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 STATUTORY INSTRUMENTS
 

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1984 No. 614

## PENSIONS

**The Occupational Pension Schemes (Preservation of Benefit)  
Regulations 1984**

*Made* - - - - 25th April 1984

*Laid before Parliament* 9th May 1984

*Coming into Operation* 30th May 1984

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**SCHEDULE**  
**REVOCATIONS**

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 51(5) and (10) and 99(1) and (3) of, and paragraphs 5(1), 6(5), 9(1), (2) and (3), 12(2), 13(5), 15(4) and 20 to 26 of Schedule 16 to, the Social Security Act 1973<sup>(a)</sup> and section 6(4) of the National Insurance Act 1974<sup>(b)</sup>, and of all other powers enabling him in that behalf, and for the purpose only of consolidating the regulations hereby revoked, hereby makes the following regulations:—

*Citation, commencement and interpretation*

1.— (1) These regulations may be cited as the Occupational Pension Schemes (Preservation of Benefit) Regulations 1984, and shall come into operation on 30th May 1984.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1973 and “Schedule 16” means Schedule 16 to the Act;

“the Board” means the Occupational Pensions Board;

“centralised scheme” means a scheme for whose benefits earners in employments under different employers qualify by virtue of their respective service in those employments;

“non-centralised scheme” means a scheme which is not a centralised scheme;

“the Pensions Act” means the Social Security Pensions Act 1975<sup>(c)</sup>;

“qualifying service”, in relation to a scheme, and except in the expression “linked qualifying service”, includes pensionable service under the scheme and linked qualifying service under another scheme;

and other expressions have the same meanings as in the Act, or as in Schedule 16, as the case may be.

(3) Except so far as the context otherwise requires, any reference—

(a) in these regulations to a numbered regulation is to the regulation in these regulations bearing that number;

(b) in a regulation to a numbered or lettered paragraph is to the paragraph of that regulation bearing that number or letter;

(c) in a paragraph to a lettered sub-paragraph is to the sub-paragraph of that paragraph bearing that letter.

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(a) 1973 c. 38.  
(b) 1974 c. 14.  
(c) 1975 c. 60.

*Meaning of expressions "member", "prospective member" and "employer" in relation to a scheme*

2.— (1) The following provisions of this regulation shall apply for the purposes of section 63 of and Schedule 16 to the Act (requirements relating to preservation of benefit).

(2) Any person is to be regarded as a member of a scheme during, or at any time after, a period when his service in relevant employment is or was such that at the time when it is or was given it either—

- (a) qualifies or qualified him for benefits (in the form of a pension or otherwise, payable on the termination of his service otherwise than by his death, or on his retirement or his death thereafter) under the scheme which in the opinion of the Board are or were referable to that period; or
- (b) is or was certain so to qualify him subsequently if it continues or continued for a sufficiently long time and the rules of the scheme and the terms of his contract of service remain or remained unaltered during that time.

(3) There are to be regarded as prospective members of a scheme any persons in relevant employment who are not members but—

- (a) who, by virtue of the terms of their contracts of service, are able to become members at their own option or the option of any other person; or
- (b) who, by virtue of the terms of their contracts of service, will become so able, if their service in relevant employment continues for a sufficiently long time and the terms of their contracts of service remain unaltered during that time; or
- (c) who, by virtue of the rules of the scheme or the terms of their contracts of service, will become members in any event, if their service in relevant employment continues for a sufficiently long time and the rules of the scheme or, as the case may be, the terms of their contracts of service remain unaltered during that time.

(4) Any person, government department, public authority or body of persons who, under Part I of the Social Security Act 1975(a) is, or is to be treated as, the secondary Class 1 contributor shall be treated as the employer of the earner in respect of whom the Class 1 contributions are payable.

(5) Without prejudice to paragraph (4), there shall be treated as the employer of a self-employed earner to whom a scheme applies any person (other than that self-employed earner), government department, public authority or body of persons who makes or is to make payments towards the resources of that scheme in respect of that self-employed earner (either under actual or contingent legal obligation or in the exercise of a power conferred, or duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money).

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(a) 1975 c. 14.

*Meaning of “relevant employment” in relation to certain schemes*

3. In the case of a scheme which is so framed as to apply to some, but not all, of the service in an employment, the preservation requirements shall be so modified as to have effect as if the definition of “relevant employment” in paragraph 2 of Schedule 16, in relation to such a scheme, were “any employment with an employer who contributes or is liable to contribute to the resources of the scheme, or with any successor to such an employer”.

