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STATUTORY INSTRUMENTS

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**1999 No. 3198**

**PENSIONS**

**The Personal and Occupational Pension Schemes  
(Miscellaneous Amendments) Regulations 1999**

*Made* - - - - *30th November 1999*  
*Laid before Parliament* *2nd December 1999*  
*Coming into force* - - *30th December 1999*

The Secretary of State for Social Security, in exercise of powers conferred by sections 7(2), 9(2B), (2C), (3) and (6)(a), 10(2), 11(5), 12C(1)(a) and (b), 19(4) and (5), 28(2), 113, 168(4), 181, and 182(1) to (3) of the Pension Schemes Act 1993<sup>M1</sup> and sections 17(4), 19(4), 21(4), 47(9), 49(1), 50(3), 58(2), 59(1), 67(5), 73(7), 75(10), 87(3), 88(1), 124(1) and 174(1) to (3) of the Pensions Act 1995<sup>M2</sup>, and of all other powers enabling him in that behalf, having consulted such persons as he considered appropriate<sup>M3</sup>, hereby makes the following Regulations:

**Marginal Citations**

- M1** 1993 c.48; section 9 was amended by sections 136(3) and (4), 151 and 177 of, paragraphs 18, 21 and 24 of Schedule 5 to, and Part III of Schedule 7 to, the [Pensions Act 1995 \(c.26\)](#) and by section 1(1) of, and paragraph 35 of Schedule 1 to, the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#). Section 12C was inserted by section 136(5) of the Pensions Act 1995. Section 181 is cited for the meanings given to “prescribe” and “regulations”.
- M2** 1995 c.26; section 124(1) is cited for the meanings given to “prescribed” and “regulations”.
- M3** See section 185(1) of the Pension Schemes Act 1993 (as amended by paragraph 46 of Schedule 3, paragraph 80 of Schedule 5, and Part I of Schedule 7, to the Pensions Act 1995) and section 120 of the Pensions Act 1995.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1999 and shall come into force on 30th December 1999.

(2) In these Regulations, “the Disclosure Regulations” means the Occupational Pension Schemes (Disclosure of Information) Regulations 1996<sup>M4</sup>.

**Marginal Citations**

**M4** [S.I. 1996/1655](#); [regulation 4\(2\)](#) (relevant to paragraph 26 of Schedule 1) was amended by [S.I. 1997/3038](#).

**Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996**

2. In the Contracting-out (Transfer and Transfer Payment) Regulations 1996 <sup>M5</sup> in regulation 1(2) (interpretation) in the definition of “section 9(2B) rights”, in paragraph (b)(ii) delete “contracted-out”.

**Marginal Citations**

**M5** [S.I. 1996/1462](#); the definition of “section 9(2B) rights” was substituted by [S.I. 1997/786](#).

**Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996**

3.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996 <sup>M6</sup> shall have effect with the following amendments.

(2) In regulation 1(2) (interpretation)—

(a) in the definition of “overseas scheme” after “the United Kingdom” insert “; but does not include a scheme which is contracted-out in the Isle of Man by virtue of satisfying section 9(2) or (3) of the 1993 Act as it has effect in the Isle of Man <sup>M7</sup>”;

(b) in the definition of “section 9(2B) rights”, in paragraph (b)(ii) delete “contracted-out”.

(3) In regulation 12 (special provision for holding companies and subsidiaries) in paragraph (2) (c) for “an employer in the scheme which is” substitute “a body corporate which is an employer in the scheme and is”.

(4) In regulation 48 (special provision for overseas schemes) in paragraph (7) for “any members who are resident in Great Britain” substitute “rights which have accrued as a result of contracted-out employment in the scheme in Great Britain”.

**Marginal Citations**

**M6** [S.I. 1996/1172](#); [S.I. 1997/786](#) substituted the definition of “section 9(2B) rights” and amended regulation 48.

**M7** See Article 3 of, and the Schedule to, the Pension Schemes Act 1993 (Application) Order 1995, Statutory Document No. 531/95, which applies (with modifications) section 9 of the [Pension Schemes Act 1993 \(c.48\)](#) to the Isle of Man; and see Article 3(1)(b) of, and Schedule 1 to, the Pensions Act 1995 (Application) Order 1997, Statutory Document No. 501/97, which applies to the Isle of Man the amendments to that section 9 in section 136 of the [Pensions Act 1995 \(c.26\)](#).

**Amendment of the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996**

4.—(1) The Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996 <sup>M8</sup> shall have effect with the following amendments.

(2) In regulation 5(3)(b) (former employers) for “and has been paid before the applicable time;” substitute—

“and–

- (i) has been paid before the applicable time, or
- (ii) if not so paid, was not so paid solely because he was not notified of the debt, and of the amount of it, sufficiently in advance of the applicable time for it to be paid before the applicable time;”.
- (3) In regulation 6(2)(b) (ceasing to participate: transitional provision) for “and has been paid before the applicable time;” substitute–

“and–

- (i) has been paid before the applicable time, or
- (ii) if not so paid, was not so paid solely because he was not notified of the debt, and of the amount of it, sufficiently in advance of the applicable time for it to be paid before the applicable time;”.

