th July 2001, one-fiftieth or, as the case may be, the fraction which bears to one-fiftieth the same proportion as the number of days in that part of a year bears to three hundred and sixty-five;
- (c) in the case of a year or part of a year beginning on or after 5th July 2001 and ending before 14th July 2009—
  - (i) in respect of a Category 1 contributor, one-fortieth; and
  - (ii) in respect of a Category 2 contributor, one-fiftieth; and
- (d) in the case of a year or part of a year beginning on or after 14th July 2009—
  - (i) in respect of a Category 1 contributor, one-fortieth;
  - (ii) in respect of a Category 2 contributor, one-fiftieth; and
  - (iii) in respect of a Category 3 contributor, one-sixtieth.”.

(4) Omit paragraphs (11A)(b), (12), (12A)(c), (12B)(d) and (13)(e).

### **Ill-health pensions**

6.—(1) Article 11 of the Principal Order is amended as follows.

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- (a) Paragraph (11) was amended by S.I. 1996/1493.
  - (b) Paragraph (11A) was inserted by S.I. 1996/1493 and substituted by S.I. 2003/1416.
  - (c) Paragraph (12A) was inserted by S.I. 2003/1416.
  - (d) Paragraph (12B) was inserted by S.I. 2003/1416.
  - (e) Paragraph (13) was amended by S.I. 2006/919.

(2) For paragraph (2) substitute—

“(2) If on an application under paragraph (1)—

- (a) the applicant (“A”) has certified to the Managers in such form as the Managers require that A does not intend to seek re-election to the European Parliament; and
- (b) the Managers direct that they are satisfied that—
  - (i) A’s ceasing to be a Representative is a direct consequence of A’s ill-health;
  - (ii) A’s ill-health would permanently prevent A from adequately performing the duties of a Representative; and
  - (iii) A’s ill-health would permanently prevent A from performing any gainful work,

A will, subject to paragraph (16), be entitled to receive an upper-tier ill-health pension as from the time A ceased to be a Representative, payable under article 7 and calculated in accordance with paragraph (4).

(2A) If on an application under paragraph (1)—

- (a) the applicant (“A”) has certified to the Managers in such form as the Managers require that A does not intend to seek re-election to the European Parliament; and
- (b) the Managers direct that they are satisfied that—
  - (i) A’s ceasing to be a Representative is a direct consequence of A’s ill-health; and
  - (ii) A’s ill-health would permanently prevent A from adequately performing the duties of a Representative,

A will, subject to paragraph (16), be entitled to receive a lower-tier ill-health pension as from the time A ceased to be a Representative, payable under article 7 and calculated in accordance with paragraph (5A).”.

(3) For paragraph (3) substitute—

“(3) Where a participant (“P”) would become entitled to make an application under paragraph (1) if, because of ill-health, P were to cease as mentioned in paragraph (1) at a particular date in the future, P may make an application to the Managers before so ceasing, specifying in the application the date when P proposes so to cease.

(3A) Where—

- (a) a participant (“P”) makes an application in accordance with paragraph (3); and
- (b) the Managers direct that they are satisfied that if, because of ill-health, P ceases as mentioned in paragraph (1) at the time specified in the application, P will be entitled under paragraph (2) or (2A) to receive a pension under article 7 as from that time,

the Managers must give P notice in writing to that effect, specifying under which of paragraphs (2) or (2A) entitlement will arise.”.

(4) For paragraph (4) substitute—

“(4) The annual amount of an upper-tier ill-health pension payable under article 7 to a person (“P”) by virtue of paragraph (2) shall, subject to article 8, be calculated in accordance with article 7(2), (3) and (4) but for the purposes of the calculation P’s aggregate period of reckonable service shall, subject to paragraph (5), be increased by a period equal to the period between P’s ceasing as mentioned in paragraph (1) above and the time when P would attain the age of sixty-five years.”.

