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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 Personal Pension Schemes (Disclosure of Information) Regulations 1987**

**2.**—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987<sup>(1)</sup> are amended as follows.

(2) In regulation 4(6) (basic information about the scheme)<sup>(2)</sup>, for “, 11, 12 or 13” substitute “or 11”.

(3) In regulation 5 (information to be made available to individuals)<sup>(3)</sup>—

(a) in paragraph (3), omit “Whether or not the scheme is or has been an appropriate scheme,” and “who has no protected rights under the scheme”, and

(b) omit paragraph (4).

(4) In Schedule 1 (basic information about the scheme)<sup>(4)</sup>, omit paragraphs 9, 12 and 13.

(5) In Schedule 2 (information to be made available to individuals)—

(a) for paragraph 2(a), substitute—

“(a) As at a specified date, the value of the member’s accrued rights under the scheme.”,

(b) omit paragraph 4,

(c) in paragraph 5<sup>(5)</sup>, omit from the words “, including where the scheme is an appropriate scheme” to the end,

(d) for paragraph 8, substitute—

“8 An account of the amount by which the member’s accrued rights have been reduced, and of the arrangements which have been made by the scheme, or are open to the member, to restore the value of his accrued rights under the scheme.”,

(e) in paragraph 9, after sub-paragraph (2)<sup>(6)</sup> add—

“(3) A statement that explains that the member’s protected rights will become ordinary scheme rights under pensions legislation from the date that the scheme ceased to be an appropriate scheme, and that where the member is married or has a civil partner, there

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(1) [S.I.1987/1110](#).

(2) Regulation 4(6) was amended by [S.I. 1988/474](#) and [1992/1531](#).

(3) The relevant amending instruments are [S.I. 1988/474](#), [1992/1531](#), [1996/776](#), [2000/2691](#) and [2009/598](#).

(4) Paragraph 9 was substituted by [S.I. 2001/3649](#).

(5) The relevant amending instrument is [S.I. 2007/814](#).

(6) Paragraph 9 is amended, and sub-paragraph (2) inserted by regulation 2(7)(c) of [S.I. 2011/1245](#).

is no longer a statutory requirement for the scheme to provide a survivor's pension or annuity.”, and

- (f) omit paragraphs 10 and 11.

#### **Amendment of the Personal Pension Schemes (Transfer Value) Regulations 1987**

3.—(1) The Personal Pension Schemes (Transfer Value) Regulations 1987(7) are amended as follows.

- (2) In regulation 1(2) (interpretation)(8), omit the definition of “protected rights”.
- (3) In regulation 2 (requirements to be satisfied)(9), omit paragraph (1)(b).

#### **Amendment of the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987**

4.—(1) The Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987(10) are amended as follows.

(2) For regulation 3(1) (guaranteed minimum pension to which earner's widow, widower, or surviving civil partner is treated as entitled after minimum contributions have been paid) substitute—

“(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum contributions have been paid in respect of an earner, section 46 of the Act shall, in the circumstances specified in paragraph (2), have effect in relation to the earner's widow, widower or surviving civil partner, as if the widow, widower or surviving civil partner were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate described in regulation 2(2).”.

(3) For regulation 5(1) (guaranteed minimum pension to which earner's widow, widower, or surviving civil partner is treated as entitled after minimum payments have been made) substitute—

“(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum payments have been paid in respect of an earner, section 46 of the Act shall, in the circumstances specified in paragraph (2), have effect in relation to the earner's widow, widower or surviving civil partner, as if the widow, widower or surviving civil partner were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate described in regulation 4(2).”.

#### **Revocation of the Personal Pension Schemes (Compensation) Regulations 1988**

5. The Personal Pension Schemes (Compensation) Regulations 1988(11) are revoked.

#### **Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991**

6. In regulation 9(6) (bought out benefits) of the Occupational Pensions Schemes (Preservation of Benefit) Regulations 1991(12)—

- (a) for “sub-paragraphs (a) to (d)” substitute “sub-paragraphs (b), (c) and (d)”, and

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(7) [S.I. 1987/1112](#).

(8) The relevant amending instrument is [S.I. 1994/1062](#).

