
STATUTORY INSTRUMENTS

2015 No. 1677

**The Occupational Pension Schemes (Schemes that
were Contracted-out) (No.2) Regulations 2015**

PART 4

**ADDITIONAL REQUIREMENTS IN RELATION
TO GUARANTEED MINIMUM PENSIONS**

Payment of a lump sum instead of a pension

25.—(1) The scheme may provide for the payment of a lump sum instead of a pension that the scheme is required to provide in accordance with section 13(1) or 17 of the 1993 Act if—

- (a) a guaranteed minimum pension has become payable (but see also paragraph (3)); and
 - (b) the payment of a lump sum is authorised under section 164 of the Finance Act and the payment fulfils the conditions in paragraph (2).
- (2) The conditions are that the payment is—
- (a) permitted by the lump sum rule in section 166 of the Finance Act and qualifies as—
 - (i) a trivial commutation lump sum for the purposes of paragraph 7 of Schedule 29 to that Act; or
 - (ii) a winding-up lump sum for the purposes of paragraph 10 of that Schedule;
 - (b) permitted by the lump sum death benefit rule in section 168 of the Finance Act and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Schedule 29 to that Act; or
 - (c) made by a registered pension scheme (within the meaning of section 150(2) of the Finance Act), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member.
- (3) The condition in paragraph (1)(a) does not apply in cases where—
- (a) the scheme is being wound up or an earner retires before pensionable age;
 - (b) a premium under section 55(2) of the 1993 Act (contributions equivalent premium) has been paid or treated as paid or the scheme has made the provision mentioned in section 16(2) and (3)(2) of the 1993 Act; and
 - (c) the conditions in paragraph (4) are met.
- (4) The conditions are—
- (a) the aggregate amount of the benefits that have accrued to the earner at the date of winding-up or, as the case may be, of the earner's retirement, increased—

(1) Section 13 is amended by paragraph 14 of Schedule 13 to the 2014 Act, and was amended by section 14 of the Pensions Act 2007.

(2) Section 16(3) was amended by paragraph 28(a) of Schedule 5 to the 1995 Act.

- (i) in accordance with section 16(2) and (3) of the 1993 Act; or
- (ii) in a case where section 16(2) and (3) applies, to the amount that would have been payable at pensionable age,

is to be treated as the amount of benefits currently payable to the earner under the scheme;

- (b) in the case of an earner who retires before normal pension age, commutation is not permitted before the date on which benefits become payable to the earner under the scheme's early retirement provisions;
- (c) in cases where the earner is a member of more than one scheme relating to the same employment, all those schemes are being wound up or, as the case may be, the earner is treated by all those schemes as having retired and, in each case, all those schemes have paid a contributions equivalent premium or have made the provisions mentioned in section 16(2) and (3) of the 1993 Act.

(5) Subject to paragraph (6), the scheme may provide for the payment of a lump sum instead of a pension that the scheme is required to provide in accordance with section 13 or 17 of the 1993 Act if the payment—

- (a) is authorised under section 164 of the Finance Act;
- (b) is permitted by the lump sum rule in section 166 of that Act; and
- (c) qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Schedule 29 to that Act.

(6) Where—

- (a) under the scheme, an earner qualifies for a lump sum payment on the ground of serious ill-health; and
- (b) the scheme also provides for the payment of a guaranteed minimum pension to the widow, widower or surviving civil partner of the earner ("a survivor's pension"),

the scheme is to continue to include provision for a survivor's pension notwithstanding the payment of a lump sum to the earner.