(5) After paragraph (5) insert—

“(5A) The annual amount of a lower-tier ill-health pension payable under article 7 to a person by virtue of paragraph (2A) shall, subject to article 8, be calculated in accordance with article 7(2), (3) and (4).”.

(6) In paragraph (6), after “because of ill-health if” insert “he makes an application under this article and”.

(7) In paragraph (7)—

- (a) for “retired from gainful work” substitute “permanently ceased to perform gainful work”;
- (b) for “an early pension” substitute “early payment of his pension”; and
- (c) for “he so retired” substitute “he so ceased to perform gainful work”.

(8) For paragraph (8) substitute—

“(8) If, on an application under paragraph (7)—

- (a) the applicant (“A”) has certified to the Managers in such form as the Managers require that A does not intend to seek re-election to the European Parliament; and
- (b) the Managers direct that they are satisfied that—
  - (i) A’s ill-health would permanently prevent A from adequately performing the duties of a Representative; and
  - (ii) A has permanently ceased to perform gainful work as a direct consequence of A’s ill-health,

A shall, subject to paragraph (16), be entitled to receive a pension under article 7 as from the date of the direction.”.

(9) Omit paragraphs (10) and (10A)(a).

(10) For paragraph (11)(b) substitute—

“(11) In connection with an application made by a person under this article, the Managers must consider—

- (a) evidence from a registered medical practitioner that, because of physical or mental impairment—
  - (i) the applicant is incapable of carrying on the applicant’s occupation; or
  - (ii) the applicant is incapable of performing any gainful work,and that the incapacity is likely to be permanent; and
- (b) such other evidence as the Managers consider appropriate.”.

(11) In paragraph (12)—

- (a) for “medical practitioner” substitute “registered medical practitioner”; and
- (b) omit “for the purpose”.

(12) After paragraph (12) insert—

“(13) Where the Managers require the applicant to undergo a medical examination, the Managers may refuse an application if the applicant refuses to undergo the medical examination.

(14) For the purposes of an application under this article, the Managers and the registered medical practitioner, when considering the applicant’s degree of incapacity, may take into account—

- (a) the duties of a Representative as specified by the Managers; and
- (b) where the applicant is a Representative, the location of the region that the applicant represents.

(15) In considering whether an applicant (“A”) is incapable of carrying on A’s occupation or of performing any gainful work, the Managers may take account of the views of any registered medical practitioner nominated by them as to the impact of any medical treatment that A could undergo.

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(a) Paragraph (10A) was inserted by S.I. 2006/919.

(b) Paragraph (11) was substituted by S.I. 2006/919.

(16) The Managers may, at such intervals as the Managers determine, review the continued payment of an ill-health pension in payment to a person (“P”) by virtue of this article and may reduce that pension to the extent they consider appropriate or terminate that pension if—

- (a) in the case of a pension payable by virtue of paragraph (2) or (8), the Managers are no longer satisfied that P’s ill-health would permanently prevent P from—
  - (i) adequately performing the duties of a Representative; or
  - (ii) performing any gainful work; or
- (b) in the case of a pension payable by virtue of paragraph (2A), the Managers are no longer satisfied that P’s ill-health would permanently prevent P from adequately performing the duties of a Representative.

(17) A review may not be carried out under paragraph (16) in respect of a person on or after the date on which the person attains the age of sixty-five years.

(18) Where a pension is reduced or terminated under paragraph (16), the pension payable with effect from the date when the reduction or termination applies shall, subject to paragraphs (20) and (22) and article 7(9), be the reduced pension (if any) that the Managers determine should continue to be payable under paragraph (16).

(19) Paragraph (20) applies where—

- (a) a person’s pension has been reduced or terminated under paragraph (16); and
- (b) that person subsequently fulfils the conditions for payment of a pension by virtue of article 10, including the requirement to apply in writing to the Managers.

