

## STATUTORY INSTRUMENTS

# 1996 No. 1172

## Occupational Pension Schemes (Contracting-out) Regulations 1996

### PART VII

#### GUARANTEED MINIMUM PENSIONS

##### Scheme rules about guaranteed minimum pensions

<sup>F1</sup>55. ....

**F1** Regs. 49-61 revoked (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), **31(e)**

##### Special provision for revaluation of guaranteed minimum pensions secured by insurance policies or annuity contracts.

<sup>F1</sup>56. ....

**F1** Regs. 49-61 revoked (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), **31(e)**

##### Circumstances [<sup>F2</sup>for the purposes of section 17(6) of the 1993 Act] in which widower's<sup>F3</sup>, widow's<sup>F4</sup> or surviving civil partner's] guaranteed minimum pension is to be payable.

<sup>F1</sup>57. ....

- F1** Regs. 49-61 revoked (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), **31(e)**
- F2** Words in reg. 57 heading inserted (13.3.2014) (EW) 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(4)(a)(i)**, and words in reg. 57 inserted (16.12.2014) (S) by [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(4)(a)(i)**
- F3** Words in reg. 57 heading inserted (13.3.2014) (EW) 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(4)(a)(ii)**, and word in reg. 57 heading inserted (16.12.2014) (S) by [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(4)(a)(ii)**

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- F4** Words in reg. 57 heading inserted (5.12.2005) by Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050) , art. 1(3) , **Sch. 2 para. 18(a)**

**Period [<sup>F5</sup>for the purposes of section 17(6) of the 1993 Act] for which widower's<sup>F6</sup>, widow's<sup>F7</sup> or surviving civil partner's] guaranteed minimum pension is to be payable.**

**<sup>F1</sup>58.** .....

- F1** Regs. 49-61 revoked (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), **31(e)**
- F5** Words in reg. 58 heading inserted (13.3.2014) (EW) by The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107) , art. 1(2) , **Sch. 1 para. 17(5)(a)(i)**, words in reg. 58 inserted (16.12.2014) (S) by 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(5)(a)(i)**
- F6** Word in reg. 58 inserted (13.3.2014) (EW) by The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107) , art. 1(2) , **Sch. 1 para. 17(5)(a)(ii)**, Word in reg. 58 inserted (16.12.2014) (S) by 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(5)(a)(ii)**
- F7** Words in reg. 58 heading inserted (5.12.2005) by virtue of Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050) , art. 1(3) , **Sch. 2 para. 19(a)**

**Statutory references to persons entitled to guaranteed minimum pensions application to [<sup>F8</sup>widowers, widows of female earners]<sup>F9</sup> and surviving civil partners]**

**<sup>F1</sup>59.** .....

- F1** Regs. 49-61 revoked (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), **31(e)**
- F8** Words in reg. 59 heading substituted (13.3.2014) (EW) by The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107) , art. 1(2) , **Sch. 1 para. 17(6)(a)**, and words in reg. 59 substituted (16.12.2014) (S) by 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(6)(a)**
- F9** Words in reg. 59 heading added (5.12.2005) by virtue of Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050) , art. 1(3) , **Sch. 2 para. 20(a)**

**[<sup>F10</sup> Payment of a guaranteed minimum pension as a lump sum**

**<sup>F1</sup> 60 ].** .....

- F1** Regs. 49-61 revoked (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), **31(e)**
- F10** Reg. 60 substituted (6.4.2006) by The Taxation of Pension Schemes (Consequential Amendments of Occupational and Personal Pension Schemes Legislation) Order 2006 (S.I. 2006/744) , arts. 1 , **8(10)**

## Suspension and forfeiture of guaranteed minimum pensions.

<sup>F1</sup>61. ....

**F1** Regs. 49-61 revoked (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), **31(e)**

## Fixed rate revaluation of guaranteed minimum pensions for early leavers.

<sup>F11</sup>62.—(1) This regulation applies to a case where a scheme provides, under section 16(2) of the 1993 Act, for the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before he attains pensionable age to be determined by reference to the last order that comes into force under section 148 of the Administration Act before the end of the tax year in which his service is terminated.

