
STATUTORY INSTRUMENTS

1997 No. 786

PENSIONS

**The Personal and Occupational Pension Schemes
(Miscellaneous Amendments) Regulations 1997**

<i>Made</i>	- - - -	<i>11th March 1997</i>
<i>Laid before Parliament</i>		<i>14th March 1997</i>
<i>Coming into force</i>	- -	<i>6th April 1997</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 8(3)(a), 9(2A)(a), (2B), (2C), (3) and (6)(a), 10(2)(c) and (3)(c), 11(3) and (5)(a) to (c), 12C(1) and (3), 20(1), (2) and (3), 21(1), 25(2), 28(2)(b), 34, 37(1), 39, 56(2), 73(1)(b), (2)(b) and (4)(b), 93(1A)(b), 95(2)(c) and (3), 97(1), 113(1) and (3), 146(4), 168(1) and (4), 181(1) and 182(2) and (3) of and paragraphs 1, 3, 4(2) and 5(3)(e) of Schedule 2 to the Pension Schemes Act 1993 (1), sections 10(3), 17(1)(c) and (4)(b), 19(1)(c) and (4), 21(4), (5), (6), (7) and (8)(b), 37(10), 40(1) and (2)(e), 41(1) and (6), 47(5), 49(8)(b), 56(2)(b) and (3), 57(1)(a), 58(2) and (7), 60(2)(b) and (4), 61, 69(3)(c), 73(9), 75(10), 76(8), 77(6), 87(1), 118(1)(a) and (b), 119, 124(1), 125(2), (3) and (4) and 174(2) and (3) of the Pensions Act 1995 (2) and of all other powers enabling him in that behalf, by this instrument, the Occupational Pensions Board having agreed that the proposals to make these regulations, to the extent that they are made under the Pension Schemes Act 1993, need not be referred to them (3) and the Secretary of State having consulted with such persons as he considered appropriate (4), hereby makes the following regulations:—

Citation and commencement

1. These Regulations may be cited as the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 and shall come into force on 6th April 1997.

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- (1) 1993 c. 48. Section 9 was amended by section 136(3) and (4) of and paragraph 21 of Schedule 5 to the Pensions Act 1995 (c. 26). Section 10(2) was amended by paragraph 25 of that Schedule. Section 12C was inserted by section 136(5) of that Act. Section 25(2) was amended by paragraph 33 of that Schedule. Section 34 was amended by paragraphs 21 and 37 of that Schedule. Section 37 was substituted by paragraph 39 of that Schedule. Section 93(1A)(b) was inserted by section 152(3) of that Act. Section 146(4) was substituted by section 157(2) of that Act. Section 168 was substituted by section 155(1) of that Act. Section 181 is cited for the meaning given to “prescribe” and “regulations”.
- (2) 1995 c. 26. Section 124(1) is cited for the meaning given to “prescribed” and “regulations”.
- (3) See section 185(6) of the Pension Schemes Act 1993 and section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).
- (4) See section 185(1) of the Pension Schemes Act 1993 and section 120(1) of the Pensions Act 1995. Section 185(1) of the Pension Schemes Act 1993 was amended by paragraph 80 of Schedule 5 to the Pensions Act 1995.

Schemes providing salary-related death benefits

2. Part I of the Pensions Act 1995 applies to any occupational pension scheme under which all the benefits that may be provided other than death benefits are money purchase benefits as if every reference in that Part to a money purchase scheme included such a scheme.

Miscellaneous amendments

3. The regulations specified in Schedule 1 to these Regulations shall have effect with the amendments specified in that Schedule.

Revocations and savings

4.—(1) Subject to paragraph (2), the subordinate legislation specified in Schedule 2 is revoked to the extent specified in the third column.

(2) Without prejudice to the generality of section 16 of the Interpretation Act 1978 (5), the revocation of the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations 1987 (6) does not affect the operation of those regulations as respects any premium paid before 6th April 1997 or payable immediately before that date.

Signed by authority of the Secretary of State for Social Security.

11th March 1997

Oliver Heald
Parliamentary Under-Secretary of State,
Department of Social Security

(5) 1978 c. 30.
(6) S.I.1987/1111.

SCHEDULE 1

Regulation 3

MISCELLANEOUS AMENDMENTS

The Personal Pension Schemes (Disclosure of Information) Regulations 1987

1.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987(7) shall have effect with the following amendments.

(2) In regulation 1(2) in the definition of “scheme year” for paragraph (b) substitute—

“(b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees in connection with—

(i) the commencement or termination of the scheme, or

(ii) a variation of the date on which the year or period referred to in paragraph (a) is to commence;”.

(3) In regulation 5(9)—

(a) for the words “the Occupational Pensions Board have” substitute the words “the Secretary of State has”; and

(b) in sub-paragraph (a) for the words “it was communicated to the trustees by the Occupational Pensions Board” substitute the words “the date on which the trustees receive notification of that determination”.

(4) In paragraph 5 of Schedule 1 for the words “the Occupational Pensions Board” substitute the words “the Secretary of State”.

(5) In paragraph 10 of Schedule 2 for the words “the Occupational Pensions Board” substitute the words “the Secretary of State”.

The Personal Pension Schemes (Transfer Values) Regulations 1987

2.—(1) In regulation 2(b) of the Personal Pension Schemes (Transfer Values) Regulations 1987(8) for the words “regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations 1987” substitute the words “regulation 2 of the Protected Rights (Transfer Payment) Regulations 1996.”.

(2) Paragraph (1) shall not apply where the cash equivalent is used on or after 6th April 1997 in pursuance of an application made under section 95 of the Pension Schemes Act 1993 before that date.

The Occupational Pensions Schemes (Preservation of Benefit) Regulations 1991

3.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(9) shall have effect with the following amendments.

(2) In regulations 6(2)(b) and 9(4)(a) for the words “regulation 2 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985” substitute the words “regulation 3 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997”.

(3) In regulation 12(3)—

(a) in sub-paragraph (a) after the word “favourable” insert the words “and, if that scheme were wound up immediately after the transfer, would not be likely to be materially less secure than they would be if the transferring scheme were wound up immediately before the transfer”; and

(7) S.I. 1987/1110. A relevant amending instrument is S.I. 1992/1531.

(8) S.I. 1987/1112. a relevant amending instrument is S.I. 1994/1062.

(9) S.I. 1991/167. Relevant amending instruments are S.I. 1992/1531, 1993/1822, 1994/1062 and 1996/2131.

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(b) after the sub-paragraph insert—

“(aa) no beneficiary or contingent beneficiary under the transferring scheme will receive materially inferior benefits in the receiving scheme; and”.

The Occupational Pension Schemes (Contracting-out) Regulations 1996

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996(10) shall have effect with the following amendments.

(2) In regulation 1(2) for the definition of “section 9(2B) rights” substitute—

““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 contracted-out by virtue of section 9(2B) of the 1993 Act, 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 to such a scheme, 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 contracted-out by virtue of section 9(2B) of that Act; or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of contracted-out employment on or after the principal appointed day;”.

