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STATUTORY INSTRUMENTS

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**2011 No. 1246**

**The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011**

**PART 2**

Amendments coming into force on 6th April 2012

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

**8.**—(1) The Occupational Pension Schemes (Contracting-Out) Regulations 1996<sup>(1)</sup> are amended as follows.

(2) In regulation 1(2) (interpretation)<sup>(2)</sup>, in the definition of “section 9(2B) rights”, in subparagraph (b)(ii) insert at the end “, where that transfer payment was made before the abolition date”.

(3) In regulation 3(1)(c) (notices by employers of intended election), omit “the protected rights,”.

(4) In regulation 10(1)(b) (special provision with regard to elections for the issue, variation or surrender of certificates where the employment remains contracted-out) omit “or to protected rights, as the case may be,”.

(5) In regulation 16 (requirement to confirm relevant requirements are satisfied)<sup>(3)</sup>, omit paragraph (1)(d).

(6) In regulation 37 (circumstances in which the age-related payments are not to be paid)—

(a) after paragraph (1) insert—

“(1A) Subject to paragraph (2), where the earner is no longer a member of the scheme which before the abolition date was a money purchase contracted-out scheme, an age-related payment shall be paid—

(a) to the trustees or managers of the scheme, if the earner has become a member of another scheme, and the scheme is able to transfer the payment to that other scheme,

(b) to the trustees or managers of another scheme of which the earner is a member, if known to HMRC, or

(c) in all other circumstances, to the earner.”,

(b) in paragraph (2), after “(ways of giving effect to protected rights)”, insert “as it had effect prior to the abolition date,”, and

(c) in paragraph (7), after “insurance policies”, insert “as it had effect prior to the abolition date”.

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(1) *S.I. 1996/1172*. See also section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2) (“the 1999 Act”) which transferred to the Commissioners of Inland Revenue the functions of the Secretary of State under these Regulations.

(2) The definition of “section 9(2B) rights” was substituted by *S.I. 1997/786* and amended by *S.I. 1999/3198*.

(3) Regulation 16 was amended by *S.I. 2002/681*.

(7) In regulation 43(1) (termination of periods of contracted-out employment), in each of sub-paragraphs (c), (d) and (e), for the words from “, section 9(2B)” to “protected”, substitute “or section 9(2B)”.

(8) In regulation 44(7) (notifications to the Commissioners of the Inland Revenue), for the words from “, any entitlement arising in respect of section 9(2B) rights” to the end, substitute “and any entitlement arising in respect of section 9(2B) rights.”.

- (9) In regulation 45 (approval of arrangements for schemes ceasing to be contracted-out)(4)—
- (a) in paragraph (2), omit “or section 32A of that Act (discharge of protected rights on winding-up)”,
  - (b) in paragraph (3), for “paragraphs (a) or (b) as the case may be”, substitute “paragraph (a)”, and omit sub-paragraph (b), and
  - (c) omit paragraph (4).

- (10) In regulation 46 (supervision of schemes that have ceased to contract out)—
- (a) in paragraph (1), omit “or (b)” and for “paragraphs (2), (3) and (4)” substitute “paragraphs (2) and (4)”,
  - (b) omit paragraph (3), and
  - (c) in paragraph (4), omit “protected rights.”.

(11) In regulation 50(a) (member to be informed of the option to restore state scheme rights), omit “or under section 32A of the 1993 Act (discharge of protected liabilities on winding up: insurance policies)”.

(12) In regulation 63(2)(aa) (provision of information about guaranteed minimum pensions)(5), omit “or protected rights”.

- (13) In regulation 68 (additional modifications relating to transfers and increases of earnings factors by 12 per cent)—
- (a) in paragraph (1), after “section 28(2)(b) of the 1993 Act” insert “as they had effect prior to the abolition date”, and
  - (b) in paragraph (3), after “1993 Act” insert “as they had effect prior to the abolition date”.

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(4) Regulation 45 was amended by [S.I. 1997/819](#).

(5) Regulation 63(2)(aa) was inserted by [S.I. 2002/681](#). Regulation 63(2) was amended by [S.I. 2005/2050](#) and [2009/598](#).