
STATUTORY INSTRUMENTS

1996 No. 1172

Occupational Pension Schemes (Contracting-out) Regulations 1996

PART I

PRELIMINARY

Citation, commencement and interpretation.

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Contracting-out) Regulations 1996 and shall come into force on 6th April 1997.

^{F1}(1A)

(2) In these Regulations, unless the context otherwise requires—

“the 1993 Act” means the Pension Schemes Act 1993 [^{F2}as it had effect immediately before the second abolition date (except where otherwise stated)]^{F3};

“the 1995 Act” means the Pensions Act 1995;

[^{F4}“the 2004 Act ” means the Pensions Act 2004]

[^{F5}“the 2009 Regulations” means the Registered Pension Schemes (Authorised Payments) Regulations 2009;]

“the actuary” means the actuary appointed for the scheme in pursuance of section 47(1) of the 1995 Act or the actuary otherwise authorised by virtue of these Regulations to provide certification in accordance with section 12A(6) of the 1993 Act ^{F6};

“the Administration Act” means the Social Security Administration Act 1992 ^{F7};

“administrator”, in relation to an occupational pension scheme, means the person resident in the United Kingdom having responsibility for the management of the scheme or, in the case of an overseas scheme, means the person [^{F8}who is, or the persons who are, appointed in accordance with section 270 of the Finance Act 2004 (meaning of “scheme administrator”);]

“age-related payment” means a payment made by the Secretary of State in accordance with section 42A(3) of the 1993 Act ^{F9};

^{F10} ...

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 ^{F11};

“earnings period” has the same meaning as in the Social Security (Contributions) Regulations [^{F12}2001];

“emoluments” means so much of a person’s remuneration or profit derived from employed earner’s employment as constitutes earnings for the purposes of [^{F13}Parts 1 to 5 of the

Contributions and Benefits Act, including any amount retrospectively treated as earnings (“retrospective earnings”) by retrospective contributions regulations;]

“employer” includes a person who, by virtue of paragraphs (4) or (5) or regulations 12 to 14, is treated as an employer for the purposes of these Regulations;

“income tax month” means a period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

“independent trade union” means an independent trade union recognised to any extent for the purpose of collective bargaining;

“insured scheme” means a scheme in which the benefits are secured by one or more policies of insurance or annuity contracts and which is managed by an insurance company which issued the policy or contract;

F14 ...

“the Occupational Pensions Board” means the Occupational Pensions Board established under section 66 of the Social Security Act 1973^{F15} and dissolved under section 150 of the 1995 Act;

[^{F16} “overseas scheme” means an occupational pension scheme which has its main administration outside the [^{F17}United Kingdom] but does not include a scheme which [^{F18}was contracted-out] in the Isle of Man by virtue of satisfying section 9(2)^{F19} ... of the 1993 Act as it [^{F20}had effect] in the Isle of Man.]

[^{F21}“pension debit” means a debit under section 29(1)(a) of the Welfare Reform and Pensions Act 1999;]

“principal appointed day” has the same meaning as in section 7(2B) of the 1993 Act^{F22};

[^{F23}“relevant statutory scheme” has the same meaning as in paragraph 1(1)(c) of Schedule 36 to the Finance Act 2004 (deemed registration of existing schemes);]

[^{F24}“relevant transferee” means any person for whose benefit an order or provision is made by virtue of which section 29 of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits) applies, where the order or provision relates to the rights of another person who is a member of the scheme;]

[^{F25}“retrospective contributions regulations” means regulations made by virtue of section 4B(2) of the Contributions and Benefits Act and, in relation to an amount of retrospective earnings, “the relevant retrospective contributions regulations” means the regulations which treated that amount as earnings;]

F26 ...