(3) In regulation 2 for paragraph (2) (grounds for discrimination in elections) substitute—

“(2) In making or abstaining from making an election as to the inclusion of an employment in a contracting-out certificate, an employer may discriminate between different earners (otherwise than on the ground of the nature of their employment) in any case where such discrimination would be lawful apart from section 11(3) of the 1993 Act.”.

(4) In regulation 3 (notices by employers of intended elections), for paragraphs (4) and (5) substitute—

“(4) Unless paragraph (5) applies, a notice under this regulation must specify a date of expiry which is not earlier than the date three months after the date on which the notice is given.

(5) Where—

- (a) there is no independent trade union recognised in relation to the earners concerned, or
- (b) before the notice has been given every such trade union has consented in writing to the notice specifying an earlier date than that which is required under paragraph (4),

the notice may specify an earlier date (but not earlier than the date one month after that on which the notice is given).”.

(5) In regulation 6 in paragraph (2)(f), omit paragraph (i).

(6) At the end of regulation 7 (amendment of an election with a view to the issue of a contracting-out certificate) add the words “or the date from which it is intended that the certificate is to have effect”.

(10) S.I. 1996/1172. A relevant amending instrument is S.I. 1996/1577.

(7) At the end of regulation 9(8) (amendment of an election for the variation or surrender of a contracting-out certificate) add the words “or the date from which it is intended that the variation or surrender is to have effect”.

(8) In regulation 42 (alteration of rules of contracted-out schemes) for paragraphs (1) and (2) substitute—

“(1) For the purposes of section 37(1) of the 1993 Act (prohibition on alteration of rules of contracted-out scheme unless the alteration is of a prescribed description), the alterations which are prescribed are any alterations which are not prohibited by paragraph (2), (2A) or (2B).

(2) The rules of a salary-related contracted-out scheme cannot be altered in relation to any section 9(2B) rights under the scheme unless—

- (a) the trustees of the scheme have informed the actuary in writing of the proposed alteration,
- (b) the actuary has considered the proposed alteration and has confirmed to the trustees in writing that he is satisfied that the scheme would continue to satisfy the statutory standard in accordance with section 12A of the 1993 Act if the alteration were made, and
- (c) the alteration does not otherwise prevent the scheme from satisfying the conditions of section 9(2B) of that Act.

(2A) The rules of a scheme contracted-out under section 9(3) of that Act (a money purchase contracted-out scheme) cannot be altered in relation to protected rights if the alteration would—

- (a) affect any of the matters dealt with in Part III of that Act or any regulations made under that Part which relate to protected rights in a manner which would or might adversely affect any entitlement or accrued rights of any member of the scheme acquired before the alteration takes effect, or
- (b) otherwise prevent the scheme from satisfying the conditions of that section.

(2B) The rules of a contracted-out scheme cannot be altered in relation to any guaranteed minimum pensions under the scheme if the alteration would—

- (a) affect any of the matters dealt with in Part III of that Act or any regulations made under that Part which relate to guaranteed minimum pensions in a manner which would or might adversely affect any entitlement or accrued rights of any member of the scheme acquired before the alteration takes effect,
- (b) affect any of the matters dealt with in sections 87 to 92 (protection of increases in guaranteed minimum pensions) and 109 and 110 of that Act (annual increases of guaranteed minimum pensions) or in any regulations made under those provisions which relate to guaranteed minimum pensions, or
- (c) otherwise prevent the scheme from satisfying—
 - (i) in the case of a salary-related contracted-out scheme, section 9(2) of that Act, or
 - (ii) in the case of a scheme contracted-out under section 9(3) of that Act, that section.”.

(9) In regulation 48 (special provision for overseas schemes)—

(a) for paragraph (5)(c) substitute—

“(c) except in cases to which regulation 73 applies, for the purposes of section 9(2B)(c)(i) of the 1993 Act, the requirement as to the amount of the resources of the scheme is that, if the scheme were to be wound up at any time,

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those resources would be sufficient to meet in full the liabilities mentioned in paragraphs (a) to (e) of section 73(3) of the 1995 Act, calculating, determining and valuing those liabilities and resources in a manner approved by the Secretary of State;

(ca) the scheme must provide that, if it is wound up, the assets of the scheme must be applied first towards satisfying the amounts of liabilities mentioned in those paragraphs and, if they are insufficient to satisfy those amounts in full, then—

(i) they must be applied first towards satisfying the amounts of the liabilities mentioned in earlier paragraphs before those mentioned in later paragraphs, and

(ii) where the amounts of the liabilities mentioned in one of those paragraphs cannot be satisfied in full, those amounts must be satisfied in the same proportions; and”;

(b) in paragraph (5)(d) for the words “paragraph (b)” substitute the words “paragraph (c)”; and

(c) after paragraph (5) insert—

“(5A) For the purposes of paragraph (5)(c) and (ca), the reference to section 73(3) of the 1995 Act is to that section as modified by paragraphs (3) to (5) of regulation 3 of the Occupational Pension Schemes (Winding Up) Regulations 1996 (11) (whether or not the transitional period mentioned in paragraph (2) of that regulation has expired).”.

(10) In regulation 52 (payment of a contributions equivalent premium) after paragraph (1) insert—

“(1A) On an application made to him for that purpose, the Secretary of State may, in any particular case or class of case, extend the period within which a premium must be paid under paragraph (1)—

(a) if he is satisfied that the circumstances are such that payment of the premium could not reasonably be required to be made within that period, by a period not exceeding six months; and

(b) if he is satisfied that to require earlier payment would be prejudicial to the interests of the earner in respect of whom the premium is payable or of the generality of the members of the scheme, by such further period as he considers reasonable.”.

(11) In regulation 55 (scheme rules about guaranteed minimum pensions) for the words from “earners’s employment” to “1993 Act” substitute the words “the employment of any earner who has a guaranteed minimum under section 14 of the 1993 Act in relation to a pension provided by the scheme it must include a rule to the effect that”.

(12) In regulation 60 (trivial commutation of guaranteed minimum pensions)—

(a) in paragraph (3) for the words “paragraph (1)(c)” substitute the words “paragraph (1)(b)”; and

(b) in paragraph (4) for the words “paragraph (1)(b)” and “paragraph (1)(c)” substitute respectively the words “paragraph (1)(a)” and “paragraph (1)(b)”.

(13) In regulation 72 (transitional requirements as to sufficiency of resources of salary-related schemes)—

(a) for paragraph (2) substitute—

“(2) The liabilities referred to in paragraph (1) are the liabilities mentioned in paragraphs (a) to (e) of section 73(3) of the 1995 Act (as modified by paragraphs (3) to (5) of regulation 3 of the Occupational Pension Schemes (Winding Up) Regulations 1996).”;

(11) S.I. 1996/3126.

- (b) in paragraph (3) omit the words “Subject to paragraphs (4) and (5)”; and
- (c) omit paragraph (4) and (5).