(9) Regulation 2 was substituted by [S.I. 2006/744](#).

(10) [S.I. 1987/1113](#). Section 48 of the Pensions Schemes Act 1993 under which these regulations are made was repealed by section 140(3) of the Pensions Act 1995 (c.26), in relation to minimum payments made or minimum contributions paid on or after 6 April 1997. These regulations therefore remain in force in relation to minimum payments made or minimum contributions paid before 6 April 1997.

(11) [S.I. 1988/2238](#).

(12) [S.I. 1991/167](#). The relevant amending instrument is [S.I. 1994/1062](#).

- (b) omit sub-paragraph (a).

### **Revocation of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996**

7. The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996<sup>(13)</sup> are revoked.

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

8.—(1) The Occupational Pension Schemes (Contracting-Out) Regulations 1996<sup>(14)</sup> are amended as follows.

(2) In regulation 1(2) (interpretation)<sup>(15)</sup>, in the definition of “section 9(2B) rights”, in sub-paragraph (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>(16)</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”.

(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)<sup>(17)</sup>—

<sup>(13)</sup> [S.I. 1996/775](#).

<sup>(14)</sup> [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.

<sup>(15)</sup> The definition of “section 9(2B) rights” was substituted by [S.I. 1997/786](#) and amended by [S.I. 1999/3198](#).

<sup>(16)</sup> Regulation 16 was amended by [S.I. 2002/681](#).

<sup>(17)</sup> Regulation 45 was amended by [S.I. 1997/819](#).

- (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)(**18**), 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”.

#### **Amendment of the Contracting-Out (Transfer and Transfer Payments) Regulations 1996**

**9.**—(1) The Contracting-Out (Transfer and Transfer Payments) Regulations 1996(**19**) are amended as follows.

- (2) In regulation 1(2) (interpretation)—
  - (a) omit the definition of “protected rights”, and
  - (b) in the definition of “section 9(2B) rights”(20) in sub-paragraph (b)(ii) at the end insert “where that transfer payment was made before the abolition date”.
- (3) In regulation 13A (modifications of section 12C of the 1993 Act where transfer payments are made to salary-related contracted-out schemes)(21), in sub-paragraph (b) at the end, insert “, where that transfer payment was made before the abolition date”.

#### **Revocation of part of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996**

**10.** In the Personal and Occupational Pensions Schemes (Protected Rights) Regulations 1996(**22**), the following regulations are revoked—

- (a) regulation 1(2), in so far as it relates to regulations 3, 9 and 16(2),
- (b) regulation 3 (options under section 10(2) and (3) of the 1993 Act for schemes to designate which rights are protected rights),
- (c) regulation 9 (suspension and forfeiture of payments giving effect to protected rights), and

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

(19) [S.I. 1996/1462](#).

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

(21) Regulation 13A was inserted by [S.I. 1997/786](#).

(22) [S.I. 1996/1537](#).

- (d) regulation 16(2) (personal pension schemes – notifications to Commissioners of Inland Revenue).

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

**11.**—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996<sup>(23)</sup> are amended as follows.

(2) In regulation 1(2) (interpretation)<sup>(24)</sup>—

- (a) omit the definition of “mixed benefit contracted-out scheme”, and
- (b) in the definition of “protected rights” insert at the end “as it had effect immediately prior to the abolition date”.

(3) In regulation 5 (information to be made available to individuals)<sup>(25)</sup>, omit sub-paragraph (5A).

(4) In Schedule 1 (basic information about the scheme)<sup>(26)</sup>, omit paragraphs 12A and 14.

(5) In Schedule 2 (information to be made available to individuals)<sup>(27)</sup>—

(a) in paragraph 6—

(i) for sub-paragraph (a) substitute—

“(a) The value of the member’s accrued rights under the scheme at the same or another specified date.”, and

(ii) in sub-paragraph (b) omit “(i) or (ii) or both”,

(b) omit paragraph 6A,

(c) in paragraph 8, after sub-paragraph (2)<sup>(28)</sup> add—

“(3) A statement that explains that the member’s protected rights will become ordinary scheme rights under pensions legislation from the date the scheme ceased to be a money purchase contracted-out scheme, and that where the member is married or has a civil partner, there is no longer a statutory requirement for the scheme to provide a survivor’s pension or annuity.”,

(d) omit paragraph 9, and

(e) for paragraph 10, substitute—

“10 An account of the amount by which the member’s accrued rights have been reduced, and of the action taken by the trustees, or which is open to the member to take, in order, so far as may be possible, to restore the value of his accrued rights under the scheme.”

