
STATUTORY INSTRUMENTS

1996 No. 2131

PENSIONS

The Personal and Occupational Pension Schemes (Preservation of Benefit and Perpetuities) (Amendments) Regulations 1996

<i>Made</i>	- - - -	<i>15th August 1996</i>
<i>Laid before Parliament</i>		<i>21st August 1996</i>
<i>Coming into force</i>	- -	<i>6th April 1997</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 71(6), 73(2) and (4), 74(8), 77(5) and (6), 82(1), 113(1), 153(2)(c), 163(6), 165(6), 168(4), 181(1), 182(2) and (3) of the Pension Schemes Act 1993⁽¹⁾, and of all other powers enabling him in that behalf, the Occupational Pensions Board having agreed that proposals to make these Regulations should not be referred to them⁽²⁾, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal and Occupational Pension Schemes (Preservation of Benefit and Perpetuities) (Amendments) Regulations 1996 and shall come into force on 6th April 1997.

Amendment of the Occupational Pensions Schemes (Preservation of Benefit) Regulations 1991

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991⁽³⁾ are amended in accordance with the following provisions of this regulation.

(2) For regulation 1(3) (interpretation) there is substituted—

“(3) In these Regulations, unless the context otherwise requires—

“the Act” means the Pension Schemes Act 1993⁽⁴⁾;

“the 1995 Act” means the Pensions Act 1995⁽⁵⁾;

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- (1) [1993 c. 48](#); paragraph 21 of Schedule 5 to the Pensions Act 1995 amended section 163(6) by substituting “Secretary of State” for “Occupational Pensions Board”; section 165 was amended by paragraph 68 of that Schedule; section 168 was substituted by section 155 of that Act; section 181(1) is cited because of the meaning given to the words “prescribe” and “regulations”.
- (2) *See* section 185(1) and (6) of the Pension Schemes Act 1993 and section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).
- (3) S.I. [1991/167](#); relevant amending instruments are S.I. [1993/1822](#), [1994/1062](#) and [1995/3067](#).
- (4) [1993 c. 48](#).
- (5) [1995 c. 26](#).

“scheme” means an occupational pension scheme.”.

(3) In regulation 5(1) (short service benefit in lump sum form) the words from “or any other circumstances” to the end are omitted.

(4) In regulation 7 (alternatives to short service benefit) paragraphs (3) and (4) are omitted.

(5) In regulation 9 (bought out benefits) in paragraph (5)(c) for “the Occupational Pensions Board” there is substituted “the trustees or managers of the scheme”.

(6) After regulation 11 there is inserted—

“Further alternative to short service benefit - transfer to an overseas arrangement

11A.—(1) For the purposes of section 73(2) of the Act (alternatives to short service benefit) a scheme may, instead of providing short service benefit, provide for the member’s accrued rights to be transferred, if the member consents, to an overseas arrangement.

(2) For the purposes of paragraph (1) “overseas arrangement” means a scheme or arrangement, other than an occupational pension scheme, which—

- (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;
- (b) is not an appropriate scheme; and
- (c) is administered wholly or primarily outside the United Kingdom.”.

(7) In regulation 12—

(a) in paragraph (2)(b)(ii) for the words from “any of” to the end there is substituted “regulation 64(2) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(6) (meaning of expression “connected employer”).”; and

(b) after paragraph (4A) there is inserted—

“(4B) Where it is proposed that a member’s accrued rights are to be transferred in accordance with this regulation, information about the proposed transfer and details of the value of the rights to be transferred (including rights in respect of death in service benefits and survivors’ benefits) shall be furnished to the member not less than one month before the proposed transfer is due to take place.”.

(8) In regulation 13 (benefits attributable to waiting periods)—

(a) in paragraphs (1)(b) and (2)(c) the words “, in the Occupational Pensions Board’s opinion,” are omitted;

(b) in paragraph (3) for the words from “the Occupational Pensions Board” to the end there is substituted “the waiting period does not exceed 2 years.”.

(9) In regulation 14 (computation of benefit - money purchase benefits) paragraph (4) is omitted.