*Circumstances in which increase of benefit or additional benefit constitutes “supplementary credits”*

4. For the purposes of paragraph 5(1)(c) of Schedule 16 (circumstances in which increase of benefit constitutes “supplementary credits”), the prescribed circumstances shall be that a member of a scheme, in consequence of any provision made by or under the scheme after he becomes a member of it, becomes entitled, before the termination of his pensionable service in relation to that scheme, to any increase of benefit or additional benefit which is of an amount or at a rate unrelated to length of pensionable service or to the number or amount of contributions paid by or for the member.

*Short service benefit in lump sum form*

5. For the purposes of paragraph 6(5) of Schedule 16 (short service benefit in lump sum form not to be paid before normal pension age except in prescribed circumstances) the prescribed circumstances shall be—

- (a) that the member’s earning capacity is destroyed or seriously impaired by physical or mental deterioration; or
- (b) such other circumstances as the Board may consider suitable.

*Means of assuring short service benefit*

6. For the purposes of paragraph 9(1) of Schedule 16 (short service benefit to be payable directly out of the resources of a scheme or to be assured by such means as may be prescribed) a policy of insurance taken out, or an annuity contract entered into, with either—

- (a) an insurance company to which Part II of the Insurance Companies Act 1982(a) applies and which is authorised under section 3 or 4 of that Act to carry on ordinary long-term insurance business as defined in that Act, or
- (b) a friendly society enabled under regulations made under section 71(1) of the Act or article 67 of the Social Security Pensions (Northern Ireland) Order 1975(b) to conduct such business as is described in that section or that article,

shall be a prescribed means of assuring short service benefit.

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(a) 1982 c. 50.

(b) S.I. 1975/1503 (N.I. 15).

*Computation of benefit—general*

7.— (1) A scheme which provides for long service benefit to be related to a member's earnings during a period of a specified length shall provide for the short service benefit of a member whose total pensionable service is less than that length to be correspondingly related to his earnings throughout his pensionable service.

(2) In a case where—

(a) short service benefit falls to be calculated in accordance with paragraph 11 (uniform accrual) of Schedule 16, and

(b) a lump sum is paid as mentioned in regulation 12(1)(c), (d), (e)(i) or (e)(ii) in substitution for part of that benefit,

any remaining short service benefit shall be calculated in accordance with paragraph 11 of Schedule 16, so however that the period in respect of which the lump sum is paid shall be left out of account in calculating the length of the first period (but not the second period) mentioned in that paragraph.

(3) A scheme may, for the purposes of the calculations mentioned in paragraph 11 of Schedule 16, reckon both the periods mentioned in that paragraph (or neither, but not only one) to the nearest, next highest or next lowest calendar month.

(4) A scheme may, for the purposes of the calculations mentioned in paragraph 13(2)(b) of Schedule 16, reckon both the periods mentioned in that paragraph (or neither, but not only one) to the nearest, next highest or next lowest calendar month.

(5) For the purpose of computing short service benefit under paragraph 11 (uniform accrual) of Schedule 16, it shall be assumed that the member's earnings would have remained constant during the time between the termination of his pensionable service and his attaining normal pension age; and the trustees or managers of the scheme may make such assumptions about—

(a) the level at which they would have remained constant;

(b) the dates of declaration and rates of bonuses; and

(c) the value of, and rate of interest on, securities,

during that time as the Board may consider reasonable.

*Computation of benefit in cases of waiting periods*

8. In a case where—

(a) long service benefit does not accrue to a member during a period ("the waiting period") at the beginning of his pensionable service; and

(b) in the opinion of the Board a specific part of long service benefit is referable to that period,

for the purpose of computing short service benefit that part of long service benefit shall be deemed not to consist of supplementary credits but to have accrued, or to be accruing, at such a rate as to accrue in full over the whole of the waiting period, so however that if that rate is lower than the rate at which the remainder of long service benefit accrues, paragraph 10(1) of Schedule 16

shall apply where the Board consider it appropriate notwithstanding that otherwise paragraph 11 would have applied.

*Computation of benefit in money purchase and analogous schemes*

9.— (1) This regulation applies to money purchase schemes (that is to say, schemes which provide benefits the amount or rate of which is calculated by reference to contributions paid from time to time by the member, or by his employer in respect of him, and to the member's age at the time when contributions are paid) and to other schemes which the Board consider appropriate to be treated as analogous to money purchase schemes.

(2) In the case of schemes to which this regulation applies, the preservation requirements shall be so modified that paragraph 10(1) of Schedule 16 shall apply where the Board consider it appropriate notwithstanding that otherwise paragraph 11 would have applied.

(3) In the case of schemes to which this regulation applies, where—

(a) short service benefit falls to be calculated under paragraph 10(1) of Schedule 16; and

(b) long service benefit is related to bonuses which have been declared at or before the time when the member attains normal pension age,

short service benefit must be correspondingly related to bonuses which have been declared at or before the time when the member's pensionable service is terminated.