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

**12.** In regulation 1(2) (interpretation)<sup>(29)</sup> of the Occupational Pension Schemes (Indexation) Regulations 1996—

- (a) at the appropriate place insert the following definitions—

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<sup>(23)</sup> [S.I. 1996/1655](#).

<sup>(24)</sup> The definition of “mixed benefit contracted-out scheme” was inserted by [S.I. 1997/786](#).

<sup>(25)</sup> Regulation 5(5A) was inserted by [S.I. 1997/786](#).

<sup>(26)</sup> Paragraph 12A was inserted by [S.I. 1997/786](#).

<sup>(27)</sup> Paragraph 6A was inserted by [S.I. 1997/786](#).

<sup>(28)</sup> Paragraph 8 is amended, and sub-paragraph (2) inserted, by regulation 8(4)(c) of [S.I. 2011/1245](#).

<sup>(29)</sup> [S.I. 1996/1679](#). The definition of “section 9(2B) rights” was inserted by [S.I. 2005/704](#).

““abolition date” means the day appointed for the commencement of section 15(1) of the Pensions Act 2007(30);”

““protected rights” has the meaning given in section 10 of the Pension Schemes Act 1993(31), as it had effect immediately prior to the abolition date;”

- (b) in the definition of “section 9(2B) rights”, in sub-paragraph (b)(ii), at the end add “where that transfer payment was made before the abolition date”.

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

13. In regulation 12 (requirements for trustees to keep books and records) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996(32), omit paragraph (1)(b)(vii).

### **Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996**

14.—(1) The Occupational Pension Schemes (Transfer Values) Regulations 1996(33) are amended as follows.

- (2) In regulation 1(2) (interpretation), omit the definition of “post-97 protected rights”.
- (3) In regulation 12 (requirements to be met by receiving schemes, annuities and arrangements)—
- (a) after paragraph (1)(b), add “and”, and
  - (b) omit paragraph (1)(c), and the word “and” immediately following it.
- (4) In Schedule 1A (reductions in initial cash equivalents)(34), omit paragraph 9.

### **Revocation of the Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996**

15. The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996(35) are revoked.

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

16. In the Occupational Pension Schemes (Winding-up) Regulations 1996(36), omit regulation 9 (relationship of these regulations and requirements under section 32A of the Pension Schemes Act 1993).

### **Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997**

17.—(1) The Personal Pension Schemes (Appropriate Schemes) Regulations 1997(37) are amended as follows.

- (2) In regulation 12 (circumstances in which minimum contributions are not to be paid)(38)—
- (a) after paragraph (1) insert—

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(30) 2007 c.22.

(31) 1993 c.48.

(32) S.I. 1996/1715.

(33) S.I. 1996/1847.

(34) Schedule 1A was inserted by S.I. 2008/1050.

(35) S.I. 1996/1977.

(36) S.I. 1996/3126.

(37) S.I. 1997/470. See also section 1(2) of, and Schedule 2 to, the 1999 Act, which transferred to the Commissioners of Inland Revenue the functions of the Secretary of State under these Regulations.

(38) Regulation 12 was amended by S.I. 2005/2050 and 2005/3164.

“(1A) Subject to paragraph (2), where the earner is no longer a member of the earner’s chosen scheme, minimum contributions in respect of that earner shall be paid—

- (a) to the trustees or managers of the earner’s chosen scheme, if the earner has become a member of another scheme, and the earner’s chosen 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”,
- (c) in paragraph (3), at the end add “, except where the earner is no longer a member of that scheme, in which case the minimum contributions shall instead be paid to the earner”, and
- (d) in paragraph (4), at the end add “, except where the earner is no longer a member of that scheme, in which case the additional amount of minimum contributions shall instead be paid to the earner”.