(14) In regulation 76A (transitional arrangements for schemes contracted-out under section 9(2) of the 1993 Act to become contracted-out under section 9(3) of that Act)—

- (a) at the end of paragraph (3) add the words “immediately before the principal appointed day”;
- (b) for paragraph (4) substitute—

“(4) Where a contracting-out certificate for a scheme to which this regulation applies (“the second certificate”) is issued after the principal appointed day but not later than 31st January 1998 (or such later date as the Secretary of State may in his discretion permit in any particular case), then the contracting-out certificate in force immediately before the principal appointed day (“the first certificate”) shall be deemed to continue in effect during the period beginning with the principal appointed day and ending with the time when the second certificate is issued or 31st January 1998, if it is earlier.

(5) Paragraph (4) does not apply if the first certificate was cancelled or surrendered before the end of that period.

(6) Paragraph (4) is without prejudice to the powers in regulations 8(2)(d) and 47(2) (retrospective effect of issue and cancellation of certificates).”.

(15) After that regulation insert—

“Former requirements for consent for alterations of rules

76B. Where any provision of a scheme provides that any alteration of the rules of the scheme, to which section 37(1) of the 1993 Act applied immediately before the principal appointed day, requires, or is void if made without, the consent of the Occupational Pensions Board, to the extent that it so provides it shall cease to have effect.”.

The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996

5.—(1) The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996(12) shall have effect with the following amendments.

(2) In regulation 2(1)—

- (a) in the definition of “eligible members” omit the words “or in regulation 5(2)”;
- (b) in the definition of “member” after the word ““member”” insert the words “shall be construed in accordance with regulation 3 and”;
- (c) for the definition of “relevant self-administered scheme” substitute—

““relevant self-administered scheme” means an approved scheme which is—

- (a) a small self-administered scheme, as defined in regulation 2(1) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991, or
- (b) a scheme which satisfies paragraph (b) of that definition and, if it satisfied paragraph (a) of that definition, would be a scheme which the Commissioners of Inland Revenue would not be prohibited by those regulations from approving under section 591 of the Taxes Act”; and

(d) after the definition of “relevant statutory scheme” insert—

(12) S.I. 1996/1216.

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““relevant wholly insured scheme” means a scheme under which all the benefits are secured by contracts of insurance or annuity contracts, some or all of which are with an insurance company (as defined in section 96(1) of the Insurance Companies Act 1982) which—

- (a) is or is connected with the sole trustee of the scheme, but
- (b) is not and is not connected with the employer;”.

(3) For regulations 3 substitute—

“Scheme membership

3.—(1) Subject to the following provisions of this regulation, in determining at any time after the first scheme year of the scheme for the purposes of sections 16 to 21 and these regulations (so far as those sections and these regulations relate to the number of members which a scheme comprises or to the statutory consultation procedure) whether or not a person is a member or whether he is a member of a specified description, a person shall be treated as becoming or ceasing to be a member or, as the case may be, a member of that description at the beginning of the scheme year following that in which he actually becomes or ceases to be a member or, as the case may be, a member of that description.

(2) If a member ceases to be a member before the statutory consultation procedure begins, he shall not be treated as a member by virtue of paragraph (1) for the purposes of that procedure (but this paragraph does not affect the application of paragraph (1) to persons who cease to be members of a specified description whilst remaining members).

(3) Where paragraph (1) applies and the statutory consultation procedure begins in one scheme year and ends in another, for the purposes of that procedure the question whether a person is a member or a member of a specified description at any time during that procedure shall be determined in accordance with that paragraph immediately before the start of that procedure.

(4) The trustees of a scheme may determine—

- (a) that paragraph (1) shall not apply in relation to the scheme at any time on or after the date of the determination; or
- (b) that, for the purposes of any statutory consultation procedure beginning on or after that date—
 - (i) the question whether a person is a member at any time during that procedure, or
 - (ii) the question whether a member is a member of a specified description at any such time, or
 - (iii) both those questions,

shall be determined at a time no more than two months before the start of that procedure.

(5) A determination under paragraph (4) may apply as respects all the provisions to which paragraph (1) refers or only to provisions specified in the determination, and may be revoked or amended by a further determination.

(6) Paragraphs (1) to (5) are without prejudice to paragraph 8(3) of Schedule 1.

(7) For the purposes of sections 16 to 21 and these regulations, “member”, in relation to a scheme, does not include any person whose service is only pensionable service by virtue of qualifying him for death benefits (unless by virtue of any of the previous provisions of this regulation he is at any time treated as a member by virtue of previous membership).”.

- (4) In regulation 4 (exceptions from member-nominated trustee requirements), omit paragraph (2).
- (5) In regulation 5, omit paragraphs (2) and (3).
- (6) In regulation 6 (exceptions from member-nominated director requirements)—
- (a) in paragraph (1) after sub-paragraph (j) insert—
 - “(ja) which is a relevant wholly insured scheme;”;
 - (b) omit paragraph (2).
- (7) In regulation 9(2) (permitted notice time for proposals by employer for alternative arrangements under section 17)—
- (a) in sub-paragraph (b)(ii) for the word “otherwise” substitute the words “in any other case (except where the approval of alternative arrangements ceases to have effect by virtue of paragraph (1)(d)(ii) of regulation 20)”;
 - (b) at the end of sub-paragraph (c)(ii) add the words
“or
(iii) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of paragraph (1)(d)(ii) of regulation 20, the date on which they did so,”.
- (8) For regulation 13(5)(ii) substitute—
“(ii) with the omission from paragraph (2)(d)(i) of the words “(b) or (c)”;
- (9) In regulation 15(2) (permitted notice time for proposals by employer for alternative arrangements under section 19)—
- (a) in sub-paragraph (b)(ii) for the word “otherwise” substitute the words “in any other case (except where the approval of alternative arrangements ceases to have effect by virtue of paragraph (1)(f)(ii) of regulation 20)”;
 - (b) at the end of sub-paragraph (c)(ii) add the words
“or
(iii) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of paragraph (1)(f)(ii) of regulation 20, the date on which they did so,”.
- (10) In regulation 20(1) (cessation of approval of appropriate rules and alternative arrangements)
—
- (a) for sub-paragraph (d) substitute—
 - “(d) in the case of an approval of arrangements under section 17—
 - (i) on the date on which the employer gives notice under regulation 9(1)(b)(ii) in respect of the approval of new arrangements or the fresh approval of the existing arrangements; or
 - (ii) on the date on which the employer gives notice to the trustees of the scheme that he wishes to withdraw the approved arrangements;”;
 - (b) for sub-paragraph (f) substitute—
 - “(f) in the case of an approval of arrangements under section 19—
 - (i) on the date on which the employer gives notice under regulation 15(1)(b)
 - (ii) in respect of the approval of new arrangements or the fresh approval of the existing arrangements; or