(4) In the case of schemes to which this regulation applies, where—

(a) short service benefit falls to be calculated under paragraph 10(1) of Schedule 16; and

(b) long service benefit is related to the value of securities at, or in a specified period before, the time when the member attains normal pension age,

short service benefit must be correspondingly related to the value of securities at, or in the same period before, either the time when the member's pensionable service is terminated or (if the trustees or managers of the scheme so decide before, or not more than one month after, the member's pensionable service is terminated) the time when the benefit becomes payable.

*Deductions from short service benefit*

10.— (1) Where a scheme provides that in computing the amount of long service benefit payable to a member a deduction shall be made, either on account of benefit payable to that member under the Social Security Act 1975(a) or otherwise, any corresponding provision in relation to short service benefit shall be permissible only if the basis on which the amount of the deduction is computed is such as the Board may consider reasonable having regard to all the circumstances of the case.

(2) This regulation does not apply to any deduction made in computing

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(a) 1975 c. 14.

short service benefit pursuant to a right of charge or lien on, or set-off against, such benefit which is permitted by paragraph 18 of Schedule 16.

*Commutation of benefit*

11.— (1) For the purposes of paragraph 15(4) of Schedule 16 (short service benefit and any alternative benefit permitted under regulation 12 not to be commuted except in prescribed circumstances) the prescribed circumstances shall be those described in paragraphs (2) and (3).

(2) In the case of benefit for the member, the prescribed circumstances shall be—

- (a) that the aggregate of that benefit and all other benefits currently or prospectively payable to him under all schemes relating to employment with the same employer as the employment in respect of which that benefit is payable does not exceed £104 per annum, and either the scheme is being wound up, or that benefit has become payable, or
- (b) that the benefit has become payable and the commutation is at the member's option, and—
  - (i) he has attained the age of 50, or
  - (ii) his earning capacity is destroyed or seriously impaired by physical or mental deterioration, or
- (c) such other circumstances as the Board consider suitable.

(3) In the case of benefit for a member's widow or dependant, the prescribed circumstances shall be—

- (a) that the aggregate of that benefit and all other benefits currently or prospectively payable to that widow or dependant (excluding any which may be or become payable to her or him as a member) under all schemes relating to employment with the same employer as the employment in respect of which that benefit is payable does not exceed £104 per annum; and
- (b) that either the benefit has become payable or the benefit payable to the member is being commuted (as mentioned in paragraph (2)(a)) at the same time.

(4) For the purpose of calculating the aggregate of the benefits mentioned in paragraphs (2)(a) and (3)(a), there shall be substituted for the amount of any benefit which is in lump sum form the annual amount of a benefit in pension form which is its equivalent in the opinion of the trustees or managers of the scheme in question.

*Alternatives to short service benefit*

12.— (1) The prescribed alternatives to short service benefit for the purposes of paragraph 9(2) of Schedule 16 shall be the following benefits, where payable to the same member (or his wife, widow or dependant) as the one to whom (or to whose wife, widow or dependant) the short service benefit would have been payable:—

- (a) a benefit smaller than that which would be required to constitute short service benefit, becoming payable earlier than at normal pension age—

- (i) where the member has attained the age of 50, or
  - (ii) where the member's earning capacity is destroyed or seriously impaired by physical or mental deterioration, or
  - (iii) in such other circumstances as the Board may consider suitable;
- (b) a benefit larger than that which would be required to constitute short service benefit, becoming payable later than at normal pension age;
- (c) subject to the provisions of regulation 14, the payment, at any time after the termination of the service in relevant employment, of a lump sum (whether or not being or including a payment by way of refund of contributions) in respect of any period of qualifying service before 6th April 1975;
- (d) subject to the provisions of regulation 14, the payment, at any time after the termination of the service in the relevant employment, of a lump sum in respect of any period of qualifying service after 5th April 1975, in the following circumstances, namely—
- (i) that a payment under sub-paragraph (c) is being or has been made to the member in question under the scheme in question,
  - (ii) that if the lump sum in respect of the period after 5th April 1975 is or includes a payment by way of refund of contributions, so also is or does the lump sum in respect of the period before 6th April 1975, and
  - (iii) that the duration of the period described in paragraph (2) or, as the case may be, the aggregate duration of the periods described in paragraph (3) is less than 5 years, so however that for the purposes of this calculation no period shall be counted more than once;
- (e) benefits under an insurance policy or annuity contract made with such an insurance company or such a friendly society as is mentioned in regulation 6, different from those required to constitute short service benefit, so however that such benefit shall not consist of or include a lump sum payable earlier than normal pension age, except—
- (i) where the lump sum is paid in respect of a period of pensionable service before 6th April 1975, or
  - (ii) where the lump sum is paid in respect of a period of pensionable service after 5th April 1975 in the circumstances mentioned in sub-paragraph (d), or
  - (iii) where the member has attained the age of 50, or
  - (iv) where the member's earning capacity is destroyed or seriously impaired by physical or mental deterioration, or
  - (v) in such other circumstances as the Board may consider suitable; and
- (f) any other alternative to short service benefit which complies with paragraph 9(4) of Schedule 16 and is in the opinion of the Board a suitable means of maintaining the provision of benefits in relation to a particular scheme or category of schemes.
- (2) The period referred to in paragraph (1)(d)(iii) of this regulation, where the scheme in question is a centralised scheme, is any period after 5th April



