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STATUTORY INSTRUMENTS

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**2004 No. 1140**

**PENSIONS**

**The Occupational Pension Schemes (Winding Up) (Amendment) Regulations 2004**

<i>Made</i>	- - - -	<i>15th April 2004</i>
<i>Laid before Parliament</i>		<i>19th April 2004</i>
<i>Coming into force</i>	- -	<i>10th May 2004</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 97(1), 181(1) and 182(2) of the Pension Schemes Act 1993<sup>(1)</sup>, and sections 73(7), 124(1), and (3E) and 174(2) of the Pensions Act 1995<sup>(2)</sup>, and all other powers enabling him in that behalf, having consulted with such persons as he considered appropriate<sup>(3)</sup>, hereby makes the following Regulations:

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Winding Up) (Amendment) Regulations 2004 and shall come into force on 10th May 2004.

(2) In these Regulations—

- (a) “the 1996 Regulations” means the Occupational Pension Schemes (Winding Up) Regulations 1996<sup>(4)</sup>;
- (b) “the transitional period” has the meaning given in regulation 3(2) of the 1996 Regulations;
- (c) the time when a scheme begins to be wound up shall be determined in accordance with regulation 2 of the 1996 Regulations.

(3) The revocations made by regulation 2 and the amendments of the 1996 Regulations made by regulation 3 of these Regulations have effect only in relation to occupational pension schemes which begin to be wound up on or after the date on which these Regulations come into force and before the end of the transitional period.

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(1) 1993 c. 48. Section 181(1) is cited because of the meaning there given to ‘prescribe’ and ‘regulations’.  
(2) 1995 c. 26. Section 124(1) is cited because of the meaning there given to ‘prescribed’ and ‘regulations’. Section 124(3E) was inserted by section 49(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19).  
(3) See section 120(1) of the Pensions Act 1995.  
(4) S.I. 1996/3126. Relevant amending instruments are S.I. 1999/3198 and S.I. 2000/2691.

## Revocations

2. In relation to such schemes as are mentioned in regulation 1(3)—
- (a) regulation 3(5) of the 1996 Regulations is hereby revoked;
  - (b) regulation 3(3) of the Pension Sharing (Consequential and Miscellaneous) Amendments Regulations 2000 is hereby revoked;

and accordingly section 73(3)(c) of the Pensions Act 1995 has effect as amended only by section 38(1) of the Welfare Reform and Pensions Act 1999<sup>(5)</sup>.

## Amendment of the 1996 Regulations

3. In relation to such schemes as are mentioned in regulation 1(3), regulation 3 of the 1996 Regulations (modifications of section 73(3) of the Pensions Act 1995) is amended as follows—

- (a) by substituting for paragraph (1)(b)—
  - “(b) in the case of a scheme which begins to be wound up on or after 10 May 2004 and before the expiry of the transitional period, subject to the modifications in paragraphs (5A) to (6).”;
- (b) by inserting the following paragraphs after paragraph (4)—
  - “(5A) In paragraph (d) of section 73(3), for “(b) and (c)” there shall be substituted “(aa) and (b).”
  - (5B) After that paragraph there is inserted—
    - “(e) any liability for increases to pensions referred to in paragraph (c).”.
- (c) by substituting for paragraph (6)—
  - “(6) In the words following paragraph (e) of section 73(3) as inserted by paragraph (5B) for the words “paragraphs (b) to (d)” there shall be substituted the words “paragraphs (aa) to (e).”.
- (d) by substituting for paragraph (8)—
  - “(8) In the case of any scheme to which section 73(3) applies with the modifications mentioned in paragraphs (5A) to (6), regulation 7(3)(b)(iv) of the Occupational Pension Schemes (Transfer Values) Regulations 1996<sup>(6)</sup>, has effect with the substitution for “(d)” of “(e).”.

Signed by authority of the Secretary of State for Work and Pensions.

15th April 2004

*Malcolm Wicks*  
Minister of State,  
Department for Work and Pensions

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(5) 1999 c. 30.

(6) S.I. 1996/1847. Relevant amending instrument is S.I. 1997/786.

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## EXPLANATORY NOTE

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

These Regulations make certain revocations and amend regulation 3 of the Occupational Pension Schemes (Winding Up) Regulations 1996 (“the 1996 Regulations”), in relation to salary-related occupational pension schemes which begin to be wound up on or after the date on which these Regulations come into force (“the commencement date”) and before the end of the transitional period, which is defined in the 1996 Regulations.

Regulation 3 of the 1996 Regulations modifies section 73(3) of the Pensions Act 1995, which sets out the priority order in which the assets of a scheme are to be applied when it is wound up towards satisfying the liabilities in respect of pensions and other benefits.

Regulation 1 provides for citation, commencement and interpretation of the Regulations. It provides that the changes made by the Regulations will have effect only in relation to schemes which begin to be wound up after the commencement date and before the end of the transitional period.

In relation to schemes which begin to be wound up on or after the commencement date and before the end of the transitional period, regulation 2 revokes regulation 3(5) of the 1996 Regulations. Regulation 2 also revokes regulation 3(3) of the Pension Sharing (Consequential and Miscellaneous Amendments) Regulations 2000 (S.I.2000/2691) which amended regulation 3(5) of the 1996 Regulations.

Regulation 3 amends regulation 3 of the 1996 Regulations. Paragraph (a) makes the changes to the priority order apply to schemes which begin to be wound up on or after the commencement date and before the end of the transitional period. Paragraph (b) sets out the changes to the priority order. Paragraphs (c) and (d) make consequential amendments.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the cost of business.