“scheme” means an occupational pension scheme;

[^{F27}“section 9(2B) rights” are—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a scheme [^{F28}that was a salary-related contracted-out scheme], so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day; and
- (b) where a transfer payment has been made [^{F29}(other than a payment made in accordance with regulation 10 (transfers payments to occupational and personal pension schemes in respect of section 9(2B) rights) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996] to such a scheme, [^{F30}whether before or after the second abolition date] any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—

- (i) such rights as are referred to in sub-paragraph (a) under another scheme [^{F31}that was a salary-related contracted-out scheme]; or
- (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of ^{F32} ... employment on or after the principal appointed day [^{F33}, where that transfer payment was made before the [^{F34}first] abolition date];]

^{F35} ...

“trustees”, in relation to a scheme which is not set up or established under a trust, means the managers or administrators of the scheme.

(3) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered Part is to the Part of these Regulations bearing that number;
- (b) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (c) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(4) For the purposes of these Regulations, any person, government department or public authority who, under Part I of the Contributions and Benefits Act or regulations made thereunder, is, or is to be treated as, the secondary Class 1 contributor shall be treated as the employer of the earner in respect of whom the Class 1 contributions are payable.

(5) For the purposes of these Regulations and without prejudice to paragraph (4), there shall be treated as the employer of a self-employed earner to whom a scheme applies any person (other than that self-employed earner), government department or public authority who makes or is liable to make payments towards the resources of the scheme in respect of that self-employed earner (either under actual or contingent legal obligation or in the exercise of power conferred, or duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money).

(6) For the purposes of these Regulations, a person is to be regarded as a member of a scheme during a period when his service in relevant employment is such that at the time when it is given it either—

- (a) qualifies him for benefits (in the form of pension or otherwise, payable on the termination of his service or on his retirement or his death) under the scheme which in the opinion of the Secretary of State are referable to that period, or
- (b) is certain so to qualify him subsequently if it continues for a sufficiently long time and the rules of the scheme and the terms of his contract of service remain unaltered during that time.

(7) Any document required or authorised under the provisions of these Regulations to be sent to any person shall be deemed to have been sent if it was sent by registered post or by recorded delivery service to that person’s usual or last known address or (in the case only of a document required or authorised to be sent to an employer) to the address of the principal place at which any employment to which the document relates is last known to have been carried on.

F1 Reg. 1(1A) omitted (E&W) (13.3.2014) by virtue of [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential Provisions\) Order 2014 \(S.I. 2014/107\)](#) , art. 1(2) , [Sch. 1 para. 17\(2\)](#)