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- (ii) on the date on which the employer gives notice to the company that he wishes to withdraw the approved arrangements;”.
- (11) In regulation 23 (notices) for paragraph (1) substitute—
 - “(1) Subject to paragraphs (2) and (3), any notice to be given to a person under these regulations may be given only by being delivered to him or being left at or posted to his latest address known to the trustees of the scheme, and a notice which is posted shall be treated as having been given on the day it was posted.”.
- (12) In Schedule 1 (the statutory consultation procedure)—
 - (a) in paragraph 6—
 - (i) in sub-paragraph (1)(a) for the words “will be balloted only” substitute the words “may be balloted”;
 - (ii) in sub-paragraph (2)(c) for the word “end” substitute the word “begin”; and
 - (iii) in sub-paragraph (3) omit the words “directly in accordance with paragraph 9(1)(a)”;
 - (b) in paragraph 8(2)(b)—
 - (i) after the words “proposed rules” insert the words “or arrangements”; and
 - (ii) for the word “end” substitute the word “beginning”; and
 - (c) for paragraph 8(3) substitute—
 - “(3) Where the objection period will begin before the end of the first scheme year, the trustees must determine for the purposes of paragraph 6(2)(c) and sub-paragraph (2)(b) the number which is to be taken as the number of eligible members at the beginning of the objection period.”.
- (13) In paragraph 2(3) of Schedule 2 (prescribed appropriate rules) for the words “one of the nominees” substitute the words “one nominee in respect of each vacancy”.
- (14) In Schedule 3 (modifications)—
 - (a) for paragraph 1(1)(e) substitute—
 - “(e) after section 18(8) insert—
 - “(9) Where, apart from this subsection, subsection (8) would apply in relation to a company, the company may determine that one or more of the provisions mentioned in that subsection shall not apply as mentioned in that subsection or shall so apply only in relation to some of the schemes to which they would otherwise apply.”;
 - (b) for paragraph 1(1)(g) substitute—
 - “(g) in section 21 at the end add—
 - “(9) In sections 16 to 19 “appropriate person” means—
 - (a) in a case where any employers have notified the trustees in writing that they wish to be consulted as to the nomination of the appropriate person, the person nominated by those employers to act for the employers for the purposes of this subsection, and
 - (b) otherwise, the person nominated by the trustees so to act.”;
 - (c) in paragraph 1(2)(a) after the words “sub-paragraph (1);” insert—
 - “(aa) the definition of “relevant wholly insured scheme” in regulation 2(1) applies with the substitution in paragraph (b) for the word “the employer” of the words “any of the employers”;
 - (d) for paragraph 2(5)(a) substitute—

- “(a) in paragraph (1)(d)—
 - (i) in paragraph (i) for the words “the date” onwards substitute the words “the date following the next date on which arrangements under that section are approved”; and
 - (ii) in paragraph (ii) for the words “the trustees” substitute the words “the eligible members”;
- (e) for paragraph 3(5)(a) substitute—
 - “(a) in paragraph (1)(f)—
 - (i) in paragraph (i) for the words “the date” onwards substitute the words “the date following the next date on which arrangements under that section are approved”; and
 - (ii) in paragraph (ii) for the words “the company” substitute the words “the eligible members of the scheme”;
- (f) for paragraph 8 substitute—

“Modifications of section 18: aggregation

8.—(1) Where, apart from this paragraph, in its application to a company to which sub-paragraph (2) applies, section 18 would not have effect with the modifications mentioned in paragraph 1(1)(d) and (e), it shall have effect with those modifications.

(2) This sub-paragraph applies to a company—

- (a) to which section 18 applies by virtue of regulation 5(1); or
- (b) which is—
 - (i) the trustee of two or more schemes which are relevant schemes in relation to the company, and
 - (ii) connected with a person who is the employer in relation to one or more of those schemes otherwise than by virtue of being that employer’s wholly-owned subsidiary (within the meaning of section 736 of the Companies Act 1985); or
- (c) which is the trustee of a trust scheme which is not a relevant scheme in relation to that company.”.

(15) Where, apart from the amendments made by sub-paragraphs (2) to (14) above, anything done before 6th April 1997 would be treated as done under or in compliance with any requirement imposed by or under sections 16 to 21 of the Pensions Act 1995(13), it shall continue to be so treated despite those sub-paragraphs; and where the statutory consultation procedure (as defined in section 21(7) of that Act) was begun before that date, the validity of that procedure shall not be affected by the inclusion or exclusion of any person who by virtue of sub-paragraph (3) above is not to be treated as a member for the purposes of that procedure.

The Protected Rights (Transfer Payment) Regulations 1996

6.—(1) The Protected Rights (Transfer Payment) Regulations 1996(14) shall have effect with the following amendments.

(2) In regulation 1(2)—

(13) 1995 c. 26.

(14) S.I. 1996/1461.

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- (a) at the end of the definition of “overseas scheme” add the words “by virtue of section 52(1) of that Act”; and
- (b) for the definition of “section 9(2B) rights” substitute—
 - ““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 contracted-out by virtue of section 9(2B) of the 1993 Act, 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 to such a scheme, 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 contracted-out by virtue of section 9(2B) of that Act; or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of contracted-out employment on or after the principal appointed day;”.
- (3) At the end of regulation 4(e) add the words “on or after the principal appointed day”.

The Contracting-out (Transfer and Transfer Payment) Regulations 1996

7.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations 1996(15) shall have effect with the following amendments.

- (2) In regulation 1(2)—
 - (a) in the definition of “overseas scheme”—
 - (i) for the words “one which is contracted-out within the meaning of section 7(3) of the 1993 Act” substitute the words “a salary-related contracted-out scheme”, and
 - (ii) at the end add the words “by virtue of section 52(1) of that Act”; and
 - (b) for the definition of “section 9(2B) rights” substitute—
 - ““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 contracted-out by virtue of section 9(2B) of the 1993 Act, 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 to such a scheme, 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 contracted-out by virtue of section 9(2B) of that Act; or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of contracted-out employment on or after the principal appointed day;”.

(15) S.I. 1996/1462.

(3) In regulation 6(b) and (e) after the words “have taken reasonable steps to satisfy themselves” insert the words “(or, if the transfer payment is from an appropriate policy, the transferring insurance company has taken reasonable steps to satisfy itself)”.

(4) In regulation 7(1)(a) omit the words “or from an appropriate policy”.

(5) At the end of regulation 8(c) add the words “on or after the principal appointed day”.

(6) In regulation 13(b) for the words “paragraphs 6, 8 and 9” substitute the words “paragraphs 5, 6 and 8”.

(7) After regulation 13 insert—

“Modification of section 12C of the 1993 Act where transfer payments are made to salary-related contracted-out schemes

13A. In section 12C of the 1993 Act any reference to the liability for, or rights to, pensions so far as attributable to service on or after the principal appointed day shall include any liability or rights arising under the scheme as a consequence of a transfer payment which are derived directly or indirectly from—

- (a) an earner’s service in contracted-out employment on or after the principal appointed day under another scheme contracted-out by virtue of section 9(2B) of the 1993 Act; or
- (b) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of employment on or after the principal appointed day.”.