(20) Where this paragraph applies, the amount of pension payable from the date of the person’s application under article 10 or, if later, such other date as may be specified in the application must be no less than an amount—

- (a) calculated in accordance with article 10 instead of in accordance with this article; and
- (b) reduced, in such manner as the Government Actuary determines, to take account of any lump sum received under article 8 at the time of retirement under this article.

(21) Paragraph (22) applies where—

- (a) a person’s pension has been reduced or terminated under paragraph (16);
- (b) paragraph (20) does not apply; and
- (c) the person subsequently fulfils the conditions for payment of a pension under article 7.

(22) Where this paragraph applies, the amount of the pension payable from the date on which the person fulfils the conditions in article 7 must be no less than an amount—

- (a) calculated in accordance with article 7, instead of in accordance with this article; and
- (b) reduced, in such manner as the Government Actuary determines, to take account of any lump sum received under article 8 at the time of retirement under this article.

(23) For the purposes of this article—

“gainful work” means—

- (a) work from which the person concerned gains the whole or a substantial part of the person’s income (ignoring any income received from investments, trusts or other sources not related to work), being work—
  - (i) under a contract of employment;
  - (ii) as the holder of an office; or
  - (iii) as a self-employed person engaged in a business or profession; or
- (b) work from which the person concerned would obtain such an income if the person had not waived payment in relation to that work,

and the Managers may treat voluntary or unpaid work as gainful work if they consider that the duties of that work are equivalent to employment for which the person concerned could obtain an income; and

“permanent” in relation to a situation or condition means that the situation or condition will continue until the applicant attains the age of sixty-five years.”.

### **Managers**

7.—(1) Schedule 1 to the Principal Order is amended as follows.

(2) In paragraph 1 for “seven” substitute “six”.

(3) In paragraph 2—

(a) for “is a participant” substitute “satisfies the condition in paragraph 2A below,”; and

(b) for “be a participant” substitute “meet that condition”.

(4) After paragraph 2 insert—

“2A. The condition of this paragraph is that the person is—

(1) a participant;

(2) a pensioner; or

(3) a deferred pensioner.”.

(5) In paragraph 6, for “Alencon Link, Basingstoke, Hampshire” substitute “8th Floor, Grosvenor House, Basing View, Basingstoke, Hampshire, RG21 4HG”.

### **Maximum pensions**

8.—(1) Schedule 2 to the Principal Order is amended as follows.

(2) In paragraph 1—

(a) in the definition of “Class B participant” for “17th May 1987” substitute “17th March 1987”; and

(b) in the definition of “Class C participant”, after “17th March 1987” insert “and has not elected to become a Class A participant”.

(3) In paragraph 4(3)(a), omit “, save that, to the extent that the amount is calculated by reference to that part of the participant’s actual reckonable service as fell after he attained the age of sixty-five years, the overall limit of two-thirds of the multiple may be disregarded”.

### **Purchase of added years**

9.—(1) Schedule 7 to the Principal Order is amended as follows.

(2) In paragraph 5(1) for “paragraphs (1), (2), (3) or (6) of article 11 apply” substitute “paragraph (2) of article 11 applies”.

(3) In paragraph 5(2) for “paragraphs (1), (2), (3) or (6) of article 11 do not apply” substitute “paragraph (2) of article 11 does not apply”.

### **Participants on 1st May 2010 who have paid insufficient contributions**

10.—(1) This article applies to an opted-out Representative who—

(a) is a participant on 1st May 2010; and

(b) either—

(i) does not exercise the option to select a membership category pursuant to the amendments to the Principal Order made by article 4; or

(ii) does exercise that option and, as a result, the contributions deducted from the participant’s salary on and after 14th July 2009 are less than the sums required to be



deducted in respect of the participant pursuant to the amendments to the Principal Order made by article 4 on and after 14th July 2009.

(2) The participant must pay to the Managers, within such period as the Managers may in their discretion determine, any sum certified by the Managers as being the additional amount due to make up the participant's contributions to the sums required pursuant to the amendments to the Principal Order made by article 4.

