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STATUTORY INSTRUMENTS

2010 No. 2659

PENSIONS

The Occupational, Personal and Stakeholder Pension Schemes (Disclosure of Information) (Amendment) Regulations 2010

Made - - - -	*1st November 2010*
Laid before Parliament	*8th November 2010*
Coming into force - -	*1st December 2010*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 113(1), (2)(e), (3) and (3A), 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(**1**), sections 41(1)(b), 124(1) and 174(2) and (3) of the Pensions Act 1995(**2**) and sections 1(1)(b), 8(1) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999(**3**).

In accordance with section 185(1) of the Pension Schemes Act 1993(**4**) and section 120(1) of the Pensions Act 1995, the Secretary of State has consulted such persons as the Secretary of State considers appropriate before making these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational, Personal and Stakeholder Pension Schemes (Disclosure of Information) (Amendment) Regulations 2010.

(2) These Regulations come into force on 1st December 2010.

(**1**) 1993 c.48. Section 113(1) was amended by section 52(1) of the Child Support, Pensions and Social Security Act 2000 (c.19), section 113(2)(e) was inserted by paragraph 17 of Schedule 12 to the Pensions Act 2004 (c.35), section 113(3A) was inserted by section 52(2) of the Child Support, Pensions and Social Security Act 2000 and amended by paragraph 6 of Schedule 5 to the Pensions Act 2007 (c.22). Section 181(1) is cited for the meaning it gives to "prescribed" and "regulations". Section 183(1) was amended by paragraph 79 of Schedule 5 and paragraph 15(a) of Schedule 6 to the Pensions Act 1995 (c.26).

(**2**) 1995 c.26. Section 124(1) is cited for the meaning it gives to "regulations".

(**3**) 1999 c.30. Section 8(1) is cited for the meaning it gives to "prescribed".

(**4**) Section 185(1) was amended by paragraph 46 of Schedule 3 and paragraph 80(a) of Schedule 5 to the Pensions Act 1995.

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987(**5**) are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "the Act"(**6**), insert—

""address" means postal address (except in the phrases "postal address", "electronic address" and "website address");",

(b) after the definition of "contracted-out employment"(**7**), insert—

""electronic communication" has the same meaning as in section 15(1) of the Electronic Communications Act 2000;",

(c) for the definition of "excluded person"(**8**), substitute—

""excluded person" means a person—

(a) whose present postal address and electronic address is not known to the trustees of the scheme;

(b) in respect of whom the trustees of the scheme have sent correspondence to their last known—

(i) postal address and that correspondence has been returned, or

(ii) electronic address and the trustees of the scheme are satisfied that that correspondence has not been delivered; and

(c) in respect of whom no contribution has been made to the scheme by or on behalf of the member during the 2 calendar years preceding the date on which the information in question would otherwise fall to be disclosed;", and

(d) after the definition of "pensionable age"(**9**), insert—

""recipient" means the person to whom these Regulations require information or documents to be made available;".

(3) For regulation 3(2) (constitution of scheme), substitute—

"(2) A copy of the contents of any of the documents referred to in paragraph (1) must, within a reasonable time of a request being made by any person in the categories specified in paragraph (4) (not being a request made by a person within 12 months of the last occasion on which a copy of the contents of the same document was made available for inspection by the same person), be made available free of charge—

(a) for inspection at a place which is reasonable having regard to the circumstances of the request; or

(b) on a website (see regulation 9).".

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

(a) for paragraph (2)(**10**), substitute—

"(2) Each member of the scheme except an excluded person, at least once in every period of 12 months after the date the member became a member of the scheme, must be furnished as of course with—

(**5**) S.I. 1987/1110.
(**6**) The definition of "the Act" was inserted by S.I. 1994/1062.
(**7**) The definition of "contracted-out employment" was inserted by S.I. 2002/1383.
(**8**) The definition of "excluded person" was inserted by S.I. 1992/1531.
(**9**) The definition of "pensionable age" was substituted by S.I. 1996/776.
(**10**) Regulation 5(2) was amended by S.I.s 1992/1531, 1996/1435 and 2002/1383.