(8) In Schedule 2—

(a) for paragraph 1 substitute—

“**1.** Section 8(2) shall have effect as if for the definition of “guaranteed minimum pension” there were substituted—

““guaranteed minimum pension” means any pension which is provided by an occupational pension scheme—

- (a) in accordance with the requirements of sections 13 and 17, or
- (b) in compliance with the condition set out in paragraph 1 or 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in paragraph 1 or 5 of Schedule 2 to the Contracting-out (Transfer) Regulations 1985),

to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s widow’s or widower’s guaranteed minimum, as determined for the purposes of those sections or, as the case may be, conditions;”;

(b) in paragraph 4 for the words ““or with those requirements as modified by” and “by paragraph 5” substitute respectively the words ““or in compliance with the condition set out in” and “in paragraph 5”;

(c) for paragraph 6 substitute—

“**6.** Section 8(2) shall have effect as if for the definition of “guaranteed minimum pension” there were substituted—

““guaranteed minimum pension” means any pension which is provided by an occupational pension scheme—

- (a) in accordance with the requirements of sections 13 and 17, or

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- (b) in compliance with the condition set out in paragraph 5 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in regulation 2A(4) of the Contracting-out (Transfer) Regulations 1985),

to the extent to which its weekly rate is equal to the earner's or, as the case may be, the earner's widow's or widower's guaranteed minimum, as determined for the purposes of those sections or, as the case may be, condition,""; and

- (d) omit paragraph 9.

The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996

8.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996(16) shall have effect with the following amendments.

- (2) In regulation 6 (excluded assets) for paragraph (1)(c) substitute—

“(c) except for the purposes of section 60(2) to (7), the amount of any increase in value to which paragraph 6 of Schedule 4 applies.”.

- (3) In regulation 7 (determination and valuation of liabilities)—

- (a) at the beginning of paragraph (2) insert the words “Subject to paragraph (8A)”; and

- (b) after paragraph (8) insert—

“(8A) The amount of the liabilities of the scheme in respect of any money purchase benefits shall be calculated in accordance with the guidance given in GN 27.”.

(4) In regulation 10(3)(a) (period within which second and subsequent minimum funding valuations to be obtained) for the words “the date” onwards substitute the words “the effective date of the last minimum funding valuation”.

- (5) In regulation 17 (content and certification of schedules of contributions)—

- (a) for paragraph (2)(b) substitute—

“(b) in the actuary's opinion on the date he signs the certificate of the rates of contributions shown in the schedule the value of the scheme assets is less than 100per cent., but not less than 90 per cent., of the amount of the scheme liabilities,”; and

- (b) for paragraph (3)(b) substitute—

“(b) in the actuary's opinion on the date he signs the certificate of the rates of contributions shown in the schedule the value of the scheme assets is less than 90per cent. of the amount of the scheme liabilities,”.

(6) At the end of regulation 20 (minimum funding valuations showing serious under-provision) add—

“(6) After subsection (7) of section 60 (serious underprovision) there shall be inserted—

“(7A) In any case where—

- (a) there has been a valuation by virtue of which subsection (2) has applied in relation to a scheme, but
- (b) the actuary of the scheme certifies at the time when he certifies the rates of contributions shown in the schedule of contributions for the scheme

(16) S.I. 1996/1536. A relevant amending instrument is S.I. 1996/3127.

which is prepared or revised under section 58(3) following the valuation that in his opinion on the date he signs the certificate—

- (i) the value of the scheme assets is no longer less than 90 per cent. of the amount of the scheme liabilities, or
- (ii) the amount by which that value is less than 90 per cent. of the amount of those liabilities (“the difference”) has decreased,

subsection (2) shall cease to apply or, as the case may be, subsections (2) and (5) shall apply as if the shortfall were the difference on that date.”.

(7) In regulation 25 (extension of contribution period) insert the word “by” at the beginning of paragraph (4)(c), (d), (e) and (g) and after the word “employer” in paragraph (4)(f).

(8) In regulation 28(3) (exemption where there are deficiencies in assets)—

- (a) after the word “arises” insert the words “in the case of a scheme to which section 56 applies”;
- (b) in the words following paragraph (b), for the words from “and (apart” to “that section” substitute the words “sections 57 to 60”.

(9) In regulation 30 (ongoing actuarial valuations and statements)—

- (a) in paragraph (1) after the words “to which section 56 applies” insert the words “(other than a scheme which is being wound up)”; and
- (b) in paragraph (5)(a) (period within which second and subsequent ongoing actuarial valuations to be obtained) for the words “the date” onwards substitute the words “the effective date of the last such valuation; and”.

(10) In Part I of Schedule 2 (certification of schedules of contributions) after paragraph 4 add—

“5. If, in a case where there has been a serious shortfall valuation, the actuary is of the opinion that on the date he signs the certificate there is no longer such a difference as is mentioned in section 60(1), he must insert the following statement after paragraph 1 of the certificate—

“1A Cessation of serious shortfall in assets

1A. In my opinion an actuarial valuation, for the scheme as at the date of this certificate would not show such a shortfall as is mentioned in section 60(1) of the Pensions Act 1995 (value of scheme assets less than 90 per cent. of amount of scheme liabilities).”.

6. If, in a case where there has been a serious shortfall valuation, the actuary is of the opinion that on the date he signs the certificate the difference mentioned in section 60(1) has decreased, he must insert the following statement after paragraph 1 of the certificate—

“1A Decrease in serious shortfall in assets

1A. In my opinion an actuarial valuation for the scheme as at the date of this certificate would show that the shortfall mentioned in section 60(1) of the Pensions Act 1995 (value of scheme assets less than 90 per cent. of amount of scheme liabilities) has decreased since the last actuarial valuation for the purposes of section 57 and is now .”.

(11) In Schedule 4 (methods of securing shortfall in cases of serious underprovision) in the definition of “section 60 shortfall” in paragraph 1(1)—

- (a) after the words “serious shortfall valuation” insert the words

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“(after taking section 60(7A) into account in any case where it applies);” and

- (b) after the words “the valuation” insert the words “(or, in a case where section 60(7A) applies, the date the actuary signed the certificate)”.

(12) In paragraph 1 of Schedule 5 (sectionalised multi-employer schemes) in paragraph (a) of sub-paragraph (2) for the words “pensionable employment under the scheme” substitute the words “pensionable service under the section”.

(13) After that sub-paragraph insert—

“(2A) For the purposes of sub-paragraphs (1) and (2), there shall be disregarded any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits; and where those sub-paragraphs apply and contributions or transfers are so made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section shall also be treated as if it were a separate scheme for the purpose of sections 56 to 60 and these Regulations.

(2B) For the purposes of sub-paragraphs (1), (2) and (2A), there shall be disregarded any provisions of the scheme by virtue of which on the winding up of the scheme assets attributable to one section may be used for the purposes of another section.”.

