
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace most of the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) (“the 1996 Regulations”) in consequence of provision made by the Pensions Act 2014 (c.19) (“the 2014 Act”).

The 2014 Act creates a new state pension for people reaching pensionable age after implementation on 6th April 2016. This date is referred to in the Pension Schemes Act 1993 (c.48) (“the 1993 Act”) (as amended by the 2014 Act) as “the second abolition date”. The new pension will be paid at a single weekly rate, replacing the current state pension which has two components: a basic state pension and an additional state pension. The 2014 Act therefore also makes amendments to existing primary legislation to abolish contracting-out of the state additional pension for salary related pension schemes. Much of the provision made by the 1996 Regulations is revoked with effect from the second abolition date by regulation 32.

Some provisions of the 1993 Act and the 1996 Regulations will remain in force until 6th April 2019, in accordance with savings provisions contained in S.I. 2015/1502. In particular, provisions relating to the issue, variation and surrender of contracting-out certificates remain in force to enable the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) to issue certificates relating to a period before the second abolition date, and to deal with any variation or surrender of such a certificate which is to take effect from a date preceding that date. Provisions relating to schemes which have ceased to contract-out before the second abolition date also remain in force, to ensure that the Commissioners are notified of the termination of contracted-out employment in these circumstances and that earner’s pension rights are protected.

Provisions of the 1996 Regulations which are to continue to have effect after the second abolition date are, where necessary, amended by regulations 29 and 30 to reflect the abolition of contracting-out.

Provisions of the 1996 Regulations which are to continue to apply indefinitely to pension schemes which were contracted-out prior to the second abolition date are re-enacted, with modifications reflecting the abolition of contracting-out, in these Regulations. Part 2 contains provisions relating to all pension schemes which were salary related contracted-out schemes, Part 3 carries forward additional requirements relating to section 9(2B) rights and Part 4 continues additional requirements in relation to guaranteed minimum pensions. “Section 9(2B) rights” are rights attributable to employment which was contracted-out on and after 6th April 1997 under section 9(2B) of the 1993 Act. Guaranteed minimum pensions relate to contracted-out employment before that date where, under scheme rules, the weekly rate of the pension is to be not less than the guaranteed minimum under sections 14 to 16 of the 1993 Act.

In Part 2, regulation 3 imposes limitations on the alteration of scheme rules, regulation 4 deals with correction of errors as to whether an earner was in contracted-out employment, regulation 5 provides for the disclosure of certain information by the Secretary of State and the Commissioners and regulation 6 continues requirements as to the rules of overseas schemes. Regulation 7 provides for restoration of rights in the State scheme where a scheme is insolvent and regulations 8 to 14 carry forward provisions relating to contributions equivalent premiums. Under the savings provisions contained within S.I. 2015/1502, these provisions apply only in relation to schemes which ceased to be contracted-out before the second abolition date and, after 6th April 2019, only in relation to such schemes which are winding up. Regulations 15 and 16 carry forward certain transitional provisions and savings from the 1996 Regulations.

Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Schemes that were Contracted-out) Regulations 2015. (See end of Document for details)

In Part 3, regulation 17 sets out the circumstances in which scheme rules may be altered in relation to section 9(2B) rights and regulation 18 carries forward requirements for the payment of lump sums and commutation of benefits. Regulation 19 governs the circumstances in which section 9(2B) rights may be forfeited.

In Part 4, regulation 20 continues limitations on the alteration of scheme rules in relation to guaranteed minimum pensions and regulations 21 and 22 carry forward requirements as to the payment of pensions to surviving spouses and civil partners. Regulations 23 and 24 deal with revaluation of guaranteed minimum pensions (GMPs) and regulation 25 describes the circumstances in which a lump sum may be paid instead of a pension. Provision as to suspension and forfeiture of guaranteed minimum pensions is carried forward by regulation 26; regulations 27 and 28 deal with conversion of guaranteed minimum pensions into other benefits.

Part 6 carries forward modifications of section 16 in relation to revaluation after transfer from another scheme previously located in the 1996 Regulations, by inserting those provisions into the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462).

Part 7 provides for revocations and savings of the 1996 Regulations. Regulations 62, 66 and 66 of the 1996 Regulations are saved for the purposes of maintaining the current provisions for fixed rate revaluation of GMPs where an earner ceased contracted-out employment before the second abolition date.

Part 8 of these Regulations replicates provisions of Part 2 relating to contributions equivalent premiums for Northern Ireland. Contributions equivalent premiums and rights to return to the state pension scheme are excepted matters under the Northern Ireland Act 1998 (c.47). Regulation 45 reflects for the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (S.R.1996 No.493) revocations of provisions relating to contributions equivalent premiums in the 1996 Regulations by regulation 32.

An analysis of the impact of this legislation has been made as part of the analysis of the Pensions Act 2014. A copy is available in the libraries of both Houses of Parliament. A copy is annexed to the Explanatory Memorandum which is available alongside this instrument on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D, Caxton House, Tothill Street, London SW1H 9NA.

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Schemes that were Contracted-out) Regulations 2015.