(2) Subject to paragraph (3), in a case to which this regulation applies, the prescribed percentage for the purpose of section 16(3) of the 1993 Act (revaluation of earnings factors) is, in relation to each period of service in respect of which accrued rights to guaranteed minimum pension have been acquired under, or transferred to, the scheme—

- (a) where the period of service terminated before 6th April 1988, 8.5 per cent. compound;
- (b) where that period of service terminated on or after 6th April 1988 but before 6th April 1993, 7.5 per cent. compound;
- (c) where that period of service terminated on or after 6th April 1993 but before 6th April 1997, 7 per cent. compound;
- (d) where that period of service terminates on or after 6th April 1997 [<sup>F12</sup>but before 6th April 2002, 6.25 per cent. compound;]
- [<sup>F13</sup>(e) where that period of service terminates on or after [<sup>F14</sup>6th April 2002 but before 6th April 2007, 4.5 per cent. ] compound.]
- [<sup>F15</sup>(f) where that period of service terminates on or after [<sup>F16</sup>6th April 2007 but before 6th April 2012, 4 per cent.] compound.]
- [<sup>F17</sup>(g) where that period of service terminates on or after 6th April 2012, 4.75 per cent. compound.]

(3) Paragraph (2) only applies so as to permit the same provision to be made for all members of the scheme, so however that separate provision may be made for members as regards their rights to guaranteed minimum pensions under the scheme arising in respect of a transfer or transfer payment made in accordance with section 20(1) (transfer of accrued rights) <sup>F18</sup> ... of the 1993 Act or regulations made under [<sup>F19</sup>that provision ] or for members whose guaranteed minimum pensions are, or are to be, appropriately secured within the meaning of section 19(3) of the 1993 Act. ]

- F11** Reg. 62 revoked (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), **31(f)** (with reg. 32)
- F12** Words in reg. 62(2)(d) substituted (6.4.2002) by [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#), regs. 1, **2(16)(a)**
- F13** Reg. 62(2)(e) inserted (6.4.2002) by [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#), regs. 1, **2(16)(b)**
- F14** Words in reg. 62(2)(e) substituted (6.4.2007) by [Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/814\)](#), regs. 1, **4(3)(a)**
- F15** Reg. 62(2)(f) added (6.4.2007) by [Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/814\)](#), regs. 1, **4(3)(b)**

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- F16** Words in reg. 62(2)(f) substituted (6.4.2012) by [The Occupational Pension Schemes \(Contracting-out and Modification of Schemes\) \(Amendment\) Regulations 2012 \(S.I. 2012/542\)](#) , regs. 1(2) , **2(2)(a)**
- F17** Reg. 62(2)(g) added (6.4.2012) by [The Occupational Pension Schemes \(Contracting-out and Modification of Schemes\) \(Amendment\) Regulations 2012 \(S.I. 2012/542\)](#) , regs. 1(2) , **2(2)(b)**
- F18** Words in reg. 62(3) 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(17)(a)**
- F19** Words in reg. 62(3) substituted (6.4.2012) by [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(17)(b)**

### Provision of information about guaranteed minimum pensions.

<sup>F20</sup>**63.** . . . . .

- F20** Reg. 63 revoked (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), **31(g)**

### Meaning of expression “connected employer”.

**64.—**(1) The cases in which employers are to be treated as connected for the purposes of section 35 of the 1993 Act (surrender and cancellation: issue of further certificates) are those specified in paragraph (2).

(2) The cases referred to in paragraph (1) are those where any two employers are or were, at the relevant time—

- (a) a holding company and a subsidiary within the meaning of regulation 12(2);
- (b) subsidiaries of the same holding company within the meaning of that regulation; or
- (c) partnerships each having the same persons as at least half of its partners.

(3) In this regulation an employer is to be regarded as an employer at the relevant time where, as the case may require, he is the employer at the time of the surrender or cancellation of the first certificate or the employer at the time of the making of an election with a view to the issue of a further contracting-out certificate.

### Modification of section 16 of the 1993 Act.

**65.** [<sup>F21</sup>In such a case as is specified in regulation 66—

- (a) section 16(1) of the 1993 Act shall be modified so as to have effect as if there were added at the end thereof the words “or, in respect of the earner’s earnings factor or the weekly equivalent mentioned in section 14(2) for any relevant year in a period of linked qualifying service, shall be taken to be that factor or weekly equivalent as increased in accordance with the provisions of the scheme under regulations made under section 16(3)”, and
- (b) where earnings factors of an earner whose accrued rights to guaranteed minimum pensions, including such rights derived from linked qualifying service, have been transferred under section 20(1) of the 1993 Act or regulations made thereunder to another contracted-out scheme, section 16(2) and (3) of that Act shall be modified so as to have effect as if it permitted that scheme to provide for those earnings factors to be determined for the purpose of section 14(2) of that Act without reference to any order coming into force under section 148 of the Administration Act—