1975 during which the member was in qualifying service in relation to the scheme in question.

(3) The periods referred to in paragraph (1)(d)(iii) of this regulation, where the scheme in question is a non-centralised scheme, are—

- (a) any period before 6th April 1975 during which the member in question was in qualifying service relevant to another non-centralised scheme (not being a scheme which, by virtue of regulation 15, was not required to provide short service benefit for or in respect of that member in respect of that period) which applied to the same employment as the scheme in question, no payment being or having been made under paragraph (1)(c) under that scheme in respect of that service; and
- (b) any period after 5th April 1975 during which the member was in qualifying service in relation to the scheme in question or another non-centralised scheme applying to the same employment as the scheme in question.

(4) A scheme rule may make provision—

- (a) in any case where the Board consider it reasonable for such provision to be made, for any of the alternatives mentioned in paragraph (1)(a)(ii), (e) or (f) to be substituted for short service benefit without the member's consent;
- (b) for the alternative specified in paragraph 9(2)(a) of Schedule 16 (transfer of member's accrued rights to another scheme) to be provided by way of substitute for short service benefit without the member's consent in any case where (without prejudice to regulation 19(2))—
  - (i) by virtue of regulation 32(b) of the Occupational Pension Schemes (Contracting-out) Regulations 1984(a) provision is made in the scheme for the member's accrued rights to requisite benefits to be transferred to another scheme without his consent; and
  - (ii) in the opinion of the trustees or managers of the scheme from which the transfer is made, the transfer credits acquired by the member under the other scheme are at least equal in value to the rights transferred.

*Interpretation of expressions in regulations 14 to 16*

13.— (1) In regulations 14 to 16, the expression “the payment of a lump sum by way of a refund of contributions” means the payment of a lump sum to or in respect of a member of a scheme which is made under a provision made by that scheme, the amount of the lump sum being equal to the amount of the member's contributions to one or more schemes in respect of a particular period or periods; and for the purpose of deciding whether these amounts are equal there shall be disregarded any addition made to the latter amount in respect of interest, and any deduction made from it in order to do any or all of the following, namely—

- (a) to pay taxes arising out of the member's participation in the scheme or

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(a) S.I. 1984/380.

schemes to which he contributed;

- (b) to reflect the cost of life insurance premiums paid or other provision made for benefits payable in the event of the member's death;
- (c) to provide equivalent pension benefits for the purposes of the National Insurance Act 1965(a) and the previous corresponding enactments;
- (d) to pay sums which are payable under section 60(1) of the National Insurance Act 1965 as continued in force and modified by the National Insurance (Non-participation—Transitional Provisions) Regulations 1974(b), to persons liable for payments in lieu of contributions.

(2) In regulation 14, the expression “the period in respect of which the contributions were made” means the period or periods in respect of which the contributions referred to in paragraph (1) were made by the member to the scheme or schemes in question, and any period or periods in respect of which he would have been required to make contributions to that scheme or any of those schemes but for the fact that—

- (a) his contributions were waived by the trustees or managers of the scheme; or
- (b) he was excused from making contributions under a specific provision in the rules of the scheme (other than a provision relating to a period at the beginning of a member's pensionable service during which long service benefit does not accrue to him).

*Refunds of contributions and extinguishment of benefits*

14. The payment of a lump sum by way of a refund of contributions shall be a prescribed alternative to the following descriptions of short service benefit (and no others), namely—

- (a) short service benefit (excluding any transfer credits or bonus credits) in respect of the period in respect of which the contributions were made;
- (b) short service benefit consisting of bonus credits which were awarded by reference to the period in respect of which the contributions were made;
- (c) short service benefit consisting of bonus credits which were awarded by reference to any period of service which was not pensionable service in relation to any scheme applying to employment with either—
  - (i) the same employer as the one to whose employment of the person in question the scheme under whose provisions the lump sum is paid applies, or
  - (ii) his predecessor,

but only to the extent that, applying the assumptions mentioned in paragraph 13(3) of Schedule 16, the credits accrued during the period in respect of which the contributions were made;

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(a) 1965 c. 51; the relevant provisions were repealed by the Social Security Act 1973 (c. 38) but continued in force by S.I. 1974/2057.

