
STATUTORY INSTRUMENTS

2002 No. 681

PENSIONS

The Occupational and Personal Pension Schemes (Contracting-out) (Miscellaneous Amendments) Regulations 2002

<i>Made</i>	- - - -	<i>13th March 2002</i>
<i>Laid before Parliament</i>		<i>15th March 2002</i>
<i>Coming into force</i>	- -	<i>6th April 2002</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred on him by the provisions set out in the Schedule to this Instrument and of all other powers enabling him in that behalf, after consultation with such persons as he considers appropriate⁽¹⁾, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Contracting-out) (Miscellaneous Amendments) Regulations 2002 and shall come into force on 6th April 2002.

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

2.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996⁽²⁾ shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 3 (notices by employers of intended election for issue of contracting-out certificate), in paragraph (2)—

- (a) sub-paragraph (c) shall be omitted; and
- (b) in sub-paragraph (g)—
 - (i) after head (i) there shall be inserted the word “and”, and
 - (ii) head (iii) shall be omitted.

(3) In regulation 6 (information to be included in an election), in paragraph (2), sub-paragraphs (e) and (f) shall be omitted.

(1) See section 185(1) of the Pension Schemes Act 1993 (c. 48) (as amended by paragraph 46 of Schedule 3, paragraph 80 of Schedule 5 and Part I of Schedule 7, to the Pensions Act 1995 (c. 26)) (“the 1995 Act”), and section 120(1) of the 1995 Act.
(2) S.I.1996/1172; relevant amendments were made by S.I. 1997/786 and S.I. 2000/2975.

(4) In regulation 9 (making of elections by employers for variation or surrender of contracting-out certificates) for paragraph (1) there shall be substituted the following paragraph:—

“(1) Subject to the provisions of paragraphs (2), (3) and (7) and regulation 10, an election with a view to the variation or surrender of a contracting-out certificate—

(a) may be made only after notices of intention have been given in accordance with paragraphs (4) and (5); and

(b) shall be made in writing to the Inland Revenue.”.

(5) In regulation 16 (requirement to confirm relevant requirements are satisfied), in paragraph (1) for the words “written confirmation and such” there shall be substituted the words “such written confirmation and any”.

(6) In regulation 18 (requirement as to resources of schemes), in paragraph (2), after the word “apply” (in the second place that word appears) there shall be inserted the words “or to any scheme in respect of which any Minister of the Crown has given a guarantee, or made any other arrangements, for the purpose of securing that the assets of the scheme are sufficient to meet its liabilities”.

(7) For regulation 19 (lump sum benefits and salary related contracted-out schemes) there shall be substituted the following regulation:—

“Lump sum benefits and salary related contracted-out schemes

19. A salary related contracted-out scheme may not provide for the payment of a lump sum instead of a pension except—

(a) in accordance with—

(i) regulation 20 (trivial commutation of benefits derived from section 9(2B) rights), or

(ii) regulation 60 (trivial commutation of guaranteed minimum pension); or

(b) to the extent permitted—

(i) in the case of a scheme which is exempt approved within the meaning of section 592(1) of the Taxes Act⁽³⁾ or a scheme in such respect of which an application for such approval has not yet been determined, under the rules of that scheme in accordance with that approval, or

(ii) in the case of a scheme which is a relevant statutory scheme within the meaning of section 611A of the Taxes Act⁽⁴⁾, under the regulations or rules governing that scheme as a relevant statutory scheme.”.

(8) In regulation 20 (trivial commutation of benefits derived from section 9(2B) rights)—

(a) the words from “For the purposes” to “commutation” shall be numbered as paragraph (1) of that regulation; and

(b) after that paragraph there shall be inserted the following paragraphs:—

“(2) The condition specified in paragraph (1)(a) shall not apply where—

(a) the scheme is being wound up; or

(b) where the earner is a member of more than one scheme relating to the same employment, both or all of those schemes are being wound up;

but paragraph (3) shall apply instead.

⁽³⁾ See the Income and Corporation Taxes Act 1988 (c. 1).

⁽⁴⁾ Section 611A was inserted by paragraph 15 of Schedule 6 to the Finance Act 1989 (c. 26) and amended by paragraph 5 of Schedule 5 to the Finance Act 1999 (c. 16).

- (3) Where this paragraph applies, the aggregate amount of benefit which has accrued to the earner at the date of winding up shall be treated for the purposes of paragraph (1) (b) as the amount of all benefits payable to him under the scheme.”.