(a) the information mentioned in paragraphs 1, 2 and 12 of Schedule 2; and

(b) subject to paragraph (2A) of this regulation, the information mentioned in paragraph 2A(1) of Schedule 2.

(2ZA) Where information is furnished in accordance with paragraph (2)(b)—

(a) it must be accompanied by the additional information specified in paragraph 2A(6) of Schedule 2; and

(b) the member referred to in paragraph (2) must be provided with the further information specified in paragraph 2A(7) of Schedule 2 by one of the methods in paragraph (2C) of this regulation.",

(b) in paragraph (2B)(**11**), for the words from "then that information" to the end substitute—

"then—

(a) that information must be accompanied by the additional information specified in paragraph 2A(6) of Schedule 2; and

(b) the further information specified in paragraph 2A(7) of Schedule 2 must be provided by one of the methods in paragraph (2C) of this regulation,

as if that additional and further information had been provided under paragraph 2A(1) of Schedule 2.", and

(c) after paragraph (2B), insert—

"(2C) The methods referred to in paragraphs (2ZA)(b) and (2B)(b) are for the further information to—

(a) accompany the information described in paragraph 2A(1) of Schedule 2; or

(b) be otherwise furnished by the trustees of the scheme.".

(5) For regulation 6(3) (availability of other information)(**12**), substitute—

"(2A) Any scheme member may request a copy of any document or series of documents referred to in paragraph (1) if—

(a) the document is, or series of documents are, not the latest and do not relate to a scheme year which ended more than 5 years previously; and

(b) the request is not being made by a person within 3 years of the last occasion on which a copy of the same document or series of documents was made available for the same person.

(3) Subject to paragraph (5), where a request in accordance with paragraph (2A) has been made, a copy of the document or series of documents must, within a reasonable time of the request, be made available free of charge

(a) for inspection at a place which is reasonable having regard to the circumstances of the request; or

(b) on a website (see regulation 9).".

(6) For regulation 7 (service of documents by post), substitute

"**Service of information and documents by a scheme**

7.—(1) Except where these Regulations otherwise provide, the trustees of the scheme may furnish any relevant information by

(a) sending it to the recipient's last known postal address; or

(**11**) Regulation 5(2B) was inserted by S.I. 2002/1383.
(**12**) Regulation 6(3) was amended by S.I. 1992/1531.

(b) subject to paragraphs (2) to (4), using either or both of the following methods

(i) sending it to the recipient's last known electronic address,

(ii) making it available on a website (see regulation 9).

(2) Where the recipient has requested in writing that

(a) any relevant information; or

(b) all relevant information,

is not furnished in accordance with paragraph (1)(b), that relevant information may not be furnished in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished in accordance with paragraph (1)(b) where the trustees of the scheme are satisfied that the electronic communications have been designed—

(a) so that the recipients will be able to—

(i) get access to, and

(ii) store or print,

the relevant information; and

(b) taking into account the requirements of disabled recipients.

(4) Where—

(a) a recipient was a member or beneficiary of the scheme on 1st December 2010; and

(b) that recipient has not received relevant information by means of an electronic communication before 1st December 2010,

relevant information may not be furnished to that recipient in accordance with paragraph (1)(b) unless the trustees of the scheme have given them by post the written notice referred to in paragraph (5).

(5) The written notice mentioned in paragraph (4) must state that—

(a) the trustees of the scheme propose to furnish relevant information to the recipient by means of an electronic communication; and

(b) the recipient may request in writing that relevant information is not furnished by means of an electronic communication.

(6) In this regulation, "relevant information" means any information or document which these Regulations require the trustees of a scheme to furnish to any person.

Service of information, documents and notifications to a scheme

8. Any person may—

(a) make a request for information or documents; or

(b) give a notification,

to the trustees of the scheme for the purposes of these Regulations by sending it to the trustees' last known postal address.

