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STATUTORY INSTRUMENTS

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**2011 No. 1801**

**PENSIONS**

**The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) (Amendment) Regulations 2011**

<i>Made</i>	- - - -	<i>20th July 2011</i>
<i>Laid before Parliament</i>		<i>21st July 2011</i>
<i>Coming into force</i>	- -	<i>11th August 2011</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 94(1) (b), 124(1) and 174(3) of the Pensions Act 1995(1), makes the following Regulations.

The Secretary of State has consulted such persons as the Secretary of State considers appropriate in accordance with section 120(1) of that Act(2).

**Citation and commencement**

1. These Regulations may be cited as the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) (Amendment) Regulations 2011 and shall come into force on 11th August 2011.

**Amendment of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997**

2. In regulation 8 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997(3) (exemptions from the inalienability and forfeiture provisions), at the end add—

“(7) Section 91(1)(a) of the 1995 Act (inalienability of occupational pension) does not apply to a scheme where —

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(1) [1995 c.26](#). Section 124(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(2) Regulation 2 of these Regulations inserts a new paragraph 7(a) and (b) into regulation 8 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 ([S.I. 1997/785](#)). The provision made by the new paragraph 7(b) is consequential upon section 66 of, and Schedule 17 to, the [Finance Act 2011\(c.11\)](#) and is made within six months of the date on which those provisions come into force. The requirement to consult in section 120(1) of the Pensions Act 1995 does not therefore apply to the provision made by new paragraph (7)(b) of regulation 8 of [S.I. 1997/785](#) by virtue of section 120(2) (d) of that Act. The Secretary of State nevertheless chose to consult on those provisions when he consulted on the remaining provisions in the Regulations.

(3) [S.I. 1997/785](#). Regulation 8 was amended by [S.I. 1999/1849](#) and [2006/744](#).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (a) the scheme administrator satisfies any part of a person’s liability to the annual allowance charge under section 237A of the Finance Act 2004<sup>(4)</sup> (liability of individual) at the request of that person, to the extent that it would prevent an adjustment to that person’s benefits under the scheme as a consequence of the scheme administrator satisfying that liability, or
  - (b) the scheme administrator satisfies a liability under section 237B of the Finance Act 2004 (liability of scheme administrator) in respect of a person, to the extent that it would prevent a consequential adjustment to that person’s benefits under the scheme under section 237E(1) of that Act (consequential benefit adjustments to be reasonable etc).
- (8) In paragraph (7)—
- “annual allowance charge” has the meaning given in section 227(1) of the Finance Act 2004 (annual allowance charge), and
  - “scheme administrator” has the meaning given in section 270 of the Finance Act 2004 (meaning of “scheme administrator”).”.

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

20th July 2011

*Steve Webb*  
Minister of State,  
Department for Work and Pensions

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(4) 2004 c.12. Sections 237A to 237F of the Finance Act 2004 were inserted by section 66 of, and paragraph 15 of Schedule 17 to, the Finance Act 2011 (c.11).

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## EXPLANATORY NOTE

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

These Regulations amend the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 (S.I. 1997/785) to take account of changes made to the taxation of pension scheme contributions by the Finance Act 2011 (c. 11), which came into force on 19 July 2011, and has effect for the tax year 2011-2012 and subsequent tax years.

The Regulations provide that the prohibition on assignment, commutation or surrender of an entitlement to a pension in section 91(1)(a) of the Pensions Act 1995 (c. 26) (inalienability of occupational pension) does not apply to a scheme where any adjustments are made to a person's pension benefits:

- a) as a consequence of the scheme administrator making a payment in respect of that person's annual allowance charge at their request, or
- b) under section 237E(1) of the Finance Act 2004 (c.12) as a consequence of the scheme administrator making a payment in respect of that person's annual allowance charge under the arrangements provided for in section 237B of that Act.

A full impact assessment has not been published for this instrument as it has only a negligible impact on the private sector and civil society organisations. However, an assessment of the impact of the provisions in the Finance Act 2011 (upon which part of these Regulations are consequential) is included in a Tax Information and Impact Note published on 9th December 2010 alongside the draft Finance (No. 3) Bill 2011 concerning the restriction of pensions tax relief. This was updated on 3rd March 2011 to reflect further decisions relating to the restriction of pension tax relief and is available at [www.hmrc.gov.uk/thelibrary/tiins.htm](http://www.hmrc.gov.uk/thelibrary/tiins.htm). It remains an accurate summary of the impacts that apply to that legislation.