(b) S.I. 1974/2057, amended by S.I. 1983/118.

- (d) in a case where the period of service the termination of which gave rise to the payment of the lump sum included a waiting period within the meaning of regulation 8, short service benefit which is deemed in accordance with regulation 8 to accrue over, or short service benefit which consists of bonus credits awarded by reference to, the whole, or part or parts, of the waiting period, but only if—
- (i) the total duration of the waiting period is less than 5 years,
  - (ii) during the period or periods over which that short service benefit was so deemed to accrue or (as the case may be) by reference to which it was awarded, any member of the scheme in question to whom long service benefit was (apart from regulation 8) accruing was required to contribute to it, except in the circumstances referred to in regulation 13(2)(a) and (b), and
  - (iii) the lump sum is by way of a refund of all the member's contributions (and for the purpose of deciding whether it is or not there shall be disregarded any such addition or deduction as is mentioned in regulation 13(1)) in respect of the period of service the termination of which gave rise to the payment of the lump sum; and
- (e) short service benefit consisting of transfer credits, where and to the extent that, in the opinion of the trustees or managers of the scheme under whose provisions the lump sum is paid—
- (i) the member is entitled to that benefit by virtue of having been entitled to benefit under another scheme (whether or not the scheme from which the member's accrued rights were transferred into the scheme under whose provisions the lump sum is paid), and
  - (ii) a lump sum by way of a refund of contributions, if it had been paid under the provisions of that other scheme, would have been a prescribed alternative under the foregoing provisions of this paragraph to the benefit to which he was entitled under that other scheme (assuming, if it is not so, that that benefit was short service benefit).

*Special provision for schemes to which no contributions are made by a particular member*

**15.—** (1) This regulation applies to cases where—

- (a) a person is a member of 2 or more schemes relating to the same employment;
- (b) payment of a lump sum by way of a refund of contributions made to one of the schemes (referred to in paragraph (2) as “the contributory scheme”) is made as an alternative to the provision of short service benefit; and
- (c) that person has made no contributions to the other schemes, or to at least one of the others if there are more than one (the scheme or schemes to which he has made no contributions being referred to in paragraph (2) as “the non-contributory scheme”).

(2) In a case to which this regulation applies, the preservation requirements shall apply subject to the exception that there need not be provided for that person—

- (a) short service benefit of any of the descriptions specified in paragraphs (a) to (c) of regulation 14, or
- (b) short service benefit in respect of any period or periods which was, or were, in relation to that person and his membership of the contributory scheme, a waiting period or part or parts thereof within the meaning of regulation 8, but only if the conditions specified in regulation 14(d) are fulfilled,

under the non-contributory scheme, or short service benefit under any scheme to the extent that it would consist of transfer credits allowed, in the opinion of the trustees or managers of the latter scheme, by reference to that person's rights under the non-contributory scheme to short service benefit of the descriptions specified in sub-paragraphs (a) and (b).

*Bonus credits to be extinguished in certain cases of refunds*

**16.**— (1) This regulation applies to cases where—

- (a) a person is a member of 2 or more schemes relating to the same employment; and
- (b) payment of a lump sum by way of a refund of contributions is made under a provision of one of the schemes as an alternative to the provision of short service benefit.

(2) In a case to which this regulation applies, the preservation requirements shall apply subject to the exception that the other scheme or schemes need not provide for the inclusion in short service benefit of any bonus credits to which that person has become entitled to the extent that those credits were awarded by reference to any period of service which coincided with the whole or any part of—

- (a) the period in respect of which the contributions were made; and
- (b) if the conditions specified in regulation 14(d) are fulfilled, a period which was, in relation to that person and his membership of the scheme under the provisions of which the lump sum is paid, a waiting period within the meaning of regulation 8.

*Termination of service*

**17.**— (1) For the purposes of Part I of Schedule 16 and subject to the provisions of this regulation, a person's service in any employment is to be treated as terminated when his contract of service expires or is terminated, or, in a case where there is no contract, when the service itself ends.

(2) When a person is successively in a series of employments in the circumstances set out in paragraph (3), his service in each of those employments except the last shall (except so far as is provided by paragraph (5)) be treated as terminated when, and not until, either of the following events occurs—

- (a) his service in the last of those employments is treated as terminated under paragraph (1); or
- (b) his service in any subsequent employment in the series is treated as

terminated for the purpose of the application of Part I of Schedule 16 to a non-centralised scheme under paragraph (5).