(14) In paragraph 2(1) of Schedule 5 omit the words from “(other” to “applies)”.

The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

9.—(1) The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996⁽¹⁷⁾ shall have effect with the following amendments.

(2) In regulation 1(2) for the definition of “section 9(2B) rights” substitute—

““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 contracted-out by virtue of section 9(2B) of the 1993 Act, 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 to such a scheme, 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 contracted-out by virtue of section 9(2B) of that Act; or
- (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of contracted-out employment on or after the principal appointed day;”.

(3) In regulation 3—

- (a) in paragraph (b) for the words “by virtue of section 19 of the 1993 Act” substitute the words “by a transaction to which Part III of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 applies”; and
- (b) in paragraph (e) for the words “regulation 14(3) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1988” substitute the words “regulation 12(5) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997”.

⁽¹⁷⁾ S.I. 1996/1537.

The Occupational Pension Schemes (Disclosure of Information) Regulations 1996

10.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996(**18**) shall have effect with the following amendments.

(2) In regulation 1(2)—

(a) after the definition of “member” insert—

““mixed benefit contracted-out scheme” has the meaning given in regulation 1(2) of the Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996;”;

(b) after the definition of “money purchase benefits” insert—

““money purchase contracted-out scheme” has the meaning given in section 181(1) of the 1993 Act;”;

(c) in the definition of “money purchase scheme”, after the word “provided” insert the words “other than death benefits”; and

(d) omit the definition of “multi-employer scheme”.

(3) In regulation 2(2) (exemptions from the regulations) for sub-paragraph (b) substitute—

“(b) the only benefits provided by which are death benefits; or”.

(4) In regulation 5 (information to be made available to individuals)—

(a) after paragraph (5) insert—

“(5A) Where—

(a) an occupational pension scheme is contracted-out by virtue of regulations made under section 149 of the 1995 Act (hybrid schemes); and

(b) under the rules of the scheme an earner’s service in contracted-out employment will cease to qualify him for benefits under one part of the scheme but begin to qualify him for benefits under another part of the scheme,

the information mentioned in paragraph 6A of Schedule 2 shall be furnished to him before or within two months after the date on which his service begins to qualify him for the benefits under the other part of the scheme.”;

(b) omit paragraph (11);

(c) after paragraph (12) insert—

“(12A) Where by virtue of paragraph 1 of Schedule 5 to the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 (sectionalised multi-employer schemes) section 56 of the 1995 Act applies as if a section of a scheme were a separate scheme (or, in a case where section 56 does not apply to the scheme, if it did apply it would apply in that way), paragraphs (10) and (12) apply in a case where such a section is being wound up as they apply where the scheme as a whole is being wound up, but taking the references in those paragraphs to the scheme and its members and beneficiaries as referring only to the section and its members and beneficiaries.”; and

(d) after paragraph (13) insert—

“(14) Where the trustees have commenced winding up the scheme before 6th April 1997—

(a) paragraph (10) does not apply, but

(b) the trustees shall furnish all members and beneficiaries (except excluded persons) with the information mentioned in paragraph 15 of Schedule 2 at least

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once in every successive 12 month period beginning with that date and ending with the completion of the winding up.

(15) For the purposes of this regulation, the time when a scheme begins to be wound up shall be determined in accordance with regulation 2 of the Occupational Pension Schemes (Winding Up) Regulations 1996.”.

- (5) In regulation 6 (availability and content of annual report) for paragraph (1)(c) substitute—
- “(c) where section 56 of the 1995 Act applies to the scheme, a copy of the latest certificate by the actuary under that Act as to the adequacy of the contributions payable towards the scheme; and”.
- (6) In regulation 11 (penalties)—
- (a) in paragraph (1) for the words “5(2) to (11)” substitute the words “5(2) to (12)”;
- (b) in paragraph (2) for the words “5(12)” and “6(6)” substitute respectively the words “5(13)” and “6(7)”.
- (7) After paragraph 12 of Schedule 1 insert—
- “**12A.**—(1) Without prejudice to paragraph 12, where—
- (a) the scheme is—
- (i) a money purchase contracted-out scheme, or
- (ii) a mixed benefit contracted-out scheme,
- but is not an insured scheme (as defined in the Occupational Pension Schemes (Contracting-out) Regulations 1996);
- (b) the amount of assets allocated for the provision of benefits to or in respect of a member which are payable by virtue of his protected rights under the scheme or, in the case of such a scheme as is mentioned in sub-paragraph (a)(ii), under the money purchase part of the scheme, is periodically increased by an amount which is not calculated directly by reference to the investment gain actually derived from the investment of those assets by the trustees of the scheme (whether over the period to which the increase relates or a longer period); and
- (c) if the increase is calculated by reference to the investment gain from investments in which those assets could be invested, they are not actually so invested or are only so invested to an extent which would not materially affect the actual investment gain from the assets as a whole,
- the information mentioned in sub-paragraph (2).
- (2) That information is—
- (a) that the assets mentioned in sub-paragraph (1)(b) are increased in the way there mentioned;
- (b) the method used to calculate that increase; and
- (c) the reason why that method is used.
- (3) For the purposes of sub-paragraph (1)(b), a mixed benefit contracted-out scheme is to be treated as if the pensions falling within section 149(1)(b) of the 1995 Act were provided by a separate part of the scheme (“the money purchase part”).
- (4) In paragraphs (1)(b) and (c) references to the investment gain from investments are to both the income and capital gain derived from investing in those investments.”.
- (8) In Schedule 2 (information to be made available to individuals) after paragraph 6 insert—

“**6A.** The date on which the earner’s service begins to qualify him for benefits under the other part of the scheme and whether his rights in respect of his service on or after that date will be rights under the part of the scheme providing such pensions as are referred to in paragraph (a) or paragraph (b) of section 149(1) of the 1995 Act.”.

(9) In Schedule 3 (information to be included in annual report) for paragraph 16 substitute—

“**16.** Where the scheme has employer-related investments (within the meaning of section 40(2) of the 1995 Act), a statement—

- (a) as to the percentage of the scheme’s resources invested in such investments at the end of the scheme year;
- (b) if that percentage exceeds 5 per cent., as to the percentage of the scheme’s resources which are investments to which regulation 6 of the Occupational Pension Schemes (Investment) Regulations 1996 (investments not subject to restrictions) applies; and
- (c) if any resources of the scheme are then invested in contravention of subsection (1) of section 40 of the 1995 Act—
 - (i) as to the steps the trustees or managers have taken or propose to take to secure that the scheme complies with that section, and
 - (ii) as to the time when any proposed steps will be taken.”.

The Occupational Pension Schemes (Scheme Administration) Regulations 1996

11.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations 1996(**19**) shall have effect with the following amendments.