(9) After regulation 20 there shall be inserted the following new regulation:—

“Suspension of section 9(2B) rights

20A.—(1) In so far as a person’s accrued rights under an occupational pension scheme are section 9(2B) rights, the circumstances specified in paragraph (2) are prescribed for the purposes of subsection (6) of section 92 of the 1995 Act (circumstances in which subsection (1) of that section does not prevent forfeiture of rights under an occupational pension scheme).

(2) The circumstances referred to in paragraph (1) are that—

- (a) the person entitled to payments giving effect to those rights is, in the opinion of the trustees of the scheme, unable to act by reason of mental disorder; and
- (b) there is provision in the scheme which requires that, while the person is so unable to act, sums equivalent to those payments—
 - (i) must, except in so far as such sums are not, in the opinion of the trustees, required for the maintenance of the pensioner, be paid or applied for his maintenance,
 - (ii) may, in so far as such sums are not, in the opinion of the trustees, required for the maintenance of the pensioner, be paid or applied for the maintenance of any dependants of the pensioner,
 - (iii) must, in so far as such sums are not, in the opinion of the trustees, required for the maintenance of the pensioner or of any dependant of his, be held by the trustees for the pensioner until he is again able to act or, if he should die before that happens, for his estate.”.

(10) In regulation 23 (requirements for meeting the statutory standard)—

- (a) after paragraph (e) the word “and” shall be omitted; and
- (b) after paragraph (f) there shall be added the words
“and
(g) must take no account of any provision made by the scheme for the suspension, in the circumstances specified in regulation 20A(2), of benefits derived from section 9(2B) rights.”.

(11) In regulation 31 (deduction of minimum payments from earnings)—

- (a) in paragraph (1) for the word “Every” there shall be substituted the words “Subject to paragraph (3A), every”;
- (b) in paragraph (3) for the words “paragraph (4)” there shall be substituted the words “paragraphs (3A) and (4)”;
- (c) after paragraph (3) there shall be inserted the following paragraph:—

“(3A) Where the payment of emoluments in respect of which minimum payments are payable does not exceed the amount which is for the time being specified in regulations under section 5 of the Contributions and Benefits Act (earnings limits and thresholds for Class 1 contributions)⁽⁵⁾ as the primary threshold for the purposes of that Act (or the amount which is, in relation to that payment of emoluments, the amount prescribed under

(5) 1992 c. 4; section 5 was substituted by paragraph 1 of Schedule 9 to the Welfare Reform and Pensions Act 1999 (c. 2) (“the 1999 Act”).

that section as the equivalent of that threshold) no amount shall be deducted from those emoluments under this regulation.”.

(12) In regulation 51 (election to pay a contributions equivalent premium)—

(a) for paragraph (1) there shall be substituted the following paragraphs:—

“Contributions equivalent premiums

51.—(1) For the purposes of section 55(2) of the 1993 Act (which requires the prescribed person to pay a contributions equivalent premium in the case mentioned in section 55(2B) of that Act and otherwise enables him to elect to pay such a premium on termination of contracted-out employment)(6) the prescribed person is the trustees of the scheme.

(1A) Section 55(2B) of the 1993 Act (by virtue of which a contributions equivalent premium must be paid in any case where the earner has no accrued right to benefit under the scheme)(7) does not apply if paragraph (1B) or (1C) applies.

(1B) This paragraph applies where—

- (a) the earner’s service in the employment ceases on the earner’s death; and
- (b) the earner leaves a surviving spouse who is not entitled to any of the following benefits—
 - (i) a widowed mother’s allowance under section 37 of the Contributions and Benefits Act,
 - (ii) a widow’s pension under section 38 of that Act,
 - (iii) a widowed parent’s allowance under section 39A(8) of that Act, or
 - (iv) a bereavement allowance under section 39B(9) of that Act.