**Marginal Citations**

**M8** [S.I. 1996/3128](#), to which there are amendments not relevant to these Regulations.

**Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996**

5.—(1) The Disclosure Regulations <sup>M9</sup> shall have effect with the following amendments.

(2) In regulation 5(5) (information to be made available to individuals) for “within 9 months of the end of the first scheme year” to the end substitute “within 12 months of the end of each scheme year.”.

(3) In regulation 11(1) (penalties) after “to (12)” insert “, 5(14)”.

(4) In paragraph 26 of Schedule 1–

(a) after “is available” insert “at any time”;

(b) for “in connection with” to the end substitute–

“in connection with any–

(a) pensions query they may have; or

(b) difficulty which they have failed to resolve with the trustees or administrators of the scheme,

and the address at which OPAS may be contacted.”.

**Marginal Citations**

**M9** [S.I. 1996/1655](#); [regulation 4\(2\)](#) (relevant to paragraph 26 of Schedule 1) was amended by [S.I. 1997/3038](#).

**Amendment of the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996**

6.—(1) The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 <sup>M10</sup> shall have effect with the following amendments.

(2) In regulation 5(2) (notice of a decision)–

(a) after sub-paragraph (c) delete “and”;

(b) after sub-paragraph (d) insert–

*Changes to legislation: There are currently no known outstanding effects for the The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1999. (See end of Document for details)*

“and

(e) a statement that OPAS (The Pensions Advisory Service) is available to assist members and beneficiaries of the scheme in connection with any difficulty with the scheme which remains unresolved and the address at which OPAS may be contacted.”.

(3) In regulation 7(2)(d) (notice of decision from trustees or managers)–

(a) for “difficulties” to “scheme” substitute “any difficulty with the scheme which remains unresolved”;

(b) for “it” substitute “OPAS”.

**Marginal Citations**

**M10** [S.I. 1996/1270](#).

**Amendment of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996**

**F17.** .....

**F1** [Reg. 7](#) revoked (6.4.2006) by [Occupational Pension Schemes \(Member-nominated Trustees and Directors\) Regulations 2006 \(S.I. 2006/714\)](#), regs. 1(1), 6, **Schs.** Table

**Amendment of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996**

**F28.** .....

**F2** [Reg. 8](#) revoked (30.12.2005) by [The Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(S.I. 2005/3377\)](#), regs. 1, 21, **Schs. 5** (with Sch. 4)

**Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations 1996**

**F39.** .....

**F3** [Reg. 9](#) revoked (6.4.2006) by [Occupational Pension Schemes \(Modification of Schemes\) Regulations 2006 \(S.I. 2006/759\)](#), regs. 1(2), 9, **Schs.**

**Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996**

**10.**—(1) The Occupational Pension Schemes (Scheme Administration) Regulations 1996 <sup>M11</sup> shall have effect with the following amendments.

(2) For regulation 5(10) (manner and terms of appointment and removal of professional advisers) substitute–

“(10) Where a statement or declaration is made in accordance with paragraph (4) or (7), the trustees or managers shall–

- (a) furnish the remaining auditor or actuary to the scheme with a copy of the statement or declaration no later than 14 days after the trustees or managers receive it; and
- (b) furnish the succeeding auditor or actuary with a copy of the statement or declaration—
  - (i) no later than 14 days after the date on which the trustees or managers receive it; or
  - (ii) no later than the date of the succeeding auditor's or actuary's appointment, whichever is the later."
- (3) In regulation 11 (exemption from the requirement for money to be kept by the trustees)—
  - (a) in paragraph (1)(a)—
    - (i) for "a separate" substitute "an";
    - (ii) after "that person" insert "and separate from one held by or on behalf of the employer as employer";
  - (b) in paragraph (1)(b) for "a separate account" to the end substitute—
    - "an account—
    - (i) kept by them at any of the institutions specified in paragraphs 1 to 6 of Schedule 2 to the Banking Act 1987 <sup>M12</sup>;
    - (ii) separate from one held by or on behalf of the employer as employer; and
    - (iii) in which the money received by them is to be held."
- (4) In regulation 19(1) (requirements which a payment schedule must satisfy) in sub-paragraph (a)—
  - (a) after "amounts" insert "prescribed in regulation 18";
  - (b) after "year;" insert "and".
- (5) In regulation 21 (circumstances where notice of non-payment of any amount payable to a scheme need not be given) insert the following paragraph—
  - "(3) Notice need not be given under regulation 20(a) if—
    - (a) payment has been made no later than 10 days after the due date; and
    - (b) the default is only the first or second such default in the period of 12 months ending on and including the due date."

#### **Marginal Citations**

**M11** S.I. 1996/1715, to which there are amendments not relevant to these Regulations.

**M12** 1987 c.22; paragraph 6 was amended by section 120(2) of, and Part I of Schedule 22 to, the [Friendly Societies Act 1992 \(c.40\)](#).

