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 STATUTORY INSTRUMENTS
 

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## 1985 No. 1930

## PENSIONS

**The Occupational Pension Schemes (Revaluation) Regulations  
1985**

<i>Made - - - -</i>	10th December 1985
<i>Laid before Parliament</i>	11th December 1985
<i>Coming into Operation</i>	1st January 1986

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 168(1) of, and Schedule 20 to, the Social Security Act 1975 (a) and section 35(8) of, and paragraphs 5(4) and 20 of Schedule 1A to, the Social Security Pensions Act 1975 (b) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Occupational Pensions Schemes (Revaluation) Regulations 1985 and shall come into operation on 1st January 1986.

(2) In these regulations—

“scheme” means an occupational pension scheme within the meaning of section 66(1) of the Social Security Pensions Act 1975;

“normal pension age”, “pensionable service”, “5 years’ qualifying service” and “short service benefit” have the meanings given to them by Schedule 16 to the Social Security Act 1973 (c) and regulations made thereunder.

(3) Except so far as the context otherwise requires, any reference in these regulations to a numbered paragraph is to the paragraph of Schedule 1A to the Social Security Pensions Act 1975 bearing that number.

*Cases where normal pension age is earlier than 60*

2. In their application to a member of a scheme whose normal pension age is earlier than 60, paragraphs 1(2)(a) and 2(2)(a) shall have effect as if the references in them to the day or date on which he attains normal pension age were references to the day or date on which, under the rules of the scheme, he is to become entitled to payment of short service benefit.

*Benefit calculated in more than one way*

3.—(1) In a case where the total benefit payable to or in respect of a member of a scheme consists partly of a component to which any one of

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- (a) 1975 c.14. See definitions of “prescribe” and “regulations” in Schedule 20. Section 168(1) applies, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c.60), to the exercise of certain powers conferred by that Act.
- (b) 1975 c.60; section 35(8) was amended by section 4 of, and paragraph 8 of Schedule 3 to, the Social Security Act 1985 (c.53), and Schedule 1A was added by section 2 of, and Schedule 1 to, that Act.
- (c) 1973 c.38.

paragraphs 2 to 5 applies, and partly of a component or components to which another or others of those paragraphs applies or apply, and at least one of those components falls (by virtue of paragraph 3(3)(b) or 4(3)(b) or otherwise) to be revalued under paragraph 2, that paragraph shall be so modified that—

- (a) for the purpose of revaluing any of those components which consists of an average salary benefit;
- (b) for the purpose of revaluing any of those components which consists of a flat rate benefit; and
- (c) for the purpose of revaluing any of those components to which none of paragraphs 3 to 5 applies,

B, C and D shall be ascertained by reference only to that component and the pensionable service which qualified the member for that component.

(2) In a case where a scheme provides for the benefit payable to be the higher of 2 benefits or the highest of 3 or more benefits, to which more than one of paragraphs 2 to 5 apply, the paragraphs in question shall be so modified as to require the benefit payable to be the higher or highest, as the case may be, of those benefits (including, in a case where the commencement of payment date, within the meaning of section 41A of the Social Security Pensions Act 1975 (a), has been reached, any excess such as is mentioned in subsection (1)(c) of that section), as revalued each according to the paragraph that applies to it.

(3) In a case where a scheme provides for the benefit payable to be the lower of 2 benefits or the lowest of 3 or more benefits, to which more than one of paragraphs 2 to 5 apply, the paragraphs in question shall be so modified as to require the benefit payable to be the lower or lowest, as the case may be, of those benefits (including, in a case where the commencement of payment date, within the meaning of section 41A of the Social Security Pensions Act 1975, has been reached, any excess such as is mentioned in subsection (1)(c) of that section), as revalued each according to the paragraph that applies to it.

*Administrative expenses in relation to money purchase benefits*

4. The trustees or managers of a scheme may, when providing a pension or other retirement benefit under paragraph 5(3), deduct a sum which does not exceed—

- (a) the actual administrative expenses of doing so, or, if it is less,
- (b) the amount of the administrative expenses which would have been incurred in providing a money purchase benefit for the same member if his pensionable service had not terminated before normal pension age.

*Schemes which provide widowers' benefits*

5. In its application to schemes which provide benefits for widowers, paragraph 7(4)(b) shall be so modified as to have effect as if—

- (a) it applied to schemes which are, as well as to schemes which are not, contracted-out; and
- (b) in the paragraph added to section 41C(3) (b) of the Social Security Pensions Act 1975 the word “widow” were construed as meaning

(a) Section 41A was inserted into the Social Security Pensions Act 1975 by section 20 of, and Schedule 6 to, the Health and Social Security Act 1984 (c.48).