- (3) The circumstances referred to in paragraph (2) are that—
- (a) every 2 consecutive employments in the series are either—
    - (i) employments with the same employer, or
    - (ii) employments with an employer and his successor, or
    - (iii) relevant employment in relation to the same scheme; and
  - (b) there is between every 2 consecutive employments in the series either—
    - (i) no interval, or
    - (ii) an interval not exceeding one month, or
    - (iii) an interval of any length if it is between 2 employments both of which are relevant employment in relation to the same centralised scheme, and when the interval begins the member has 5 years' qualifying service in relation to that scheme, subject to paragraph (4), or
    - (iv) an interval of any length if it is between 2 employments the second of which results from the exercise of a right to return to work under section 45(1) of the Employment Protection (Consolidation) Act 1978(a) (right to return to work following pregnancy or confinement).

(4) In reckoning the 5 years' qualifying service for the purposes of paragraph (3)(b)(iii), there shall be excluded any period of service if all the member's accrued rights in respect of that period have been either—

- (a) transferred to another scheme, or
- (b) satisfied by the payment of a lump sum.

- (5) In a case where—
- (a) a person's service in an employment has included service in relation to both a non-centralised scheme and a centralised scheme; and
  - (b) while the centralised scheme continues to apply his contract of service expires or is terminated, or, in a case where there is no contract, the service itself ends; and
  - (c) the contract is not renewed (or, as the case may be, the service resumed) with the same employer or his successor—
    - (i) immediately, or
    - (ii) after an interval not exceeding one month, or
    - (iii) pursuant to the exercise of a right to return to work under section 45(1) of the Employment Protection (Consolidation) Act 1978,

then for the purpose of the application of Part I of Schedule 16 to the non-centralised scheme the service shall then be treated as terminated.

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(a) 1978 c. 44.

*More than one scheme applying to the same or related employment*

**18.**— (1) Where an earner has been employed in pensionable service under different non-centralised schemes relating to employment with the same employer or with an employer and his successor, paragraphs (2) and (3) shall apply for the purpose of deciding whether each of those schemes must provide for him to be entitled to short service benefit under paragraph 6(1) of Schedule 16.

(2) Without prejudice to paragraph 7(2) of Schedule 16, but subject to paragraph (3), paragraph 7(1) of Schedule 16 shall apply subject to the modification that the words “the scheme” are to be treated as including a series of non-centralised schemes of which—

- (a) one is the scheme in question, and
- (b) every 2 consecutive schemes in the series have applied (not necessarily at the same time, and whether or not they applied to other employments) to—
  - (i) a single employment of the earner, or
  - (ii) 2 employments of him by the same employer, or
  - (iii) 2 employments of him by an employer and his successor respectively.

(3) No period during which the earner is employed in service under or by reference to 2 or more schemes concurrently shall be counted more than once.

(4) In cases where the rules of a scheme or the terms of a member’s contract of service provide that on attaining a specified age or length of service he must become a member of another scheme in addition to or instead of the first scheme, the preservation requirements shall be modified so that for the purposes of computing the benefit payable to or in respect of that member the 2 schemes are treated as one scheme with a normal pension age of whichever is the lower of the normal pension ages of the 2 schemes.

(5) In cases where a person is a member of 2 or more schemes relating to employment with the same employer or with an employer and his successor or successors, and under the rules of one of those schemes the person is entitled to transfer credits by reference to a transfer to that scheme of his accrued rights from another of those schemes, and the transfer credits are greater in value than those accrued rights, short service benefit shall be computed under paragraph 13(3) of Schedule 16 as if the difference in value between those credits and those rights were a bonus credit awarded on the date when the transfer was made.

*Preservation of benefit on winding up of schemes*

**19.**— (1) With a view to securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member’s benefit in the event of the scheme being wound up, paragraph 6(1) of Schedule 16 shall be so modified as to require schemes to make the same provision for that event as for the termination before normal pension age of a member’s service in relevant employment, subject to paragraph (2).

- (2) In a case where a scheme is being wound up—
- (a) the member's consent shall not be required to the transfer of his accrued rights to another scheme relating to—
    - (i) the same employment, or
    - (ii) another employment with the same employer or his successor, with a view to the acquisition for him of transfer credits under that other scheme; and
  - (b) regulation 12(1)(c), (d) and (e)(i) and (ii) shall not apply.

*Schemes funded by level annual premiums*

20.— (1) In the case of a scheme which on 6th April 1974 was of the description set out in paragraph (4) and has not, in the opinion of the Board, been materially altered since that date, the preservation requirements shall apply subject to the modification set out in paragraph (5).

(2) In the following paragraphs of this regulation the expression “policy” means a policy of insurance or an annuity contract, so however that any agreement to increase the benefit assured is to be treated as a separate policy of insurance or annuity contract, as the case may be; and the word “premium” includes any payment analogous to a premium made or to be made in relation to any means of assuring benefit as a consideration for the assurance of that benefit.