- (i) after the relevant year in which his service in the contracted-out employment, by reference to the scheme from which those rights were transferred, was terminated where such earnings factors have previously fallen to be determined by reference to orders under section 148 of the Administration Act, or
- (ii) in and after the relevant year in which that service was terminated in any other case, and as if section 16(3) of the 1993 Act had effect accordingly, save, in a case to which sub-paragraph (ii) applies, for treating the reference to the amount of the increase in section 16(3) as a reference to the amount by which the earnings factors relevant to the weekly equivalent would be increased.]

**F21** Reg. 65 revoked (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), **31(h)** (with reg. 32)

**Circumstances in which the modifications to the 1993 Act set out in regulation 65 apply.**

**66.** [<sup>F22</sup>The case referred to in regulation 65 is where, following the termination of an earner's service in contracted-out employment by reference to a scheme, the following conditions are satisfied, namely—

- (a) a transfer under section 20(1) of the 1993 Act, or regulations made thereunder, of the earner's accrued rights to guaranteed minimum pensions under that scheme (in this regulation called the "transferring scheme") to another contracted-out scheme (in this regulation called the "receiving scheme") is made, or if already begun is completed, on or after 5th April 1983;
- (b) the earner commences or has commenced employment which is contracted-out by reference to the receiving scheme;
- (c) by virtue of section 14(1) of that Act as modified by regulations made under section 20 of the 1993 Act, the calculation, under the provisions of the receiving scheme, of the earner's guaranteed minimum pension for the purposes of section 14(2) falls to include earnings factors, or the weekly equivalent derived therefrom, arising out of contracted-out employment in any period of linked qualifying service which was contracted-out employment by reference to the transferring scheme; and
- (d) either—
  - (i) the receiving scheme provides for the earnings factors or weekly equivalent derived therefrom to be increased at the rate by which they, or it, fell to be increased under the provisions of the transferring scheme or would have fallen to be increased under the provisions of that scheme relating to an earner whose service in contracted-out employment by reference to the scheme is terminated before he attains pensionable age, or
  - (ii) if the provisions of the transferring scheme provided for those earnings factors to be increased by reference to orders under section 148 of the Administration Act, the receiving scheme provides for those earnings factors or the weekly equivalent derived therefrom to be increased in accordance with the provisions of section 16(2) and (3) of the 1993 Act, or regulations made under section 16(3) of that Act, or
  - (iii) if the transferring scheme provided for those earnings factors or the weekly equivalent derived therefrom to be increased in accordance with the provisions of either section 16(2) and (3) of the 1993 Act or of regulations made under section 16(3) of that Act, the receiving scheme includes provision for those earnings factors to be increased by reference to orders under section 148 of the Administration

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Act from the date of termination of the earner's service in the period of contracted-out employment from which those earnings factors arose, or

- (iv) if a transfer of the earner's accrued rights to the receiving scheme is not one to which sub-paragraph (d)(iii) applies and those rights were previously being increased at a rate calculated by reference to orders under section 148 of the Administration Act, the receiving scheme includes provision for those earnings factors or the weekly equivalent derived therefrom to be increased at a rate calculated otherwise than by reference to orders under section 148 of the Administration Act.]

**F22** Reg. 66 revoked (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), **31(h)** (with reg. 32)

### **Modification of section 51(1) of the 1993 Act in relation to revaluation and schemes which have ceased to be contracted-out.**

<sup>F23</sup>**67.** . . . . .

**F23** Regs. 67-69A revoked (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), **31(i)**

### **Additional modifications relating to transfers and increases of earnings factors by 12 per cent..**

<sup>F23</sup>**68.** . . . . .

**F23** Regs. 67-69A revoked (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), **31(i)**

### **Miscellaneous provisions affecting section 51 of the 1993 Act.**

<sup>F23</sup>**69.** . . . . .

**F23** Regs. 67-69A revoked (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), **31(i)**

### **[<sup>F24</sup>Conversion of guaranteed minimum pensions into other benefits: actuarial equivalence**

<sup>F23</sup>**69A .** . . . .

