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STATUTORY INSTRUMENTS

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**1993 No. 1822**

**PENSIONS**

**The Occupational Pension Schemes (Preservation of Benefit) Amendment Regulations 1993**

<i>Made</i>	- - - -	<i>21st July 1993</i>
<i>Laid before Parliament</i>		<i>27th July 1993</i>
<i>Coming into force</i>	- -	<i>1st September 1993</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 96(2) and (3) and 99(1) and (3) of, and paragraphs 9(2) and (3) of Schedule 16 to, the Social Security Act 1973(1), and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the proposals submitted to them(2), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Preservation of Benefit) Amendment Regulations 1993.

(2) These Regulations shall come into force on 1st September 1993.

(3) In these Regulations “the principal Regulations” means the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(3).

**Amendment of regulation 12 of the principal Regulations**

2. Regulation 12 of the principal Regulations shall be amended as follows—

(a) by substituting for paragraphs (3) and (4) the following paragraphs—

“(3) The condition set out in this paragraph is that an actuary certifies to the trustees or managers of the transferring scheme that—

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(1) 1973 c. 38. See the definition of “prescribed” in section 99(1) and the explanation of “regulations” in section 99(3). Schedule 16 has been amended and modified. Relevant amendments and modifications were made by the Social Security Act 1985 (c. 53) Schedule 5, paragraph 3, which inserted a new sub-paragraph (2A) in paragraph 9 of Schedule 16; by the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116), regulation 4(4), which modified paragraph 9(2)(a) of Schedule 16 and by the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1990 (S.I. 1990/1141), regulation 7(3), which substituted new wording for that modification.

(2) See section 68(1) of the Social Security Act 1973.

(3) S.I. 1991/167, to which there are amendments not relevant to these Regulations.

- (a) the transfer credits to be acquired for each member under the receiving scheme are, broadly, no less favourable than the rights to be transferred; and
- (b) where it is the established custom for discretionary benefits or increases in benefits to be awarded under the transferring scheme, there is good cause to believe that the award of discretionary benefits or increases in benefits under the receiving scheme will (making allowance for any amount by which transfer credits under the receiving scheme are more favourable than the rights to be transferred) be, broadly no less favourable.

(4) For the purposes of paragraph (3)(a), where long service benefit in the transferring scheme is related to a member's earnings at, or in a specified period before, the time when he attains normal pension age then, in the case of a member in pensionable service at the date of transfer, the value of the rights to be transferred shall be based on pensionable service (including any transfer credits) in the transferring scheme up to that date and projected final pensionable earnings.

(4A) For the purposes of paragraph (3)(b), the actuary shall, in considering whether there is good cause, have regard to all the circumstances of the case and in particular—

- (a) to any established custom of the receiving scheme with regard to the provision of discretionary benefits or increases in benefits; and
  - (b) to any announcements made with regard to the provision of such benefits under the receiving scheme.”;
- (b) in paragraph (5) the word “and” where it appears following the definition of “actuary” and the definition of “the applicable rules” shall be omitted.

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

21st July 1993

*William Hague*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 by substituting new paragraphs (3), (4) and (4A) for paragraphs (3) and (4) of regulation 12 and by making a consequential deletion from paragraph (5) of that regulation.

The new paragraphs vary the condition subject to which an actuary may certify that there may be a bulk transfer of members from one scheme to another without their consent. The principal change relates to the treatment, by the new scheme, of benefits that were discretionary in the transferring scheme.

The report of the Occupational Pensions Board on the draft of these Regulations which was referred to them, together with a statement showing that the Regulations give effect in substance to the Board's recommendations, are contained in Command Paper No. 2284 published by Her Majesty's Stationery Office.

These Regulations do not impose a charge on business.