### **Amendment of the Occupational Pension Schemes (Winding Up) Regulations 1996**

**11.** In regulation 3 of the Occupational Pension Schemes (Winding Up) Regulations 1996 <sup>M13</sup> (modifications of s.73(3))—

- (a) in paragraph (1)(c) for "modification" substitute "modifications";
- (b) for paragraph (7) substitute—
  - "(7) In—
    - (a) section 73(3)(d) after "paragraphs" insert "(aa),"; and

- (b) the words following section 73(3)(d) for “paragraphs (b) to (d)” substitute “paragraphs (aa) to (d)”.

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**Marginal Citations**

**M13** [S.I. 1996/3126](#), to which there are amendments not relevant to these Regulations.

**Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996**

**12.** In the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 <sup>M14</sup> in regulation 1(2) (interpretation) in the definition of “section 9(2B) rights”, in paragraph (b)(ii) delete “contracted-out”.

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**Marginal Citations**

**M14** [S.I. 1996/1537](#); the definition of “section 9(2B) rights” was substituted by [S.I. 1997/786](#).

**Amendment of the Protected Rights (Transfer Payment) Regulations 1996**

**13.** In the Protected Rights (Transfer Payment) Regulations 1996 <sup>M15</sup> in regulation 1(2) (interpretation) in the definition of “section 9(2B) rights”, in paragraph (b)(ii) delete “contracted-out”.

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**Marginal Citations**

**M15** [S.I. 1996/1461](#); the definition of “section 9(2B) rights” was substituted by [S.I. 1997/786](#).

**Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997**

**14.**—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations 1997 <sup>M16</sup> shall have effect with the following amendments.

(2) In regulation 1(2) (interpretation) in the definition of “the 1995 Act” for “Pension” substitute “Pensions”.

(3) In regulation 4(1)(b) (conditions on which policies of insurance and annuity contracts may be commuted) for “, and the earner—” to the end substitute—

“, and the earner—

(i) has attained the age of 50, or

(ii) is suffering from an incapacity or serious ill-health prior to normal pension age, and the commutation would not prevent approval of the scheme under section 591 of the Income and Corporation Taxes Act 1988 <sup>M17</sup> (discretionary approval), or continuing approval of the scheme under section 590 (conditions for approval of retirement benefit schemes) or 591 of that Act.”.

(4) For regulation 11(5) substitute—

“(5) For the purposes of paragraph 3(d)—

“incapacity” means physical or mental deterioration which is sufficiently serious to prevent a person from following his normal employment or which seriously impairs his earning capacity;

“serious ill-health” has the same meaning as in regulation 4(4).”.

**Marginal Citations**

**M16** S.I. 1997/784.

**M17** 1988 c.1.

**Transitional provision**

**15.**—(1) Nothing in regulation 5, or in the Disclosure Regulations as amended by regulation 5(4), shall require the information specified in paragraph 26 of Schedule 1 to those Regulations as amended by regulation 5(4) to be supplied to a person or trade union if the condition in paragraph (2) is met.

(2) The condition referred to in paragraph (1) is that, at the date of commencement of these Regulations, the information specified in that paragraph 26 as in force immediately prior to commencement of these Regulations has already been supplied to that person or trade union in compliance with regulation 4 or 8, as the case may be, of the Disclosure Regulations in relation to the event or circumstances which would, apart from this regulation, give rise to a requirement for such compliance.

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

*Jeff Rooker*  
Minister of State,  
Department of Social Security

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## EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of sets of regulations related to the Pension Schemes Act 1993 and the Pensions Act 1995.

Regulation 1 relates to citation, commencement and interpretation.

Regulations 2 to 14 contain miscellaneous amendments to the following sets of regulations, the—

Contracting-out (Transfer and Transfer Payment) Regulations 1996

Occupational Pension Schemes (Contracting-out) Regulations 1996

Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996

Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (“the Disclosure Regulations”)

Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996

Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996

Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations)

Regulations 1996

Occupational Pension Schemes (Modification of Schemes) Regulations 1996

Occupational Pension Schemes (Scheme Administration) Regulations 1996

Occupational Pension Schemes (Winding Up) Regulations 1996

Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

Protected Rights (Transfer Payment) Regulations 1996

Occupational Pension Schemes (Discharge of Liability) Regulations 1997

Regulations 2 to 14 include amendments which—

clarify the position of schemes contracted-out in the Isle of Man within the UK contracting-out regime;

clarify the definition of “section 9(2B) rights”;

provide for an additional case where, even if a debt (which arose when they ceased to be employers in relation to the scheme) is unpaid, former employers of a multi-employer scheme are not liable for debts arising at a later applicable time. This will apply where the sole reason the debt was not paid is that the employer was not informed of it in time;

require complainants to be reminded of the existence of OPAS (the Pensions Advisory Service) earlier in the complaints procedure;

extend the exemption to section 67 of the Pensions Act 1995;

allow some flexibility in reporting to the Occupational Pensions Regulatory Authority late payment of contributions;

Regulation 15 is a transitional provision to ensure that the amendment in regulation 5(4) does not result in schemes having to comply afresh with regulation 4 or 8 of the Disclosure Regulations simply due to that amendment.



**Changes to legislation:**

There are currently no known outstanding effects for the The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1999.