(10) After regulation 14 there is inserted—

“Circumstances in which uniform accrual does not apply - money purchase benefits

14A.—(1) In the case of a scheme providing money purchase benefits, section 74 of the Act (computation of short service benefit) applies with the following modifications.

(2) In subsection (6) after “it must” there is inserted “, subject to subsection (6A),” and after subsection (6) there is inserted—

“(6A) If the requirements set out in subsection (6B) is satisfied in relation to a scheme, so much of any money purchase benefits provided by the scheme as would otherwise be

required to be computed in accordance with subsection (6) must be computed in accordance with subsection (1).

(6B) The requirement is that, when calculated in relation to a hypothetical member who, at any given age and when in receipt of any given salary from the relevant employment equal to any of the indicative salaries specified in subsection (6C)(b), begins to accrue money purchase benefits in the scheme and continues to do so for a period ending before he attains normal pension age and comprising any given number of years (but not less than 2)—

- (a) in the case of at least 90 per cent. of such hypothetical members the amount of the fund (“F”) which the member could have been expected to accumulate at the end of the period is equal to or more than an amount (“G¹”) calculated in accordance with subsection (6C)(d) and corresponding to a proportion of the fund (“G”) which he could have been expected to accumulate had he continued to accrue money purchase benefits until normal pension age; and
- (b) in the case of all such hypothetical members, F is not less than 90 per cent. of G¹.

(6C) For the purposes of determining whether the requirement set out in subsection (6B) is satisfied—

- (a) F and G shall be calculated in accordance with the contribution structure provided for in the scheme rules, applying the following actuarial assumptions—
 - (i) a rate of gross investment return of 8 per cent. per annum;
 - (ii) a rate of salary escalation of 5¾ per cent. per annum up to normal pension age;
 - (iii) where it is necessary to predict the rate of future price inflation (for example where the contribution structure of the scheme is related to the lower or upper earnings limits) a rate of future price inflation of 3¾ per cent. per annum;
- (b) indicative salaries are—
 - (i) ¾ of the upper earnings limit in force for the date on which the calculation is made;
 - (ii) 1½ times that limit; and
 - (iii) except in cases where more than 90 per cent. of members accruing money purchase benefits in the scheme earn below 3 times that limit, 3 times that limit;
- (c) in calculating F and G there may be disregarded—
 - (i) so much of any benefit as derives from the payment of minimum payments or payments under section 42A(3) (age-related rebates)(7); and
 - (ii) where a scheme provides for members to have the option to increase their contributions after attaining a specified age or completing a specified period of service, so much of any benefit as would accrue at a higher rate if a member exercised that option;
- (d) G¹ shall be calculated in accordance with the following formula—

$$G^1 = G \times (N/NS) \times (1/1.08)^{(NS-N)} \times (1.0375/1.0575)^{(NS-N)}$$

where—

- N = the number of years in the period referred to in subsection (6B); and
- NS = the number of years from the date on which that period commences to the date on which the member attains normal pension age.

(7) Section 42A was inserted by section 137 of the Pensions Act 1995.

(6D) Where a scheme has differing contribution structures each of which relates to a specific category of member (not being a category defined by age or length of service) subsections (6A) to (6C) shall apply to each such category as though the members falling within it were members of a separate scheme.””

(11) In regulation 16 (computation of benefit - uniform accrual) in paragraph (3) for “the Occupational Pensions Board” there is substituted “they”.

(12) Regulation 18 (commutation of benefit) is revoked.

(13) In regulation 20 (deductions from short service benefit)—

(a) in paragraph (2) the words from “The basis for” to the end are omitted;

(b) paragraph (3) is omitted.

(14) In regulation 24 (3)(a) (schemes funded by level annual premiums) the words “, in the Occupational Pensions Board’s opinion,” are omitted.

(15) In regulation 25 (schemes with an overseas element) in paragraph (4)(a) the words “, in the Occupational Pensions Board’s opinion,” are omitted.

(16) Regulation 26 (transfers to overseas schemes) is revoked.

(17) In regulation 27(2) (specific provisions to be included in scheme rules)—

(a) for “may be treated by the Occupational Pensions Board” there is substituted “shall be treated”;

(b) in sub-paragraph (b) for the words from the beginning to “members of the scheme” there is substituted “members and prospective members have been notified”.