(1C) This paragraph applies where the earner is a woman who has made, or is treated as having made, an election under regulations made under section 19(4) of the Contributions and Benefits Act, which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.”;

(b) in paragraph (2)—

- (i) in sub-paragraph (a) the words “under section 20 (transfer of accrued rights) or” shall be omitted,
- (ii) for sub-paragraph (b) there shall be substituted—
 - “(b) cases where paragraph (1C) applies;”, and
- (iii) for sub-paragraph (e) there shall be substituted—
 - “(e) cases where any liability to provide pensions to an earner has been discharged in accordance with regulations under section 12C of the 1993 Act(10),”; and

(c) after paragraph (2) of that regulation there shall be inserted—

“(2A) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of section 55(2) of the 1993 Act, the trustees of the scheme must notify

(6) Subsection (2) was substituted by section 141 of the 1995 Act and amended by section 18 of, and paragraph 7(1)(a) of Schedule 2 to, the 1999 Act.

(7) Subsection (2B) was inserted by paragraph 7(1)(c) of Schedule 2 to the 1999 Act.

(8) Section 39A was inserted by section 55 of the 1999 Act.

(9) Section 39B was inserted by section 55 of the 1999 Act.

(10) Section 12C was inserted by section 136(5) of the 1995 Act.

the Inland Revenue of that fact in such form as the Inland Revenue may reasonably require for the purpose of identifying the earner.

(2B) Such a notification must be given—

- (a) where the earner has ceased to serve in employment which is contracted-out employment by reference to the scheme because it is wound up, within two years of the cessation of the scheme; and
- (b) where the earner has so ceased for any other reason mentioned in section 55(2A) of the 1993 Act⁽¹¹⁾ within the period beginning one month before and ending six months after the date on which the person so ceases.

(2C) The Inland Revenue may in any particular case or class of cases extend the period applicable under paragraph (2B) if it appears to them that the notification could not reasonably have been given within that period.”

(13) In regulation 52(1) (time for payment of contributions equivalent premiums) after the words “the trustees”, in the first place they occur, the words “are required or” shall be inserted.

(14) In regulation 60 (trivial commutation of guaranteed minimum pensions), in paragraph (4)⁽¹²⁾—

- (a) after the words “under Part VI” there shall be inserted the words “or the scheme has made the provisions mentioned in section 16(2) and (3) of the 1993 Act”;
- (b) in sub-paragraph (a) for the words “or in either case” there shall be substituted the words “or, in a case where that section 16(2) and (3) applies,”; and
- (c) in sub-paragraph (c) after the word “premium” there shall be inserted the words “or have made the provisions mentioned in section 16(2) and (3) of the 1993 Act”.

(15) In regulation 61 (suspension and forfeiture of guaranteed minimum pension), in paragraph (1)(a)—

- (a) The words “or otherwise” shall be omitted; and
- (b) for the words from “for sums equivalent” to the end of the sub-paragraph there shall be substituted the words

“which requires that, in those circumstances, sums equivalent to the guaranteed minimum pension—

- (i) must, except in so far as such sums are not, in the opinion of the trustees, required for the maintenance of the pensioner, be paid or applied for his maintenance,
- (ii) may, in so far as such sums are not, in the opinion of the trustees, required for the maintenance of the pensioner, be paid or applied for the maintenance of any dependants of the pensioner,
- (iii) must, in so far as such sums are not, in the opinion of the trustees, required for the maintenance of the pensioner or of any dependant of his, be held by the trustees for the pensioner until he is again able to act or, if he should die before that happens, for his estate;”.

(16) In regulation 62(2) (fixed rate revaluations for early leavers' guaranteed minimum pensions—prescribed increase)—

- (a) in sub-paragraph (d) for the words “, 6.25 per cent. compound.” there shall be substituted the words “but before 6th April 2002, 6.25 per cent. compound;”; and
- (b) after that sub-paragraph there shall be inserted the following sub-paragraph:—

⁽¹¹⁾ Section 55(2A) was inserted by section 141(1) of the 1995 Act.

⁽¹²⁾ Regulation 60(4) was amended by S.I. 1997/786.