Provision of information on a website

9. This regulation sets out the conditions which must be met when making information or documents available on a website under—

(a) regulation 3(2)(b);

(b) regulation 6(3)(b); and

(c) regulation 7(1)(b)(ii).

(2) When the trustees of the scheme make the first information or document available on a website, they must send a notification to the recipient's last known—

(a) postal address; or

(b) electronic address.

(3) The notification referred to in paragraph (2) must include—

(a) a statement that the information or document is available on the website;

(b) the website address;

(c) details of the place on the website where the information or document may be read; and

(d) an explanation of how the recipient may read the information or document on the website.

(4) Except where paragraph (6) applies, when the trustees of the scheme make any subsequent information or document available on a website, they must send a notification to the recipient's last known—

(a) postal address; or

(b) electronic address.

(5) The notification referred to in paragraph (4) must include a statement that the information or document is available on the website.

(6) This paragraph applies where—

(a) at least 3 letters have been—

(i) given to the recipient by hand, or

(ii) sent to the recipient's last known postal address;

(b) each of those letters—

(i) asks the recipient to send their electronic address to the trustees of the scheme, and

(ii) states that the recipient may request in writing that information or documents are not furnished or given by means of an electronic communication; and

(c) the trustees of the scheme—

(i) do not know the recipient's electronic address, or

(ii) have not received a written request that information or documents are not furnished or given to the recipient by means of an electronic communication.".

(7) In Schedule 2 (information to be made available to individuals)—

(a) in paragraph 2A(6)(**13**)—

(i) in paragraph (a)—

(aa) for the first comma, substitute "and", and

(bb) omit the words from ", and that it should not" to the end,

(ii) omit paragraphs (b), (d), (g), (h) and (i), and

(iii) in paragraph (e), omit the words from "about the nature" to the end, and

(b) after paragraph 2A(6), insert—

(**13**) Paragraph 2A was inserted by S.I. 2002/1383.

"(7) The further information which is to be provided, as mentioned in regulation 5(2ZA)(b) and (2B)(b), is—

(a) a statement to the effect that assumptions have been made about the nature of the investments made for the purposes of the member's money purchase benefits and their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;

(b) a statement to the effect that the actual amount of any pension payable to or in respect of the member under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purposes of providing the information under sub-paragraph (1);

(c) a statement specifying any assumptions made in relation to future contributions to the scheme; and

(d) a statement of the assumptions made in accordance with sub-paragraphs (3)(b)(iii) and (4) or as mentioned in sub-paragraph (5).".

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

3.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996(**14**) are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "the actuary", insert—

""address" means postal address (except in the phrases "postal address", "electronic address" and "website address");",

(b) after the definition of "deferred member", insert—

""electronic communication" has the same meaning as in section 15(1) of the Electronic Communications Act 2000;", and

(c) for the definition of "excluded person"(**15**), substitute—

""excluded person" means a member or beneficiary—

(a) whose present postal address and electronic address is not known to the trustees of the scheme; and

(b) in respect of whom the trustees of the scheme have sent correspondence to their last known—

(i) postal address and that correspondence has been returned, or

(ii) electronic address and the trustees of the scheme are satisfied that that correspondence has not been delivered;".

(3) For sub-paragraph (a) of regulations 3(2) (constitution of scheme), 6(4) (availability and content of annual report) and 7(3) (availability of other documents)(**16**), substitute—

"(a) be made available free of charge—

(i) for inspection at a place which is reasonable having regard to the circumstances of the request and of the person who or trade union which made it; or

(**14**) S.I. 1996/1655.
(**15**) The definition of "excluded person" was amended by S.I. 2000/2691.
(**16**) The title for regulation 7 was substituted by S.I. 2005/3377.

(ii) on a website (see regulation 10B); or, at their option,".