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- Reg. 1(1A) omitted (S) (16.12.2014) by virtue of The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229) , art. 1(2) , **Sch. 6 para. 12(2)**
- F2** Words in reg. 1(2) inserted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **28(2)(a)**
- F3** 1993 c.48 .
- F4** Words in reg. 1(2) inserted (30.12.2005) by The Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377) , regs. 1 , 20(1) , **Sch. 3 paras. 1(2)(a)** (with Sch. 4 para. 17)
- F5** Words in reg. 1(2) inserted (1.12.2009) by Occupational and Personal Pension Schemes (Authorised Payments) Amendment Regulations 2009 (S.I. 2009/2930) , regs. 1 , **4(2)**
- F6** Section 12A(6) was inserted by section 136(5) of the Pensions Act 1995.
- F7** 1992 c.5 .
- F8** Words in reg. 1(2) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments of Occupational and Personal Pension Schemes Legislation) Order 2006 (S.I. 2006/744) , arts. 1 , **8(2)(a)**
- F9** Section 42A was inserted by section 137(5) of the Pensions Act 1995.
- F10** Words in reg. 1(2) omitted (9.8.2012) by virtue of The Occupational and Personal Pension Schemes (Prescribed Bodies) Regulations 2012 (S.I. 2012/1817) , reg. 1 , **Sch. para. 2(a)**
- F11** 1992 c.4 .
- F12** Word in reg. 1(2) substituted (6.4.2007 with effect in accordance with reg. 1(2)) by Social Security, Occupational Pension Schemes and Statutory Payments (Consequential Provisions) Regulations 2007 (S.I. 2007/1154) , regs. 1(1) , **3(2)(a)**
- F13** Words in reg. 1(2) substituted (6.4.2007 with effect in accordance with reg. 1(2)) by Social Security, Occupational Pension Schemes and Statutory Payments (Consequential Provisions) Regulations 2007 (S.I. 2007/1154) , regs. 1(1) , **3(2)(b)**
- F14** Words in reg. 1(2) omitted (30.12.2005) by virtue of The Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377) , regs. 1 , 20(1) , **Sch. 3 paras. 1(2)(b)** (with Sch. 4 para. 17)
- F15** 1973 c.38 .
- F16** Words in reg. 1(2) substituted (6.4.2007) by Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/814) , regs. 1 , **4(2)**
- F17** Words in reg. 1(2) substituted (31.12.2020) by The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192), regs. 1, **8(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in reg. 1(2) substituted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **28(2)(b)(i)**
- F19** Words in reg. 1(2) omitted (6.4.2012) by virtue of The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 (S.I. 2011/1245) , regs. 1(2) , **4(2)**
- F20** Words in reg. 1(2) substituted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **28(2)(b)(ii)**
- F21** Words in reg. 1(2) inserted (1.12.2000) by The Pension Sharing (Contracting-out) (Consequential Amendments) Regulations 2000 (S.I. 2000/2975) , regs. 1 , **2(2)(a)**
- F22** Section 7(2B) was inserted by section 136(1) of the Pensions Act 1995.
- F23** Words in reg. 1(2) inserted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments of Occupational and Personal Pension Schemes Legislation) Order 2006 (S.I. 2006/744) , arts. 1 , **8(2)(c)**
- F24** Words in reg. 1(2) inserted (1.12.2000) by The Pension Sharing (Contracting-out) (Consequential Amendments) Regulations 2000 (S.I. 2000/2975), regs. 1, **2(2)(b)**
- F25** Words in reg. 1(2) added (6.4.2007 with effect in accordance with reg. 1(2)) by Social Security, Occupational Pension Schemes and Statutory Payments (Consequential Provisions) Regulations 2007 (S.I. 2007/1154) , regs. 1(1) , **3(2)(c)**

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- F26** Words in reg. 1(2) omitted (6.4.2009) by virtue of Pensions Act 2008 (Abolition of Safeguarded Rights) (Consequential) Order 2009 (S.I. 2009/598) , arts. 1 , **3(2)**
- F27** Words in reg. 1(2) inserted (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786) , reg. 1 , **Sch. 1 para. 4(2)**
- F28** Words in reg. 1(2) substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200) , arts. 1(2) , **3(a)**
- F29** Words in reg. 1(2) inserted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200) , arts. 1(2) , **3(b)(i)**
- F30** Words in reg. 1(2) inserted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200) , arts. 1(2) , **3(b)(ii)**
- F31** Words in reg. 1(2) substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200) , arts. 1(2) , **3(c)**
- F32** Words in reg. 1(2) deleted (30.12.1999) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1999 (S.I. 1999/3198) , regs. 1(1) , **3(2)(b)**
- F33** Words in reg. 1(2) inserted (6.4.2012) by The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011 (S.I. 2011/1246) , arts. 1(2)(a) , **8(2)**
- F34** Words in reg. 1(2) inserted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677) , regs. 1(2)(b) , **28(2)(c)**
- F35** Words in reg. 1(2) omitted (6.4.2006) by virtue of Taxation of Pension Schemes (Consequential Amendments of Occupational and Personal Pension Schemes Legislation) Order 2006 (S.I. 2006/744) , arts. 1 , **8(2)(b)**

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Changes and effects yet to be applied to :

- Instrument saved by [S.I. 1997/784 reg.8](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Act cert. functs. trans. (pt.prosp.) by [1999 c. 2 s.1 \(2\)](#). [Sch.2](#)