- “(e) where that period of service terminates on or after 6th April 2002, 4.5 per cent. compound.”.
- (17) In regulation 63 (provision of information about guaranteed minimum pensions)—
- (a) in paragraph (1) for the words from “The prescribed” to “that section)” there shall be substituted the following words:—
- “As respects any occupational pension scheme, the persons prescribed for the purposes of section 156(2) of the 1993 Act (additional persons to whom information may be provided for the purpose of enabling them to comply with obligations under Part III of that Act)(13) are”; and
- (b) in paragraph (2) after sub-paragraph (a), but before the word “or” there shall be inserted—
- “(aa) whether the scheme is liable in respect of section 9(2B) rights, protected rights or safeguarded rights;”.
- (18) In regulation 72 (transitional requirements as to sufficiency of resources of salary related schemes)—
- (a) in paragraph (1)—
- (i) the words “of ten years” shall be omitted, and
- (ii) for the words from “or such longer” to “class of case” there shall be substituted the words “and ending with the date of first certification”;
- (b) after paragraph (1) there shall be inserted the following paragraph:—
- “(1A) In paragraph (1) above, the date of first certification means the first occasion on which the actuary to the scheme certifies the rates of contributions shown in a schedule of contributions for the scheme for the purposes of section 58 of the 1995 Act (schedules of contributions).”; and
- (c) in paragraph (6) after the word “apply” (in the second place where that word appears) there shall be added the words “, or to any scheme in respect of which any Minister of the Crown has given a guarantee, or made any other arrangements, for the purposes of securing that the assets of the scheme are sufficient to meet its liabilities.”.

Amendment of the Protected Rights (Transfer Payment) Regulations 1996

3.—(1) The Protected Rights (Transfer Payment) Regulations 1996(14) shall be amended in accordance with the following paragraphs of this regulation.

(2) After regulation 4 (transfer payments to salary-related contracted-out schemes)(15) there shall be inserted the following regulation:—

“Transfer payments to section 53 schemes

4A.—(1) A transfer payment may be made to a section 53 scheme in the circumstances specified in paragraph (2) and subject to the conditions specified in paragraph (3).

(2) The circumstances referred to in paragraph (1) are that—

- (a) the member consents in writing to the making of the transfer payment; and
- (b) either—

(13) 1993 c. 48; section 156 was substituted by paragraph 9 of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c. 19).

(14) S.I. 1996/1461, to which there are no amendments relevant to these Regulations.

(15) Regulation 4 was amended by regulation 3 of, and paragraph 6(3) of Schedule 1 to, S.I. 1997/786.

- (i) the member has entered employment with an employer who is or was a contributor to the section 53 scheme, or
 - (ii) the member was previously a member of the receiving scheme.
- (3) The conditions referred to in paragraph (1) are that—
- (a) the transfer payment (whether or not it forms part of a larger payment giving effect to both protected and other rights) is of an amount at least equal to the value of the protected rights to which effect is being given; and
 - (b) the transfer payment is approved by the Inland Revenue, whether or not subject to conditions.
- (4) In this regulation “section 53 scheme” means “an occupational pension scheme which was formerly a contracted-out scheme and which the Inland Revenue are under a duty to supervise in accordance with section 53 of the 1993 Act”.
- (3) In regulation 5 (transfer payments to overseas schemes)—
- (a) after the words “overseas scheme” there shall be inserted the words “or an overseas arrangement”;
 - (b) in paragraph (b) for the words from “and has entered” to the end of the paragraph there shall be substituted the words “and, where the transfer payment is to be made to an overseas scheme, has entered employment to which that scheme applies;”;
 - (c) in paragraph (d) after the words “the scheme” there shall be inserted the words “or arrangement”; and
 - (d) in paragraphs (d) and (e) after the words “receiving scheme” there shall be inserted the words “or arrangement”.

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

4.—(1) The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996⁽¹⁶⁾ shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 4(2) (conditions applying to rates of pensions and annuities which give effect to protected rights—marital status) for sub-paragraph (b) there shall be substituted the following sub-paragraph:—

“(b) except where, in the case of an unmarried member, the member has agreed to the rate being determined on his or her life only, on the basis that the member will, in the event of his or her death, leave a widow or widower.”;

(3) For regulation 5 (circumstances in which and periods for which pension or annuity is to be paid to widow or widower after being paid to member) there shall be substituted the following regulation:—

“Circumstances in which and period for which pension or annuity is to be paid to widow or widower after being paid to member

5.—(1) For the purposes of section 29(1)(b)(i) of the 1993 Act (pension or annuity to be paid to member’s widow or widower in prescribed circumstances and for the prescribed period)—

- (a) the prescribed circumstances are that the rate of the pension or annuity paid to the member has not, by virtue of regulation 4(2)(b), been determined by reference to his or her life only; and

(16) S.I. 1996/1537, to which there are no amendments relevant to these Regulations.

(b) the prescribed period is, subject to paragraph (2), the remainder of the widow's or widower's life.

(2) There is excluded from the period prescribed in paragraph (1)(b) any period after the widow's or widower's remarriage under pensionable age.”.