(4) In regulation 4 (basic information about the scheme)—

(a) in paragraph (2)(**17**)—

(i) in sub-paragraph (a), omit "or by 5th April 1998, whichever is later", and

(ii) omit sub-paragraph (b),

(b) at the beginning of paragraph (5), insert "Subject to paragraph (5A),", and

(c) after paragraph (5), insert—

"(5A) Paragraph (5) does not apply where the change in relation to the scheme results in a material alteration in information which the trustees of the scheme are not required to give or disclose by virtue of paragraph (4).".

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

(a) for paragraph (5)(**18**), substitute—

"(5) Subject to regulation 2(3A), each member of a scheme who is eligible for money purchase benefits except an excluded person must be furnished, as of course, within 12 months of the end of each scheme year, with—

(a) the information mentioned in paragraphs 5, 6 and 6AA of Schedule 2; and

(b) subject to paragraph (5ZA) of this regulation, the information mentioned in paragraph 6ZA(1) of Schedule 2,

and the information provided in accordance with this paragraph must relate to the member's money purchase benefits.

(5ZZA) Where information is furnished in accordance with paragraph (5)(b)—

(a) that information must be accompanied by the additional information specified in paragraph 6ZA(6) of Schedule 2; and

(b) the further information specified in paragraph 6ZA(7) of Schedule 2 must be provided by one of the methods in paragraph (5ZD) of this regulation,

and the information provided in accordance with this paragraph must relate to the member's money purchase benefits.",

(b) in paragraph (5ZA)(**19**), for "paragraph 6ZA" the first time it appears substitute "paragraph 6ZA(1)",

(c) in paragraph (5ZC)(**20**), for the words from "then that information" to the end substitute—

"then—

(a) that information must be accompanied by the additional information specified in paragraph 6ZA(6) of Schedule 2; and

(b) the further information specified in paragraph 6ZA(7) of Schedule 2 must be provided by one of the methods in paragraph (5ZD) of this regulation,

as if that additional and further information had been provided under paragraph 6ZA(1) of Schedule 2.", and

(d) after paragraph (5ZC), insert—

"(5ZD) The methods referred to in paragraphs (5ZZA)(b) and (5ZC)(b) are for the further information to—

(**17**) Regulation 4(2) was amended by S.I. 1997/3038 (which included the insertion of sub-paragraphs (a) and (b)).
(**18**) Paragraph (5) was amended by S.I.s 1999/3198, 2000/1403 and 2002/1383.
(**19**) Paragraph (5ZA) was inserted by S.I. 2002/1383.
(**20**) Paragraph (5ZC) was inserted by S.I. 2002/1383.

(a) accompany the information described in paragraph 6ZA(1) of Schedule 2; or

(b) be otherwise furnished by the trustees of the scheme.".

(6) In regulation 8 (limited disclosure requirements for certain schemes), omit paragraph (2)(b) and the word "and" immediately preceding it.

(7) For regulation 10 (service of documents by post), substitute—

"**Service of information and documents by a scheme**

10.—(1) Except where these Regulations otherwise provide, the trustees of the scheme may furnish or give any relevant information by—

(a) sending it to a member or beneficiary's last known postal address; or

(b) subject to paragraphs (2) to (4), using either or both of the following methods—

(i) sending it to a member or beneficiary's last known electronic address,

(ii) making it available on a website (see regulation 10B).

(2) Where the member or beneficiary has requested in writing that—

(a) any relevant information; or

(b) all relevant information,

is not furnished or given in accordance with paragraph (1)(b), that relevant information may not be furnished or given in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished or given in accordance with paragraph (1)(b) where the trustees of the scheme are satisfied that the electronic communications have been designed—

(a) so that members or beneficiaries will be able to—

(i) get access to, and

(ii) store or print,

the relevant information; and

(b) taking into account the requirements of disabled persons.

(4) Where—

(a) a member or beneficiary was a member or beneficiary of the scheme on 1st December 2010; and

(b) that member or beneficiary has not received relevant information by means of an electronic communication before 1st December 2010,

relevant information may not be furnished or given to that member or beneficiary in accordance with paragraph (1)(b) unless the trustees of the scheme have given them by post the written notice referred to in paragraph (5).