(b) Section 41C was inserted into the Social Security Pensions Act 1975 by section 20 of, and Schedule 6 to, the Health and Social Security Act 1984.

“widow or widower”, and the words “her” and “she” were construed accordingly.

*Schemes which provide benefits after less than 5 years' qualifying service*

6. In the case of a scheme which provides benefits for or in respect of a member notwithstanding that his pensionable service terminates when he has less than 5 years' qualifying service, paragraph 7(3) shall be so modified as to include within the meaning of “protected provision” any provision contained in the scheme which would be so contained only by virtue of paragraph 9(2), 15(2), (3) or (4), 16(2), (3) or (4), 17(2) or 18 of Schedule 16 to the Social Security Act 1973 if paragraph 6(1)(b) of that Schedule had effect with the substitution of a reference to the service which the member has when his pensionable service terminates for the reference to 5 years' qualifying service.

*Schemes which provide benefit equal to or larger than short service benefit for certain members before normal pension age*

7. In a case where—

- (a) under the provisions of a scheme a benefit equal to or larger than that which would be required to constitute short service benefit may be payable earlier than at normal pension age to or in respect of a member who has left relevant employment; and
- (b) such a benefit is payable from a date earlier than that of his attainment of normal pension age to such a member at his request or by his consent,

paragraphs 1 and 2 shall be so modified as to require that the benefit payable from that date consist of the actuarial equivalent (calculated to the reasonable satisfaction of the trustees or managers of the scheme) of the benefit which would have been payable by virtue of those paragraphs if it had been payable only from normal pension age.

*Commutation, surrender and forfeiture*

8. Paragraph 9 shall not apply—

- (a) to commutation in the case of a scheme which provides for the revaluation, in accordance with the provisions of paragraphs 1 to 8 and 10, of the lump sum to which the whole or part of a pension is commuted; or
- (b) to forfeiture in the case of a scheme which provides for forfeiture to apply to a fraction of a benefit calculated as at the date on which it becomes payable; or
- (c) to surrender in the case of a scheme which provides for the revaluation, in accordance with the provisions of paragraphs 1 to 8 and 10, of the pension which is provided in exchange for the whole or part of a pension which is surrendered.

*Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1984*

9. The Occupational Pension Schemes (Contracting-out) Regulations 1984 (a) shall be amended by the insertion, after regulation 33, of the following regulation:-

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(a) S.I. 1984/380, to which there are amendments not relevant to these regulations.

*“Special provision for revaluation of guaranteed minimum pensions secured by insurance policies or annuity contracts*

33A. A scheme may make provision under section 35(7) (exclusion of guaranteed minimum pension from revaluation under section 21) for the case of those of its members whose requisite benefits are appropriately secured within the meaning of section 52C(4), notwithstanding that it makes no such provision for any other case.”

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

*Tony Newton,*  
Minister of State,  
Department of Health  
and Social Security.

10th December 1985.

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#### EXPLANATORY NOTE

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

These regulations are all made under either section 35(8) of, or Schedule 1A to, the Social Security Pensions Act 1975 and are made before the expiry of the period of 6 months beginning with the commencement (on 1st January 1986) of sections 2 and 4 (so far as it relates to Part II of Schedule 3) of the Social Security Act 1985. Consequently, by virtue of section 26(1)(a) and (e) of the Social Security Act 1985, the provisions of section 61(2) and (3) of the Social Security Pensions Act 1975 (which require reference to the Occupational Pensions Board of, and a report by the Board on, proposals to make regulations for certain purposes of that Act) do not apply to them.

Regulations 2, 3 and 5 to 8 modify the provisions of Part I (revaluation of pensions) of Schedule 1A to the Social Security Pensions Act 1975 in their application to particular cases. Regulation 4 makes provision for the deduction of administrative expenses in relation to the revaluation of money purchase benefits.

Regulation 9 amends the Occupational Pension Schemes (Contracting-out) Regulations 1984 by inserting a new regulation which enables a contracted-out scheme to include a provision for the revaluation by a fixed percentage of the guaranteed minimum pensions of those of its members whose requisite benefits are secured by means of an appropriate policy of insurance or annuity contract, even though it makes no such provision for its other members.



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