(4) For paragraphs (2) and (3) of regulation 7 (payments made under interim arrangements) there shall be substituted the following paragraphs:—

“(2) For the purposes of section 28A(5)(a) of the 1993 Act (the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner)(17) the prescribed manner is—

- (a) in the case of payments to be made to a member who is married on the relevant reference date by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(a) and (d);
- (b) in the case of payments to be made to a member who is unmarried on the relevant reference date by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(b) and (d);
- (c) in the case of payments to be made to a widow or widower by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(c) and (d).

(3) For the purposes of section 28A(5)(a)(ii) of the 1993 Act (the current published tables of rates of annuities prepared in the prescribed manner by the Government Actuary) the prescribed manner is—

- (a) in the case referred to in paragraph (2)(a), on the basis—
 - (i) that no distinction shall be made by reference to the sex of the member,
 - (ii) that in respect of a member who has died, the rate of the annuity is one-half of the rate at which it would have been payable if the member had been living,
 - (iii) of a deduction of an amount which the Government Actuary considers reasonable from the purchase price of the annuity to allow for the initial expenses of the insurance company, and
 - (iv) that the frequency of the payment is monthly in arrears;
- (b) in the case referred to in paragraph (2)(b), on the basis—
 - (i) that no distinction shall be made by reference to the sex of the member,
 - (ii) that there is no person other than the member with any rights to an annuity,
 - (iii) of a deduction of an amount which the Government Actuary considers reasonable from the purchase price of the annuity to allow for the initial expenses of the insurance company, and
 - (iv) that the frequency of the payment is monthly in arrears;
- (c) in the case referred to in paragraph (2)(c), on the basis—
 - (i) that no distinction shall be made by reference to the sex of the widow or widower,
 - (ii) that the widow or widower is the last survivor with rights to an annuity,
 - (iii) of a deduction of an amount which the Government Actuary considers reasonable from the purchase price of the annuity to allow for the initial expenses of the insurance company, and

(17) Section 28A was inserted by section 143 of the 1995 Act.

- (iv) that the frequency of the payment is monthly in arrears;
- (d) in all cases referred to in paragraph (2), on the basis that
 - (i) in the case of payments in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year up to and including the tax year 1996–1997, the rate of annuity would be increased on each of its anniversaries in accordance with the requirements in regulation 4(3),
 - (ii) in the case of payments in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year after the tax year 1996–1997, the rate of annuity would be increased on each of its anniversaries in accordance with the requirements of section 162(2) of the Pensions Act 1995.”
- (5) In regulation 9 (suspension and forfeiture of payments giving effect to protected rights), in paragraph (1)(a)—
 - (a) the words “or otherwise” shall be omitted; and
 - (b) for the words from “, so however” to the end of the sub-paragraph there shall be substituted the words
 - “and that there is provision in the scheme which requires that, in those circumstances, sums equivalent to such payments—
 - (i) must, except in so far as such sums are not, in the opinion of the trustees and managers, required for the maintenance of the pensioner, be paid or applied for his maintenance,
 - (ii) may, in so far as such sums are not, in the opinion of the trustees and managers, required for the maintenance of the pensioner, be paid or applied for the maintenance of any dependants of the pensioner,
 - (iii) must, in so far as such sums are not, in the opinion of the trustees and managers, required for the maintenance of the pensioner or of any dependant of his, be held by the trustees for the pensioner until he is again able to act or, if he should die before that happens, for his estate;”.
- (6) In regulation 12 (death of member before effect given to protected rights)—
 - (a) paragraph (1) shall be omitted;
 - (b) in paragraphs (2), (3), (5), (9), (11) and (14), for the words “qualifying widow or widower” (in each place where those words occur) there shall be substituted the words “widow or widower”; and
 - (c) in paragraphs (5) and (9), sub-paragraph (c), and the word “or” immediately preceding it, shall be omitted.
- (7) In regulation 13 (death before effect given to protected rights: interim arrangements for widow or widower)—
 - (a) in paragraph (1) for the words from “survived by” to “effect” there shall be substituted the words “survived by a widow or widower, effect”, and
 - (b) paragraph (3) shall be omitted.

Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations 1996

5. In paragraph (1) of regulation 6 of the Occupational Pension Schemes (Modification of Schemes) Regulations 1996⁽¹⁸⁾ (exemption from the restriction on powers to modify schemes) after sub-paragraph (d) there shall be inserted:—

“(da) any alteration to scheme rules to enable the scheme, with the agreement of the member in question, to provide any pension or purchase any annuity in respect of protected rights the rate of which is not determined on the basis that the member will, in the event of his or her death, leave a widow or widower.”

Amendment of the Occupational Pension Schemes (Investment) Regulations 1996

6. In paragraph (1)(a)(i) of regulation 2 of the Occupational Pension Schemes (Investment) Regulations 1996⁽¹⁹⁾ (schemes to which regulation 5 applies), after the words “Chapter I” there shall be inserted “or Chapter IV”.

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996

7.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996⁽²⁰⁾ shall be amended as follows:—

(2) For paragraph (1) of regulation 51 there shall be substituted the following paragraphs—

“Contributions equivalent premiums

51.—(1) For the purposes of section 51(2) of the Act (which requires the prescribed person to pay a contributions equivalent premium in the case mentioned in section 51(2B) and otherwise enables him to elect to pay such a premium on termination of contracted-out employment)⁽²¹⁾ the prescribed person is the trustees of the scheme.

(1A) Section 51(2B) of the Act (by virtue of which a contributions equivalent premium must be paid in any case where the earner has no accrued right to benefit under the scheme)⁽²²⁾ does not apply if paragraph (1B) or (1C) applies.

(1B) This paragraph applies where—

- (a) the earner’s service in employment ceases on the earner’s death; and
- (b) the earner leaves a surviving spouse who is not entitled to any of the following benefits—
 - (i) a widowed mother’s allowance under section 37 of the Contributions and Benefits Act,
 - (ii) a widow’s pension under section 38 of that Act,
 - (iii) a widowed parent’s allowance under section 39A⁽²³⁾ of that Act, or

⁽¹⁸⁾ S.I. 1996/2517; the relevant amending instrument is S.I. 1999/3189.

⁽¹⁹⁾ S.I. 1996/3127, to which there are no amendments relevant to these Regulations.

⁽²⁰⁾ S.R. 1996 No. 493.

⁽²¹⁾ 1993 c. 49; section 51(2) was substituted by Article 138(10) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I.22)) and was amended by paragraph 7(2)(a) of Schedule 2 to the 1999 Act.

⁽²²⁾ Section 51(2B) was inserted by paragraph 7(2)(c) of Schedule 2 to the 1999 Act.

⁽²³⁾ Section 39A was inserted by article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order (S.I. 1999/3147 (N.I.11)).

(iv) a bereavement allowance under section 39B(24) of that Act.

(1C) This paragraph applies where the earner is a woman who has made, or is treated as having made, an election under regulations made under section 19(4) of the Contributions and Benefits Act, which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.”.

(3) In paragraph (2) of that regulation—

(a) in sub-paragraph (a) the words “section 16 (transfer of accrued rights) or” shall be omitted,

(b) for sub-paragraph (b) there shall be substituted—

“(b) cases where paragraph (1C) applies;”, and

(c) for sub-paragraph (e) there shall be substituted—

“(e) cases where any liability to provide pensions to an earner has been discharged in accordance with regulations under section 8C of the Act(25) (transfer, commutation etc.);”.

(4) After paragraph (2) of that regulation there shall be inserted—

“(2A) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of section 51(2) of the Act, the trustees of the scheme must notify the Inland Revenue of that fact in such form as the Inland Revenue may reasonably require for the purpose of identifying the earner.

(2B) Such a notification must be given—

(a) where the earner has ceased to serve in employment which is contracted-out employment by reference to the scheme because it is wound up, within two years of the cessation of the scheme, and

(b) where the earner has so ceased for any other reason mentioned in section 51(2A) of the Act(26), within the period beginning one month before and ending six months after the date on which the person so ceases.

(2C) The Inland Revenue may in any particular case or class of cases extend the period applicable under paragraph (2B) if it appears to them that the notification could not reasonably have been given within that period.”.

(5) In regulation 52(1) (time for payment of contributions equivalent premiums) after the words “the trustees”, in the first place they occur, the words “are required or” shall be inserted.

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

8. After regulation 6 of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997(27) (requirement to give the Secretary of State information) there shall be inserted the following regulation—

“Provision of information for purposes of contracting-out

6A. As respects any personal pension scheme, the persons prescribed for the purposes of section 156(2) of the 1993 Act (additional persons to whom information may be provided for the purposes of enabling them to comply with obligations under Part III of that Act) are:

(a) the earner or the widow or widower to whom the information relates; and

(24) Section 39B was inserted by article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order (S.I. [1999/3147](#) (N.I.11)).