(5) The written notice mentioned in paragraph (4) must state that—

(a) the trustees of the scheme propose to furnish or give relevant information to the member or beneficiary by means of an electronic communication; and

(b) the member or beneficiary may request in writing that relevant information is not furnished or given by means of an electronic communication.

(6) In this regulation, "relevant information" means any information or document which these Regulations require the trustees of a scheme to give or furnish to a member or beneficiary of the scheme.

Service of information and documents to a scheme

10A. Any—

(a) request for information or for a document to be given or furnished in pursuance of these Regulations; or

(b) information to be given to the trustees of a scheme in relation to requirements imposed by these Regulations,

may be furnished, made or given by sending it to the trustees of the scheme by post.

Provision of information on a website

10B.—(1) This regulation sets out the conditions which must be met when making information or documents available on a website under—

(a) regulation 3(2)(a)(ii);

(b) regulation 6(4)(a)(ii);

(c) regulation 7(3)(a)(ii); and

(d) regulation 10(1)(b)(ii).

(2) When the trustees of the scheme make the first information or document available on a website, they must send a notification to the recipient's last known—

(a) postal address; or

(b) electronic address.

(3) The notification referred to in paragraph (2) must include—

(a) a statement that the information or document is available on the website;

(b) the website address;

(c) details of the place on the website where the information or document may be read; and

(d) an explanation of how the recipient may read the information or document on the website.

(4) Except where paragraph (6) applies, when the trustees of the scheme make any subsequent information or document available on a website, they must send a notification to the recipient's last known—

(a) postal address; or

(b) electronic address.

(5) The notification referred to in paragraph (4) must include a statement that the information or document is available on the website.

(6) This paragraph applies where—

(a) at least 3 letters have been—

(i) given to the recipient by hand, or

(ii) sent to the recipient's last known postal address;

(b) each of those letters—

(i) asks the recipient to send their electronic address to the trustees of the scheme, and

(ii) states that the recipient may request in writing that information or documents are not furnished or given by means of an electronic communication; and

(c) the trustees of the scheme—

(i) do not know the recipient's electronic address, or

(ii) have not received a written request that information or documents are not furnished or given to the recipient by means of an electronic communication.

(7) In this regulation, "recipient" means the person, organisation or body to whom these Regulations require information or documents to be made available.".

(8) In Schedule 2 (information to be made available to individuals)—

(a) omit paragraph 5(b),

(b) in paragraph 6ZA(6)(**21**)—

(i) in paragraph (a)—

(aa) for the first comma, substitute "and", and

(bb) omit the words from ", and that it should not" to the end,

(ii) omit paragraphs (b), (d), (g), (h) and (i), and

(iii) in paragraph (e), omit the words from "about the nature" to the end, and

(c) after paragraph 6ZA(6), insert—

"(7) The further information which is to be provided, as mentioned in regulation 5(5ZZA)(b) and (5ZC)(b), is—

(a) a statement to the effect that assumptions have been made about the nature of the investments made for the purposes of the member's money purchase benefits and their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;

(b) a statement to the effect that the actual amount of any pension payable to or in respect of the member under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purposes of providing the information under sub-paragraph (1);

(c) a statement specifying any assumptions made in relation to future contributions to the scheme; and

(d) a statement of the assumptions made in accordance with sub-paragraphs (3)(b)(iii) and (4) or as mentioned in sub-paragraph (5).".

Amendment of the Stakeholder Pension Schemes Regulations 2000

4.—(1) The Stakeholder Pension Schemes Regulations 2000(**22**) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (3)—

(i) after the definition of "the 1995 Act", insert—

""address" means postal address (except in the phrases "postal address", "electronic address" and "website address");",

(ii) after the definition of "dilution levy"(**23**), insert—

(**21**) Paragraph 6ZA was inserted by S.I. 2002/1383.
(**22**) S.I. 2000/1403.
(**23**) The definition of "dilution levy" was substituted by S.I. 2005/577.