(2) In regulation 1(2)—

(a) for the definition of “money purchase scheme” substitute—

““money purchase benefits” has the same meaning as in section 181(1) of the Pension Schemes Act 1993;

“money purchase scheme” means a pension scheme under which all the benefits that may be provided other than death benefits are money purchase benefits;”;

(b) after the definition of “relevant benefits” insert—

““relevant ear-marked scheme” means an occupational pension scheme—

- (a) which is a money purchase scheme;
- (b) under which all the benefits are secured by one or more contracts of insurance or annuity contracts specifically allocated to the provision of benefits to or in respect of individual members;
- (c) all the members of which are trustees; and
- (d) under the provisions of which decisions to be made by the trustees must be unanimous or unanimous if any trustees who are not members are disregarded;”.

(3) In regulation 3 (exemptions from the professional advisers requirements)—

(a) in sub-paragraph (h) of paragraph (1) for the words “occupational money purchase small self-administered schemes” substitute the words “money purchase schemes which are small self-administered schemes and”; and

(b) after that sub-paragraph insert—

“(hh) relevant ear-marked schemes”.

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(4) In regulation 16 (prescribed time in which employer must pay trustees or managers an amount deducted from earnings) for the words “is 14 days” substitute the words—

- “(a) in the case of minimum payments which are to be made in accordance with regulation 32(1) of the Occupational Pension Schemes (Contracting-out) Regulations 1996, is the period mentioned in that regulation, and
- (b) otherwise, is 19 days”.

(5) In regulation 17 (exemption from requirement to secure a payment schedule) for the word “(h)” substitute the word “(i)”.

The Occupational Pension Schemes (Transfer Values) Regulations 1996

12.—(1) The Occupational Pension Schemes (Transfer Values) Regulations 1996⁽²⁰⁾ shall have effect with the following amendments.

(2) In regulation 1(2) for the definition of “salary related scheme” substitute—

““salary related scheme” has the meaning given in regulation 1A;”.

(3) After regulation 1 insert—

“Salary related schemes

1A. For the purposes of Chapter IV of Part IV of the 1993 Act and these regulations an occupational pension scheme is salary related if it is not a money purchase scheme and it is not a scheme—

- (a) the only benefits provided by which (other than money purchase benefits) are death benefits; and
- (b) under the provisions of which no member has accrued rights (other than rights to money purchase benefits).”.

(4) In regulation 7(3)(b)—

- (a) omit the words “as being”;
- (b) in paragraphs (i), (ii) and (iii) insert the words “as being” before the word “consistent”;
- (c) in paragraph (iv)—
 - (i) after the word “applies,” insert the words “as providing as a minimum an amount”; and
 - (ii) for the words “subject only” onwards substitute the words “subject, in any case where the cash equivalent calculation is made on an individual and not a collective basis, to any adjustments which are appropriate to take account of that fact.”.

(5) In regulation 12(2)(a) for the words “and 4 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985” substitute the words “, 4 and 5 or, in the case of a pension or accrued benefit under a relevant scheme, regulation 11 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997”.

The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996

13.—(1) The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996⁽²¹⁾ shall have effect with the following amendments.

⁽²⁰⁾ S.I. 1996/1847.

⁽²¹⁾ S.I. 1996/1975.

- (2) In regulation 1(2)—
- (a) in the definition of “ear-marked scheme” for the words “which is a money purchase scheme under which all the benefits” substitute the words “under which all the benefits other than death benefits are money purchase benefits and all the benefits”; and
 - (b) for the definition of “money purchase scheme” substitute—
““money purchase benefits” has the same meaning as in section 181(1) of the Pension Schemes Act 1993;”.
- (3) The existing provision in regulation 4 shall become paragraph (1) of that regulation and at the end there shall be inserted—
- “(2) Where there is no schedule of contributions or payment schedule in relation to the whole or part of the scheme year, the auditor’s statement about contributions shall contain—
- (a) a statement as to whether or not in his opinion contributions payable to the scheme during that year or that part have been paid in accordance with the scheme rules or contracts under which they were payable, and (where appropriate) with the recommendation of the actuary; and
 - (b) if the statement under paragraph (a) is negative or qualified, a statement of the reasons.”.
- (4) In paragraph 2 of the Schedule—
- (a) in sub-paragraph (1)(b) for the word “schemes” substitute the word “scheme”; and
 - (b) after sub-paragraph (2) insert—
“(3) Where the assets—
- (a) are invested only for the purposes of securing additional money purchase benefits derived from voluntary contributions to which section 111 of the Pension Schemes Act 1993 applies; and
 - (b) are specifically allocated to the provision of additional benefits for particular members or other persons in respect of particular members (or both),
- a note that paragraphs (a) and (b) apply must be included in the statement, but that entry need not include the market value or an estimate of value of those assets.”.
- (5) In paragraph 6 of the Schedule after the word “trustees” insert the words “or managers”.

The Occupational Pension Schemes (Payments to Employers) Regulations 1996

14.—(1) The Occupational Pension Schemes (Payments to Employers) Regulations 1996⁽²²⁾ shall have effect with the following amendments.

(2) In regulation 12 (schemes with more than one employer) in sub-paragraph (a) of paragraph (2) for the words “pensionable employment under the scheme” substitute the words “pensionable service under the section”.

(3) After that paragraph insert—

“(2A) For the purposes of paragraphs (1) and (2), there shall be disregarded any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits; and where paragraph (1) or (2) applies and contributions or transfers are so made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section shall also be treated as if it were a separate scheme for the purposes of sections 37, 76 and 77 of the 1995 Act and these Regulations.”.

(22) S.I. 1996/2156.

- (4) In regulation 13 omit the words “(other than a scheme to which regulation 12 applies)”.

The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996

15.—(1) The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996⁽²³⁾ shall have effect with the following amendments.

- (2) In regulation 1(2) for the definition of “administrator” substitute—

““administrator”—

- (a) in relation to an occupational pension scheme, means any person concerned with the administration of the scheme, other than a person responsible for the management of the scheme (as defined in section 146(3) of the 1993 Act for the purposes of Part X of that Act), and
- (b) in relation to a personal pension scheme, means any person concerned with the administration of the scheme, other than—
- (i) a person responsible for the management of the scheme (as defined in section 146(3A) of that Act for the purposes of that Part), or
- (ii) a person who is or has been the employer of any member who is or has been an employed earner;”.
- (3) In regulation 7(2) for the word “Miscellaneous” substitute the word “Consequential”.

The Occupational Pension Schemes (Modification of Schemes) Regulations 1996

16. In the Occupational Pension Schemes (Modification of Schemes) Regulations 1996⁽²⁴⁾—

- (a) after regulation 2 insert—

“Treatment of schemes for contracting-out purposes

2A. For the purposes of section 69(3)(c) of the 1995 Act (modification of a scheme for the purpose of enabling it to be so treated that an employment to which it applies may be contracted-out by reference to it) the prescribed period is the period of two years beginning with 6th April 1997.”; and

- (b) in regulation 8 for the words “4 or 5” substitute “or 4”.