**F23** Regs. 67-69A revoked (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), **31(i)**

**F24** Reg. 69A - Reg. 69B inserted (6.4.2009) by [Occupational Pension Schemes \(Contracting-out\) \(Amendment\) Regulations 2009 \(S.I. 2009/846\)](#) , regs. 1 , **2(2)**



## Conversion of guaranteed minimum pensions into other benefits: survivors' benefits

**69B.**—<sup>[F25]</sup>(1) For the purposes of Condition 4 of section 24B of the 1993 Act, the circumstances in which, and periods during which, the converted scheme must provide survivors' benefits are prescribed in this regulation.

(2) The circumstances are that—

- (a) an earner's pre-conversion benefits include a guaranteed minimum pension, and
- (b) the scheme before conversion provided that—
  - (i) if such an earner dies leaving a widow, widower or surviving civil partner (whether before or after attaining pensionable age), the widow, widower or surviving civil partner will be entitled to a guaranteed minimum pension, and
  - (ii) <sup>[F26]</sup>in a case where section 17(6) of the 1993 Act applies, such a widower's, widow's] or surviving civil partner's guaranteed minimum pension will be payable in the circumstances set out in regulation 57(a) to (c).

(3) The periods are—

- (a) for widows, widowers and surviving civil partners, any period mentioned in section 17(4A)(a) and (b) of the 1993 Act (minimum pensions for widows and widowers),
- (b) for widows, widowers and surviving civil partners whose entitlement by virtue of the earner's contributions to a widowed parent's allowance or bereavement allowance has come to an end at a time after the widow, widower or surviving civil partner attained the age of 45, so much of the period beginning with the time when that entitlement came to an end as neither—
  - (i) comprises a period during which the widow, widower or surviving civil partner and nor
  - (ii) falls after the time of any—
    - (aa) marriage, or
    - (bb) formation of a civil partnership,by the widow, widower or surviving civil partner which takes place after the earner's death,
- (c) for <sup>[F28]</sup>widows whose spouse was a man], any period for which a widowed mother's allowance or widow's pension is payable to the widow by virtue of the earner's contributions, and
- (d) for <sup>[F29]</sup>widowers, widows whose spouse was a woman] and surviving civil partners, any period which is, by virtue of regulation 58, a prescribed period for the purposes of section 17(6) of the 1993 Act.

<sup>[F30]</sup>(4) The following provisions do not apply where the earner died before 5th December 2005—

- (a) paragraph (3)(b)(i) so far as it relates to the living together of two people of the same sex;
- (b) paragraph (3)(b)(ii)(aa) so far as it relates to a marriage involving two people of the same sex; and
- (c) paragraph (3)(b)(ii)(bb).]]]

**F24** Reg. 69A - Reg. 69B inserted (6.4.2009) by [Occupational Pension Schemes \(Contracting-out\) \(Amendment\) Regulations 2009 \(S.I. 2009/846\)](#) , regs. 1 , **2(2)**

**F25** Reg. 69B revoked (6.4.2016) by [The State Pension and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/199\)](#), regs. 1(3), **6(1)**

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- F26** Words in reg. 69B(2)(b)(ii) substituted (13.3.2014) (EW) by The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107) , art. 1(2) , **Sch. 1 para. 17(7)(a)**, and words in reg. 69B(2)(b)(ii) substituted (16.12.2014) (S) by 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(7)(a)**
- F27** Words in reg. 69B(3)(b)(i) substituted (13.3.2014) (EW) by The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107) , art. 1(2) , **Sch. 1 para. 17(7)(b)**, and words in reg. 69B(3)(b)(i) substituted for reg. 69B(3)(b)(i)(aa)(bb) (16.12.2014) (S) by 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(7)(b)**
- F28** Words in reg. 69B(3)(c) substituted (16.12.2014) by 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. 3 para. 3(3)(a)**
- F29** Words in reg. 69B(3)(d) substituted (16.12.2014) by 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. 3 para. 3(3)(b)**
- F30** Reg. 69B(4) substituted (13.3.2014) (EW) by The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107) , art. 1(2) , **Sch. 1 para. 17(7)(c)**, and reg. 69B(4) substituted (16.12.2014) (S) by 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(7)(c)**



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**Changes and effects yet to be applied to :**

- Instrument saved by [S.I. 1997/784 reg.8](#)
- regs.55-69 (Pt.VII) modified by [S.I. 1996/1977 reg.3\( 11\)](#)

**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](#)