(3) For the purposes of paragraph (1), where the evidence of the existence of a scheme on 6th April 1974 consists of or includes the payment of a premium, the Board shall not be required to treat that scheme as materially altered by reason only of its being set out in a written document after that date.

- (4) A scheme is of the description mentioned in paragraph (1) if—
- (a) the benefit it provides for each member is related to his earnings at a specified time or over a specified period not being longer than 5 years;
  - (b) the benefit is assured by means of one or more policies;
  - (c) each policy provides in respect of each member separate assurance, the proceeds of which are to go to that member at least to the extent that they are not greater than the benefits to which he is entitled at normal pension age; and
  - (d) the premium payable under each policy in respect of each member is payable at least annually, and the amount of it (expressed as an annual rate) remains unchanged except in consequence of—
    - (i) the declaration of a bonus, or
    - (ii) a change in the premium rate of the insurer.

(5) The modification of the preservation requirements referred to in paragraph (1) is that the short service benefit provided by the scheme for or in respect of each member who was in qualifying service in relation to that scheme before 6th April 1975 shall be whichever is the greater of—

- (a) the total benefit payable to or in respect of that member, in accordance with the terms of the policy or policies, on the basis that no further

premiums are to fall due after the date on which his service in relevant employment is terminated; and

- (b) the aggregate of—
  - (i) the benefits which respectively bear the same ratio to the benefits (excluding any bonuses) which would have been payable to or in respect of him in accordance with the terms of each policy if his service in relevant employment had been terminated when he attained normal pension age, as the number of premiums which have fallen due in respect of each policy does to the number of premiums which would have fallen due if that service had been terminated when he attained that age, and
  - (ii) any bonuses declared before that service was terminated.

*Application of preservation requirements to schemes with an overseas element*

**21.**— (1) This regulation applies to any scheme which has any overseas element, that is to say, a scheme established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined in its operation to the United Kingdom.

(2) In the case of a scheme to which this regulation applies, Part I of Schedule 16 shall be so modified that the preservation requirements do not apply to that scheme unless—

- (a) at least one of its members is employed in the United Kingdom in employment to which the scheme relates; and
- (b) either the scheme is established in the United Kingdom or it has a representative appointed to carry out the functions of a trustee or manager in the United Kingdom.

(3) In the case of a scheme to which this regulation applies and in respect of which conditions (a) and (b) in paragraph (2) are fulfilled, paragraph 6(1) of Schedule 16 shall be so modified that the scheme must provide short service benefit only where a member's service in relevant employment is terminated before normal pension age and, when it is terminated—

- (a) he has attained the age of 26;
- (b) he has at least 5 years' qualifying service; and
- (c) either that employment is in the United Kingdom, or, if it is not, the most recent payment of earnings to him in respect of it gave rise to liability for primary Class 1 contributions or would have done so had the level of his earnings not been below the lower earnings limit.

*Transfers of accrued rights to schemes overseas*

**22.** A scheme may, instead of providing short service benefit, provide for a transfer of accrued rights (such as is mentioned in paragraph 9(2)(a) of Schedule 16) to another scheme which is administered primarily or wholly outside the United Kingdom only if that other scheme is one which is approved (whether or not subject to conditions) for the purpose of this regulation by the Board.



*Interim trust deeds and other interim arrangements*

23. The Board may decide that a scheme conforms with the preservation requirements (notwithstanding that it is one which they would otherwise treat as not conforming) if it is set up or amended under an interim trust deed or other interim arrangement, and—

- (a) if the trust deed or other document giving interim effect to the scheme contains a requirement that the trustees or managers shall operate the scheme in conformity with those requirements; and
- (b) if in the opinion of the Board adequate steps have been taken to notify employees of the general purport of the proposed permanent scheme rules on the matters mentioned in regulation 27(a).

*Widows and dependants*

24. Schemes which provide long service benefit payable to a member's widow or dependant (being, as the case may be, a wife to whom he was married or a person who was dependent upon him when he attained normal pension age) shall be required to provide short service benefit payable to a member's widow or dependant who was (as the case may be) a wife to whom he was married or a person who was dependent upon him both when his pensionable service terminated and when he attained normal pension age.

*Qualifying service in relation to which preservation requirements apply*

25. With a view to securing the orderly implementation of the provisions of section 63 of the Act, paragraph 6(1) of Schedule 16 shall be modified so that it applies only where a member is or has been in qualifying service after 5th April 1975 in relation to either the scheme in question or another scheme which applies or applied to—

- (a) the employment which is relevant employment in relation to the scheme in question; or
- (b) employment with the same employer as that employment; or
- (c) employment with that employer's successor.