""electronic communication" has the same meaning as in section 15(1) of the Electronic Communications Act 2000;",

(iii) in the definition of "illustration date"(**24**), for "18(5B)" substitute "18(2A)",

(iv) in the definition of "retirement date"(**25**), for "18(5B)" in both places it appears substitute "18(2A)", and

(v) after the definition of "securities"(**26**), insert—

""statement year" has the meaning given by regulation 18;", and

(b) omit paragraphs (4) and (4A)(**27**).

(3) In regulation 6 (procedure for discharging rights on winding-up), omit paragraph (8).

(4) In regulation 7 (procedure for discharging on winding-up rights of certain members), for paragraph (1) substitute—

"(1) This regulation applies in respect of any member—

(a) whose present postal address and electronic address is not known to the trustees or manager;

(b) in respect of whom the trustees or manager have sent correspondence to their last known—

(i) postal address and that correspondence has been returned, or

(ii) electronic address and the trustees or manager are satisfied that that correspondence has not been delivered; and

(c) in respect of whom no contribution has been made to the scheme by or on behalf of the member during the two calendar years preceding the commencement of winding-up of the scheme.".

(5) In regulation 12(5)(a)(iv) and (d)(ii) (requirement for declaration by trustees or manager)(**28**), for "18(2)" substitute "18A(1)".

(6) For regulation 18 (disclosure of information to members)(**29**), substitute—

"**Disclosure of information to members**

18.—(1) For the purposes of section 1(1)(b), it is a condition of a scheme being a stakeholder pension scheme that the trustees or manager of the scheme comply with the requirements set out in regulations 18A and 18B in addition to such requirements of regulations under section 113 of the 1993 Act (disclosure of information about schemes to members etc.) as are applicable to the scheme.

(2) For the purposes of these Regulations "statement year" means, in relation to a person, the period of 12 months beginning—

(a) in the case of a person who becomes a member after 6th April 2001, on a date chosen, in respect of that person, by the trustees or manager which falls—

(i) on or before the day on which that person becomes a member; but

(ii) no earlier than 6th April 2001; and

(b) in any other case, on 6th April 2001,

(**24**) The definition of "illustration date" was inserted by S.I. 2002/1383.
(**25**) The definition of "retirement date" was inserted by S.I. 2002/1383.
(**26**) The definition of "securities" was substituted by S.I. 2001/3649 and amended by S.I. 2005/577.
(**27**) Paragraph (4) was substituted, and paragraph (4A) was inserted, by S.I. 2005/577.
(**28**) Regulation 12 was substituted by S.I. 2002/2098.
(**29**) Regulation 18 was amended by S.I.s 2001/934, 2002/1383, 2005/577 and 2877 and 2006/744.

and, subject to paragraph (4), each subsequent period ending on and including the anniversary of the last day of the first statement year.

(3) The date to be chosen, in respect of a person, under paragraph (2)(a) must be chosen on or before the day on which that person becomes a member.

(4) For the purposes of paragraph (2), the trustees or manager may, in respect of any person, choose a new date for the ending of the statement year relating to that person if—

(a) the date chosen—

(i) is specified in writing; and

(ii) falls before the end of the statement year relating to that person during which the trustees or manager specify the new date; and

(b) no other date has been chosen in respect of that person by the trustees or manager under this paragraph during the previous period of 12 months.

(5) If a new date is chosen under paragraph (4), "statement year" means, in relation to the person in respect of whom the new date is chosen, the period of 12 months ending on and including that new date (except that, in relation to the first statement year relating to that person, "statement year" means, in relation to that person, the period beginning with the day which is, by virtue of paragraph (2)(b) or of a choice under paragraph (2)(a), the first day of that first statement year and ending on and including that new date) and each subsequent period ending on and including the anniversary of that new date.

(6) For the purposes of paragraphs (2)(a) and (4), different dates may be chosen in respect of different persons.