(3) Words and expressions used in this article which are also used in the Principal Order have the same meaning as in the Principal Order.

22nd March 2010

*Harriet Harman*  
Leader of the House of Commons

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the European Parliamentary (United Kingdom Representatives) Pensions (Consolidation and Amendment) Order 1994 (S.I. 1994/1662) (“the Principal Order”), which was made under section 4 of the European Parliament (Pay and Pensions) Act 1979 (“the 1979 Act”) and sets out a pension scheme (“the UK scheme”) for United Kingdom Representatives of the European Parliament (“Representatives”).

Article 1 provides for citation, commencement, interpretation and application. The Order comes into force on 1st May 2010, but the changes it makes to the Principal Order regarding contributions by Representatives, pension accrual rates and membership take effect from 14th July 2009. Section 4(3)(g) of the 1979 Act authorises the making of provisions taking effect from a date earlier than the date the Order is made.

Article 2 amends article 2 of the Principal Order by inserting new definitions of “Category 1 contributor”, “Category 2 contributor” and “Category 3 contributor” and by making a consequential amendment to the definition of “participant”.

Article 3 amends article 4 of the Principal Order pursuant to the Decision of the European Parliament of 28th September 2005 adopting the Statute for Members of the European Parliament 2005/684/EC, Euratom (OJ No L 262, 7.10.05, p1-10) (“the European Decision”). The European Decision introduced a common pension scheme for members of the European Parliament (“the European scheme”), which came into force on 14th July 2009. Members of the European Parliament may continue to avail themselves of their national pension schemes provided they were members before 14th July 2009 and were re-elected. Article 4 is therefore amended to provide that a Representative may only participate in the UK scheme if he has opted out of the European scheme and has made contributions to the UK scheme prior to 14th July 2009.

Articles 4 and 5(1), (3) and (4) amend articles 5 and 7 of the Principal Order and provide for the introduction of a new rate at which Representatives may contribute to the UK scheme and accrue pension under it. Currently, Representatives may pay contributions of 10% of salary to accrue pension at a rate of one-fortieth of final salary for each year of pensionable service, or they may pay contributions of 6% of salary to accrue pension at a rate of one-fiftieth of final salary. With effect from 14th July 2009, an option is introduced for Representatives to pay contributions of 5.9% of salary to accrue at a rate of one-sixtieth, the 10% contribution rate increases to 11.9% and the 6% contribution rate increases to 7.9%.

Articles 5(2) and 8(3) apply the UK scheme’s maximum pension limit of two-thirds of final salary to all scheme members, in relation to service accrued after 14th July 2009. This will affect Representatives who joined the scheme before 1st June 1989 and remain in service after reaching age 65.

Article 6 makes amendments to article 11 of the Principal Order, which sets out the circumstances in which an ill-health pension may be paid. The amendments only apply to a person who is serving as a Representative on or after the date this Order comes into force. They require an applicant for an ill-health pension to certify certain matters to the Managers in order to qualify for an ill-health pension and put in place a two-tier system for ill-health pensions. Article 6 also makes provision for the Managers to review an ill-health pension payable to a person aged under 65 and to terminate or reduce it where they consider that the pensioner no longer satisfies the conditions for payment.

Article 7 reduces the maximum number of Managers required in respect of the UK scheme from seven to six, changes the requirements that a person must meet in order to be eligible to act as a Manager and updates the Managers’ address for correspondence.

Article 8(1) and (2) amends Schedule 2 of the Principal Order to clarify the definitions of “Class B participant” and “Class C participant”.

Article 9 makes consequential amendments to paragraph 5 of Schedule 7, to reflect the amendments to article 11 of the Principal Order made by article 6 of this Order.

Article 10 provides for the pension scheme managers to collect additional contributions from Representatives whose contribution rate increases with effect from 14th July 2009 as a result of the changes made by article 4.

An impact assessment has not been provided for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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The European Parliamentary (United Kingdom Representatives)  
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£5.50