*Value of benefits to compare reasonably with contributions*

26.— (1) In a case such as is described in paragraph (2), the preservation requirements shall apply with the modification described in paragraph (3).

(2) The case mentioned in paragraph (1) of this regulation is a case where—

- (a) a member of a scheme is liable under its terms to contribute towards the provision of any of its benefits; and
- (b) the scheme does not increase the short service benefit payable to or in respect of the member between the date on which his service in relevant employment is terminated and the date as from which the benefit becomes payable either—
  - (i) at a rate of not less than 3 per cent a year compound, or
  - (ii) in such a manner that the Board are satisfied that, taking one year with another, any person who may become entitled to payment of

- the benefit is likely to be protected to the same extent as he would have been if it had been increased at a rate of not less than 3 per cent a year compound, or
- (iii) at a rate which appears to the Board to correspond with that adopted in relation to official pensions under section 59 of the Pensions Act; and
- (c) the scheme does not give the member an option to receive either—
- (i) such lump sums as are mentioned in regulation 12(1)(c) and (d), or
  - (ii) such lump sums as are mentioned in regulation 12(1)(e)(i) and (ii).
- (3) The modification of the preservation requirements mentioned in paragraph (1) is that when the member becomes entitled to short service benefit the value of at least one of the benefits specified in paragraph (4) must, to the reasonable satisfaction of the trustees or managers of the scheme, exceed or compare reasonably with the amount contributed by him, in accordance with the terms of the scheme, towards the provision of benefits (less any amount so contributed which has been refunded to him).
- (4) The benefits mentioned in paragraph (3) are—
- (a) the short service benefit provided by the scheme for the member; and
  - (b) an alternative to short service benefit provided by the scheme as mentioned in regulation 12(1)(a), (b), (e) or (f) and available to the member.

*Scheme rules to make express provision for certain matters*

27. A scheme is not to be treated as conforming with the preservation requirements unless it contains express rules giving effect to (but not necessarily in the words of)—

- (a) the following paragraphs of Schedule 16, to the extent to which they apply to the scheme in question—
  - (i) paragraph 6(1) (basic principle of qualification),
  - (ii) paragraph 6(2) and (3) (age or time at which short service benefit is payable),
  - (iii) paragraphs 10 to 12 (computation of benefit),
  - (iv) paragraph 13 (computation of credits), and
  - (v) paragraph 14 (pension increases); and
- (b) regulation 26(3) and (4), in a case such as is described in regulation 26(2).

*Revocations*

28. The regulations specified in column 1 of the Schedule hereto are revoked to the extent mentioned in column 3 of that Schedule.

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

*Rhodes Boyson,*  
Minister of State,

25th April 1984.

Department of Health and Social Security.

## SCHEDULE

Regulation 28.

## REVOCATIONS

Column 1 <i>Regulations revoked</i>	Column 2 <i>References</i>	Column 3 <i>Extent of revocation</i>
The Occupational Pension Schemes (Preservation of Benefit) Regulations 1973	S.I. 1973/1469	The whole of the regulations.
The Occupational Pension Schemes (Preservation of Benefit) (No. 2) Regulations 1973	S.I. 1973/1784	The whole of the regulations.
The Occupational Pension Schemes (Preservation of Benefit) Amendment Regulations 1974	S.I. 1974/1324	The whole of the regulations.
The Occupational Pension Schemes (Preservation of Benefit) Amendment Regulations 1976	S.I. 1976/140	The whole of the regulations.
The Occupational Pension Schemes (Preservation of Benefit) Amendment Regulations 1977	S.I. 1977/1187	The whole of the regulations.
The Contracting-out and Preservation (Further Provisions) Regulations 1978	S.I. 1978/1089	The whole of the regulations.
The Contracting-out and Preservation (Further Provisions) Regulations 1981	S.I. 1981/129	Regulation 6.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations consolidate the regulations hitherto in force relating to the preservation of benefits under occupational pension schemes for early leavers, and relate to the "preservation requirements" set out in Schedule 16 to the Social Security Act 1973.

They make provision about short service benefit in lump sum form (regulation 5), means of assuring short service benefit (regulation 6), computation of benefit (regulations 7 to 10), commutation of benefit (regulation 11), alternatives to short service benefit (regulation 12), payments of lump sums by way of refund of contributions (regulations 13 to 16), termination of service (regulation 17), more than one scheme applying to the same employment (regulation 18), winding up of schemes (regulation 19), schemes funded by level annual premiums (regulation 20), overseas schemes (regulations 21 and 22), interim trust deeds and other interim arrangements (regulation 23), widows and dependants (regulation 24), service to which the preservation requirements apply (regulation 25), value of benefits in relation to contributions (regulation 26), and the matters about which scheme rules are required to make express provision (regulation 27).

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