The Occupational Pension Schemes (Winding Up) Regulations 1996

17. In regulation 12 of the Occupational Pension Schemes (Winding Up) Regulations 1996⁽²⁵⁾ for paragraphs (1) and (2) substitute—

“(1) Where section 56 applies to a scheme as if different parts of the scheme were separate schemes and a part of such a scheme is being wound up (whether or not any other parts are being wound up), sections 73 and 74 shall also so apply—

- (a) taking references in those sections to the assets of the scheme as references only to those assets treated for the purposes of section 56 as assets of that part; and
- (b) taking references in those sections to the liabilities of the scheme or any particular description of liabilities as references only to such liabilities of the scheme or, as the case may be, of that description, as are treated for the purposes of section 56 as liabilities of that part.”.

⁽²³⁾ S.I. 1996/2475.

⁽²⁴⁾ S.I. 1996/2517.

⁽²⁵⁾ S.I. 1996/3126.

The Occupational Pension Schemes (Investment) Regulations 1996

18. In regulation 9 of the Occupational Pension Schemes (Investment) Regulations 1996(26) (multi-employer schemes) after paragraph (2) insert—

“(2A) For the purposes of paragraphs (1) and (2), there shall be disregarded any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits; and where paragraph (1) or (2) applies and contributions or transfers are so made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section shall also be treated as if it were a separate scheme for the purposes of this Part of these Regulations (except this regulation).

(2B) For the purposes of paragraphs (1), (2) and (2A), there shall be disregarded any provisions of the scheme by virtue of which on the winding up of the scheme assets attributable to one section may be used for the purposes of another section.”.

The Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996

19.—(1) The Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996(27) shall have effect with the following amendments.

(2) In regulation 2(2) for the definition of “money purchase scheme” substitute—

““money purchase scheme” means an occupational pension scheme under which all the benefits that may be provided other than death benefits are money purchase benefits”.

(3) In regulation 4(2), after the provision inserted by that regulation into section 75 of the Pensions Act 1995 as subsection (1C) of that section, insert—

“(1D) For the purposes of subsections (1B) and (1C), there shall be disregarded any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits; and where subsection (1B) or (1C) applies and contributions or transfers are so made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section shall also be treated as if it were a separate scheme for the purposes of this section.

(1E) For the purposes of subsections (1B), (1C) and (1D), there shall be disregarded any provisions of the scheme by virtue of which on the winding up of the scheme assets attributable to one section may be used for the purposes of another section.”.

(4) In Schedule 2, omit paragraph 4.

SCHEDULE 2

Regulation 4

REVOCATIONS

<i>Year and Number</i>	<i>Title</i>	<i>Extent of revocation</i>
1987/1111	The Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations 1987.	All the Regulations.

(26) S.I. 1996/3127.

(27) S.I. 1996/3128.

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<i>Year and Number</i>	<i>Title</i>	<i>Extent of revocation</i>
1996/1172	The Occupational Pension Schemes (Contracting-out) Regulations 1996.	Regulation 6(2)(f)(i) and in regulation 72, in paragraph (3), the words “Subject to paragraphs (4) and (5)” and paragraphs (4) and (5).
1996/1216	The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996.	In regulation 2(1), in the definition of “eligible members”, the words “or in regulation 5(2)”, regulations 4(2), 5(2) and (3), 6(2), in Schedule 1, in paragraph 6(3), the words “directly in accordance with paragraph 9(1)(a)”.
1996/1462	The Contracting-out (Transfer and Transfer Payment) Regulations 1996.	In regulation 7(1)(a), the words “or from an appropriate policy” and in Schedule 2, paragraph 9.
1996/1536	The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996.	In paragraph 2(1) of Schedule 5, the words from “(other” to “applies)”.
1996/1655	The Occupational Pension Schemes (Disclosure of Information) Regulations 1996.	In regulation 1(2), the definition of “multi-employer scheme” and regulation 5(11).
1996/1847	The Occupational Pension Schemes (Transfer Values) Regulations 1996.	In regulation 7(3)(b), the words “as being”.
1996/2156	The Occupational Pension Schemes (Payments to Employers) Regulations 1996.	In regulation 13, the words “(other than a scheme to which regulation 12 applies)”.
1996/3128	The Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996.	In Schedule 2, paragraph 4.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of sets of regulations related to the Pensions Act 1995.

Regulation 1 relates to citation and commencement.

Regulation 2 modifies the definition of a money purchase scheme to ensure that the provisions of Part I of the 1995 Act will apply to money purchase schemes that also provide salary related death benefits.

Regulation 3 introduces Schedule 1 which makes miscellaneous amendments.

Regulation 4 introduces Schedule 2 (which contains revocations) and makes transitional provision for state scheme premiums for personal pensions to be paid after 5th April 1997 in respect of periods ending before or with that date.

Schedule 1 to the Regulations contains miscellaneous amendments of the following sets of regulations—

- the Personal Pension Schemes (Disclosure of Information) Regulations 1987
- the Personal Pension Schemes (Transfer Values) Regulations 1987
- the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991
- the Occupational Pension Schemes (Contracting-out) Regulations 1996
- the Occupational Pensions Schemes (Member-nominated Trustees and Directors) Regulations 1996
- the Protected Rights (Transfer Payment) Regulations 1996
- the Contracting-out (Transfer and Transfer Payment) Regulations 1996
- the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996
- the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996
- the Occupational Pension Schemes (Disclosure of Information) Regulations 1996
- the Occupational Pension Schemes (Scheme Administration) Regulations 1996
- the Occupational Pension Schemes (Transfer Values) Regulations 1996
- the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996
- the Occupational Pension Schemes (Payments to Employers) Regulations 1996
- the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996
- the Occupational Pension Schemes (Modification of Schemes) Regulations 1996
- the Occupational Pension Schemes (Winding Up) Regulations 1996
- the Occupational Pension Schemes (Investment) Regulations 1996
- the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996

The Schedule includes amendments which—

- remove the additional requirements for contracted-out schemes in respect of employer-related investment for the period from April 1997 to April 2002;
- clarify the position of contracted-out rights which have been the subject of two or more transfers;
- harmonise the definitions of “section 9(2B) rights”;
- allow employers to withdraw an opt-out arrangement at any time to enable member-nominated trustees to be appointed;
- impose a requirement on schemes to disclose that a notional rate of return is being applied to protected rights within a contracted-out money purchase scheme or the contracted-out money purchase part of a contracted-out mixed benefit scheme;

Status: This is the original version (as it was originally made).

remove the requirement on employers to make payments in respect of the deficit below 90per cent. revealed at a minimum funding valuation where the actuary is of the opinion that the funding level has recovered to 90per cent. or higher by the time he certifies the schedule of contributions;

modify the disclosure requirements for employer-related investments; and

extend the special treatment of multi-employer schemes so that it covers schemes which, whilst generally run in sections which do not permit cross-subsidy, have a common arrangement for the payment of death benefits.

An assessment of the compliance cost for employers of the measures arising from the Pensions Act 1995, including these Regulations, has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Occupational Pensions Security, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.