#### **Amendment of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998**

**18.** In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998<sup>(39)</sup>, in the definition of “relevant employment” for the words “, rights to a guaranteed minimum pension or protected rights”, substitute “or rights to a guaranteed minimum pension”.

#### **Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000**

**19.** In regulation 1(2) (interpretation) of the Pension Sharing (Pension Credit Benefit) Regulations 2000<sup>(40)</sup>, omit the definition of “contracted-out rights”.

#### **Amendment of the Stakeholder Pension Scheme Regulations 2000**

**20.**—(1) The Stakeholder Pension Scheme Regulations 2000<sup>(41)</sup> are amended as follows.

(2) In regulation 3 (requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes), omit paragraph (7).

(3) In regulation 13(4) (expenses, commission etc. – principles)<sup>(42)</sup>, omit sub-paragraph (a).

#### **Amendment of the Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005**

**21.** For regulation 2(3) (modification of references to “transfer” in the 1993 Act) of the Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005<sup>(43)</sup> substitute—

“(3) The “relevant provisions” referred to in paragraph (2) are section 71 (basic principle as to short service benefit) and any regulations made under that section.”

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<sup>(39)</sup> S.I. 1998/1397.

<sup>(40)</sup> S.I. 2000/1054.

<sup>(41)</sup> S.I. 2000/1403.

<sup>(42)</sup> Regulation 13(4) was inserted by S.I. 2001/934.

<sup>(43)</sup> S.I. 2005/992. The relevant amending instrument is S.I. 2009/598.



### **Amendment of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006**

**22.**—(1) The Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006<sup>(44)</sup> are amended as follows.

(2) In regulation 1(2) (interpretation), omit the definition of “appropriate personal pension scheme”.

(3) In regulation 7 (manner of discharge of liabilities in respect of money purchase benefits)—

(a) in paragraph (1)—

(i) omit “(or in the case of protected rights, given effect to)”, and

(ii) for sub-paragraph (a) substitute—

“(a) a transfer payment to a personal pension scheme or an occupational pension scheme;”, and

(b) omit paragraphs (2) and (3).

(4) For regulation 8(5) (further provision for discharge of liabilities in respect of money purchase benefits), substitute—

“(5) Where the money purchase beneficiary dies before the Board discharges those liabilities in relation to that beneficiary, the Board shall discharge those liabilities—

(a) where there is a widow, widower or surviving civil partner, under the rules of the scheme within the limits specified in regulation 7(1); or

(b) where there is no widow, widower or surviving civil partner, in accordance with paragraph 15 of Schedule 29 to the 2004 Act (uncrystallised funds lump sum death benefit).”

### **Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006**

**23.**—(1) The Occupational Pension Schemes (Modification of Schemes) Regulations 2006<sup>(45)</sup> are amended as follows.

(2) In regulation 1(3) (interpretation), omit the definition of “protected rights”.

(3) In regulation 3 (non-application of the subsisting rights provisions), omit paragraph (d).

### **Amendments to the Equality Act 2010 (Age Exceptions for Pension Schemes) Order 2010**

**24.** In article 2(4) (interpretation) of the Equality Act 2010 (Age Exceptions for Pension Schemes) Order 2010<sup>(46)</sup>—

(a) at the appropriate place, insert—

““abolition date” means the day appointed for the commencement of section 15(1) of the Pensions Act 2007<sup>(47)</sup>;”

(b) for the definition of “contracted-out rights” substitute—

““Contracted-out rights” are such rights under, or derived from, an occupational pension scheme as fall within the following categories—

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<sup>(44)</sup> S.I. 2006/580.

<sup>(45)</sup> S.I. 2006/759.

<sup>(46)</sup> S.I. 2010/2133.

<sup>(47)</sup> 2007 c.22



- (a) entitlement to payment of, or accrued rights to, guaranteed minimum pensions;  
or
- (b) section 9(2B) rights;”,
- (c) in the definition of “protected rights”, at the end insert “as it had effect immediately prior to the abolition date”, and
- (d) in the definition of “section 9(2B) rights” at the end insert “where the transfer took place before the abolition date”.