(18) After regulation 27 there is inserted—

“Information to be furnished to early leavers

27A.—(1) The trustees or managers of any scheme must furnish in writing the information specified in paragraph (2)—

(a) as of course to any person as soon as practicable and, in any event, within 2 months after he or his employer has notified the trustees that his pensionable service has terminated; and

(b) to any member or prospective member on request (not being a request made less than 12 months after the last occasion on which such information was furnished to him) as soon as practicable and, in any event, within 2 months after he requests it.

(2) The information referred to in paragraph (1) is information as to the rights and options (if any) available to a member whose pensionable service terminates before he attains normal pension age.

(3) The trustees or managers of any scheme must furnish in writing the information specified in paragraph (4) on request (not being a request made—

(a) after such information has already been furnished to the same person in a case where the information was that no refund of contributions would be available in any circumstances; or

(b) less than 12 months after the last occasion on which such information was furnished to the same person, in any other case), to any person who has paid contributions to the scheme which have not been refunded, as soon as practicable and, in any event, within 2 months after he requests it.

(4) The information referred to in paragraph (3) is information as to whether a refund of contributions is available or would be available in any circumstances, and in either case, an estimate of the amount of the refund and an explanation of the method of calculating it.

Offence and penalties

27B. Where a person fails, without reasonable excuse, to comply with any requirement imposed on him by regulation 12(4B)(requirement to provide information regarding a transfer of accrued rights without consent) or 27A, the Occupational Pensions Regulatory Authority may require him to pay, within 28 days, a penalty which—

- (a) in case of an individual, shall not exceed £1, 000; and
- (b) in any other case, shall not exceed £10,000.”.

Amendment of the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990

3. In regulation 5 of the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990⁽⁸⁾ (schemes that cease to qualify under section 163 of the Pension Schemes Act 1993) for “Occupational Pensions Board consider” there is substituted “Secretary of State considers”.

Transitional arrangements - application of uniform accrual to money purchase benefits

4. Where, prior to the coming into force of the amendments made by regulation 2(9) and (10) of these Regulations, short service benefit which would otherwise have been required to be computed in accordance with uniform accrual has been computed on the same basis as long service benefit, in accordance with a determination of the Occupational Pensions Board under regulation 14(4) of The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991, then, until such time as there is a change in the rules of the scheme affecting the rate at which benefits accrue, the scheme may continue to compute short service benefit on that basis.

Signed by authority of the Secretary of State for Social Security.

15th August 1996

MacKay of Ardbrecknish
Minister of State, Department of Social Security

(8) S.I. [1990/1143](#); relevant amending instrument is [1994/1062](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The provisions of these Regulations are either consequential on the Pensions Act 1995, (in particular the provisions of that Act relating to the dissolution of the Occupational Pensions Board (“OPB”)) or made for the purpose of consolidating regulations which are to be revoked.

Regulation 2 amends the Occupational Pension Scheme (Preservation of Benefit) Regulations 1991. It provides for—

- the removal of provision for the OPB to exercise its discretion in certain cases (paragraphs (3), (4), (5), (8), (9), (11), (12), (13), (14), (15), (16) and (17));

- the transfer of rights to an overseas arrangement to be an alternative to short service benefit (paragraph (6));

- a test to determine whether uniform accrual is to be applied in relation to money purchase benefits (paragraph (10));

- requirements (formerly in the Occupational Pension Schemes (Disclosure of Information) Regulations 1986) (S.I.1986/1046) for members to be furnished with information in relation to any transfer of accrued rights without consent or in relation to rights on termination of pensionable service (paragraphs (7) and (18));

- a civil penalty for failure to comply with the requirements to provide such information (paragraph (18)).

Regulation 3 amends regulation 5 of Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990 in relation to the extension of the time limit under that regulation, by substituting a reference to the Secretary of State for a reference to the OPB.

Regulation 4 is a transitional provision relating to cases where the OPB has given its approval for uniform accrual not to be applied in relation to the computation of money purchase benefits.

These Regulations do not impose any costs on business.