

**2000 No. 679**

**PENSIONS**

**The Occupational Pension Schemes (Miscellaneous  
Amendments) Regulations 2000**

<i>Made</i>	- - -	<i>8th March 2000</i>
<i>Laid before Parliament</i>		<i>13th March 2000</i>
<i>Coming into force</i>		<i>3rd April 2000</i>

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 49(8) and (9)(b), 59(1), 88(1), 124(1) and 174(2)(b) of the Pensions Act 1995(a) and of all other powers enabling him in that behalf, having consulted such persons as he considered appropriate(b), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2000 and shall come into force on 3rd April 2000.

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

2.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations 1996(c) shall have effect with the following amendments.

(2) In regulation 16 (prescribed time in which an employer must make payments to trustees or managers), for “section 49(8)(b)” substitute “section 49(8)”.

(3) After regulation 16 (prescribed time in which an employer must make payments to trustees or managers) insert—

**“Time limits for giving notice to the Authority and to the member and circumstances in which such notice need not be given**

**16A.**—(1) Subject to paragraph (2), where an amount corresponding to any contribution payable on behalf of an active member of an occupational pension scheme is deducted from that member’s earnings in respect of any employment and is not paid to the trustees or managers of the scheme within the period of 19 days commencing from the end of the month in which the deduction is made, the trustees or managers of the scheme shall give notice of such default—

- (a) to the Authority before the end of the period of 30 days commencing with the day following the 19th day of that period, unless payment has been made before the end of the period of 10 days commencing with the day following that 19th day and the default is only the first or second default by that employer under section 49(8) of the 1995 Act in the period of 12 months ending with that 19th day; and
- (b) to the member before the end of the period of 90 days commencing with the day following that 19th day, unless payment has been made before the end of the period of 60 days commencing with the day following that 19th day.

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(a) 1995 c. 26. Section 10 of the Welfare Reform and Pensions Act 1999 (c. 30) substituted for section 49(8) new subsections (8) to (13). Section 124(1) is cited for the meaning given to “prescribed” and “regulations”.

(b) See section 120 of the Pensions Act 1995.

(c) S.I. 1996/1715. The relevant amending instruments are S.I. 1997/786 and S.I. 1999/3198.

- (2) No notice need be given under paragraph (1)–
- (a) where the scheme is exempt from the requirement to secure the preparation, maintenance and revision of a payment schedule for the purposes of section 87(1) of the 1995 Act by virtue of regulation 17;
  - (b) where the scheme is exempt from the requirement to secure the preparation, maintenance and revision of a schedule of contributions for the purposes of section 58(1) of the 1995 Act–
    - (i) by virtue of any of sub-paragraphs (a) to (e) or (g) to (i) of regulation 28(1) of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996<sup>(a)</sup>, or
    - (ii) by virtue of being a scheme the only benefits provided by which are death benefits, and under the provisions of which no member has accrued rights; or
  - (c) in respect of a failure to make a payment of any voluntary contribution to the trustees or managers of the scheme.”.
- (4) After regulation 21(3) (circumstances where notice of non-payment of any amount payable to a scheme need not be given) insert–
- “(4) Where, under section 49(9)(b) of the 1995 Act, there is a requirement on the trustees or managers to give notice of a failure to pay within a prescribed time an amount corresponding to any contribution payable on behalf of an active member which has been deducted from the member’s earnings, the trustees or managers shall not be required to give notice of a failure to pay such amount by the due date for the purposes of subsection (1) of section 88 of that Act, in a case to which that subsection would otherwise apply.”.

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

3.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 shall have effect with the following amendments.

- (2) In regulation 23 (failure to pay contributions due under schedule of contributions)–
- (a) in paragraph (1), for the words “A notice,”, substitute the words “Subject to paragraph (4), a notice”;
  - (b) after paragraph (3) insert–

“(4) Where, under section 49(9)(b) there is a requirement on the trustees or managers to give notice of a failure to pay within a prescribed time an amount corresponding to any contribution payable on behalf of an active member which has been deducted from the member’s earnings, the trustees or managers shall not be required to give notice of a failure to pay such amount by the due date for the purposes of subsection (1) section 59 of that Act, in a case to which that subsection would otherwise apply.”.

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

8th March 2000

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

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(a) S.I. 1996/1536. The relevant amending instruments are S.I. 1997/3038 and S.I. 1999/3198.

## **EXPLANATORY NOTE**

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

These Regulations amend two sets of regulations related to the Pensions Act 1995 pursuant to section 10 of the Welfare Reform and Pensions Act 1999, replacing section 49(8) of the 1995 Act with new subsections (8) to (13). Like the earlier section 49(8), these subsections are concerned with the regulation of payments by employers to occupational pension schemes. However, whereas previously an employer was liable to a criminal penalty if he breached the requirement that deductions from an employee's earnings in respect of contributions to an occupational pension scheme be paid to the trustees or managers within a prescribed period, the substituted provisions give the Occupational Pensions Regulatory Authority (OPRA) the power to impose a civil sanction for breach of that requirement. A person found guilty of the fraudulent evasion of the obligation to make timely payment, will though, remain liable to a criminal penalty.

Regulation 1 is concerned with citation and commencement.

Regulation 2 inserts a new regulation 16A in the Occupational Pension Schemes (Scheme Administration) Regulations 1996 providing for the period within which a deduction from earnings is to be paid to trustees or managers, laying down the time limits within which the trustees or managers must give notice of a breach of that requirement to OPRA and the member, and specifying the circumstances in which such notice need not be given. It also inserts in those Regulations a new regulation 21(4) which prevents the trustees or managers of a money purchase scheme from being subject to a double reporting requirement in respect of a breach of the obligation to make timely payment to schemes of any contributions deducted from a member's earnings.

Regulation 3 amends the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 so as, similarly, to avoid the trustees or managers of a salary related scheme being subject to such a double reporting requirement.

These Regulations do not impose any costs on business.

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