(25) Section 8C was inserted by article 133(5) of the Pensions (Northern Ireland) Order 1995.

(26) Section 51(2A) was inserted by article 138(1) of the Pensions (Northern Ireland) Order 1995.

(27) S.I. [1997/470](#).

- (b) any person who is, or who in the opinion of the Secretary of State or, as the case may be, the Inland Revenue is likely to become, the person responsible for making payments derived from the protected rights.”.

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

9. In regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997(28) (commutation of pensions under occupational pension scheme) after paragraph (1) there shall be inserted the following paragraph:—

“(1A) There are also prescribed for the purposes of section 91(5)(c)(iii) of the 1995 Act the circumstances where—

- (a) the rights of the member consist only of rights derived from equivalent pension benefits under Part III of the National Insurance Act 1965(29); and
(b) the member has consented to the commutation.”.

Amendment of the Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations 2000

10. In regulation 3 of the Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations 2000 (recovery of amounts by Inland Revenue)(30) for the words “section 42A(2D) of the Northern Ireland Act” there shall be substituted the words “section 38A(2D) of the Northern Ireland Act(31)”.

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

13th March 2002

P. Hollis
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(28) S.I. 1997/785.

(29) 1965 c. 51.

(30) S.I. 2000/750.

(31) See the Pension Schemes (Northern Ireland) Act 1993 (c. 49); section 38A was inserted by article 134(4) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 96 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), and by paragraph 52 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671); subsections (2C) and (2D) were inserted in that section by paragraph 7 of Schedule 10 to the 1999 Act.

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SCHEDULE

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

<i>Column (1) Provision</i>	<i>Column (2) Provision</i>
Pension Schemes Act 1993 (32) section 8(3)(b)	
section 9(2B)(c)	Pensions Act 1995 (33) (“1995 Act”), section 136(3); Social Security Contributions (Transfer of Functions, etc.) Act 1999 (“1999 Act”) (34) , Schedule 1, paragraph 35(2)
section 9(3)(aa)	1995 Act, section 136(4); 1999 Act, Schedule 1, paragraph 35(3)
section 11(5)	1999 Act, Schedule 1, paragraph 37
section 21	
section 28(1A)	1995 Act, section 142(3); Welfare Reform and Pensions Act 1999 (35) (“WRAP Act”), Schedule 2, paragraph 5
section 28(2)	Child Support, Pensions and Social Security Act 2000 (36) (“2000 Act”), Schedule 5, paragraph 2(2)
section 28(4)	2000 Act, Schedule 5, paragraph 3(2)
section 28A	1995 Act, section 143
section 32	
section 32A(2)	1995 Act, section 146(1)
section 34(1)	1995 Act, Schedule 5, paragraph 37; 1999 Act, Schedule 1, paragraph 45
section 55(2), (2B) and (2C)	1995 Act, section 141(1) WRAP Act, Schedule 2, paragraph 7(1)
section 56(2)	1995 Act, Schedule 5, paragraph 51(a); 1999 Act, Schedule 1, paragraph 54

(32) 1993 c. 48.

(33) 1995 c. 26.

(34) 1999 c. 2.

(35) 1999 c. 30.

(36) 2000 c. 30.

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<i>Column (1) Provision</i>	<i>Column (2) Provision</i>
section 57(2)	2000 Act, Schedule 5, paragraph 6(2)
section 156(2)	2000 Act, Schedule 5, paragraph 9
section 181(1)(37)	WRAP Act, Schedule 2, paragraph 3; 2000 Act, Schedule 5, paragraph 2(3)
section 182(2) and (3)	
section 183(1)	1995 Act, Schedule 5, paragraph 79, Schedule 6, paragraph 15(a), and Schedule 7, Parts III and IV
Pension Schemes (Northern Ireland) Act 1993(38)	section 38A(2C) and (2D)
	Pensions (Northern Ireland) Order 1995(39) (“1995 Order”), article 134(4); Social Security (Northern Ireland) Order 1998(40), Schedule 6, paragraph 96; Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999(41) (“1999 Order”), Schedule 1, paragraph 52; WRAP Act, Schedule 10, paragraph 7
	section 51(2), (2ZA), (2B) and (2C)
	1995 Order, article 138(1); WRAP Act, Schedule 2, paragraph 7(2); 1999 Order, Schedule 1, paragraph 63
	section 52(2) and (7)
	1995 Order, Schedule 3, paragraph 43(a); 1999 Order, Schedule 1, paragraph 64
	section 53(2) and (5)
	1999 Order, Schedule 1, paragraph 65
	section 177(2) to (4) and (7)
	1999 Order, Schedule 1, paragraph 75
	section 178(1)
	1995 Order, Schedule 3, paragraph 68
Pensions Act 1995(42)	section 40(1) and (2)

(37) Section 181 is cited for the meaning of “employed earner”, “overseas arrangement”, “prescribe”, “prescribed” and “regulations”.

(38) 1993 c. 49.

(39) S.I. 1995/3213 (N.I. 22).

(40) S.I. 1998/1506 (N.I. 10).

(41) S.I. 1999/671.

(42) 1995 c. 26.

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<i>Column (1) Provision</i>	<i>Column (2) Provision</i>
section 67(5)(b)	WRAP Act, Schedule 12, paragraph 53(4)
section 91(5)	WRAP Act, Schedule 12, paragraph 57(4)
section 92(6)	
section 124(1)(43)	
section 174(2) and (3)	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various instruments which govern the arrangements whereby occupational and personal pension schemes are contracted-out of the state additional retirement pensions, and associated matters including those relating to transfer payments, benefits for widows and widowers, contributions equivalent premiums and the provision of information relating to pension schemes and state scheme rights and duties.

Regulation 2 amends the Occupational Pension Schemes (Contracting-out) Regulations 1996 in relation to contracting-out certificates and elections and the trivial commutation of benefits. Regulation 2 also substitutes regulation 19 (lump sum benefits) and regulation 51 (contributions equivalent premiums) (paragraphs (7) and (12) respectively). Regulation 2(9) inserts new regulation 20A into those Regulations to provide for the suspension of benefits derived from section 9(2B) protected rights.

Regulation 3 amends the Protected Rights (Transfer Payment) Regulations 1996 by inserting a new regulation 4A which provides for transfer payments to section 53 Schemes (former contracted-out schemes) (regulation 3(2)) and to provide for transfer payments to overseas arrangements as well as overseas schemes (regulation 3(3)).

Regulation 4 amends the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 in respect of pensions and annuities for widows and widowers (regulations 4, 5 and 7), the suspension and the forfeiture of protected rights payments and their treatment where a member dies before effect is given to such rights (regulation 9).

Regulation 5 amends the Occupational Pension Schemes (Modification of Schemes) Regulations 1996 to disapply restrictions on modifying Schemes to be amended to offer single life pensions and annuities in accordance with the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 as amended by regulation 4 of these Regulations.

Regulation 6 amends the Occupational Pension Schemes (Investment) Regulations 1996 to apply the restriction on employer related investments in regulation 5 of those Regulations to schemes referred to in Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.

(43) Section 124(1) is cited for the meaning of “prescribe” and “regulations”.

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Regulation 7 amends regulations 51 and 52 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 which relate to contributions equivalent premiums.

Regulation 8 amends the Personal Pension Schemes (Appropriate Schemes) Regulations 1997 by inserting a new regulation 6A to extend the categories of person to whom information may be given to enable them to comply with Part III (certification of pension schemes and effect on members state scheme rights and duties) of the Pension Schemes Act 1993 to widows and widowers of an earner and anyone responsible for making payments derived from protected rights.

Regulation 9 amends the Occupational and Personal Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 by inserting paragraph (1A) into regulation 2 (commutation of pension under an occupational pension scheme). New paragraph (1A) disapplies, in relation to the commutation of benefits referred to in section 91(5) of the Pensions Act 1995, the principle of inalienability of pensions provided for in section 91(1) of that Act.

Regulation 10 amends regulation 3 of the Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations 2000 which deals with the recovery of amounts by the Inland Revenue by substituting the reference to section 42A(2D) of the Pension Schemes (Northern Ireland) Act 1993 with a reference to section 38A(2D) of that Act.

An assessment of the cost to business of complying with these Regulations has been made, copies of which have been placed in the libraries of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Regulatory Impact Unit, 3rd floor, The Adelphi, 1-11 John Adam Street, London, WC2N 6HT.