(7) For the purposes of this regulation, regulations 18A and 18B and Schedule 3, "member" does not include any member—

(a) whose present postal address and electronic address is not known to the trustees or manager;

(b) in respect of whom the trustees or manager have sent correspondence to their last known—

(i) postal address and that correspondence has been returned, or

(ii) electronic address and the trustees or manager are satisfied that that correspondence has not been delivered; and

(c) in respect of whom no contribution has been made to the scheme by or on behalf of the member during the two calendar years preceding the most recent date on which the trustees or manager would, apart from this paragraph, be required to provide the member with a statement under regulation 18A.

(8) For the purposes of this regulation, regulations 18A and 18B and Schedule 3, "member" includes a dependant making income withdrawals from the scheme in accordance with paragraph 21 of Schedule 28 to the Finance Act 2004 (dependants' income withdrawal).

18A.—(1) Where a person is a member for all or part of a statement year relating to them, there must be provided to that person—

(a) within three months of the end of that statement year; or

(b) where that person ceases during that statement year to be a member, during the period beginning with the time at which that person so ceases and ending on and including the last day of the three-month period mentioned in sub-paragraph (a),

a statement which contains the information mentioned in paragraph 1 of Schedule 3 and either paragraph 2 or 3 of Schedule 3, so far as that information relates to that statement year or, in cases falling within sub-paragraph (b) of this paragraph, to the part of that statement year

beginning with the first day of that statement year (whether or not that day is earlier than the day on which that person becomes a member) and ending with the time at which that person so ceases.

(2) Subject to paragraph (4), where a statement is provided under paragraph (1) it must also contain an illustration of the amount, calculated in accordance with regulation 18B, of the pension an entitlement to which would be likely to accrue to the member, or be capable of being secured by the member, at the member's retirement date in respect of rights that may arise under the scheme.

(3) Where information is provided under paragraph (2)—

(a) that information must be accompanied by the additional information specified in paragraph 5 of Schedule 3; and

(b) the further information specified in paragraph 6 of Schedule 3 must be provided by one of the methods in paragraph (6) of this regulation.

(4) The requirement to furnish information under paragraph (2) does not apply—

(a) in respect of a person who is in receipt of pension benefits under the scheme;

(b) where the last day of the statement year referred to in paragraph 1(b)(i) of Schedule 3 is not more than two years before the date which is the member's retirement date for the purpose of paragraph (2) of this regulation;

(c) where, in relation to the member—

(i) the value, determined by reference to the relevant guidance, of the member's accrued rights to money purchase benefits under the scheme was less than £5,000 on the illustration date in respect of which such information was last furnished to the member;

(ii) no contributions, including transfers of pension rights or pension credits, have been made to the scheme by the member or on the member's behalf in respect of money purchase benefits since that date; and

(iii) the trustees or manager previously gave notice to the member that no further such information would be furnished to the member unless further contributions to the scheme in respect of money purchase benefits had first been made by the member or on the member's behalf;

(d) where, in relation to the member—

(i) the value, determined by reference to the relevant guidance, of the member's accrued rights to money purchase benefits under the scheme is less than £5,000 on the first illustration date falling after 5th April 2003;

(ii) no contributions, including transfers of pension rights or pension credits, have been made to the scheme by the member or on the member's behalf after 5th April 2003; and

(iii) no further contributions are, in the opinion of the trustees or manager, likely to be made to the scheme by the member or on the member's behalf after that illustration date; or

(e) where the last day of the statement year referred to in paragraph 1(b)(i) of Schedule 3 is before 6th April 2003.

(5) Where paragraph (4) applies but the trustees or manager nevertheless choose to furnish the information described in paragraph (2) and the amount comprising that information is calculated in accordance with regulation 18B, then—

(a) that information must be accompanied by the additional information specified in paragraph 5 of Schedule 3; and

(b) the further information specified in paragraph 6 of Schedule 3 must be provided by one of the methods in paragraph (6) of this regulation,

as if that additional and further information had been provided under paragraph (2).

(6) The methods referred to in paragraphs (3)(b) and (5)(b) are for the further information to—

(a) accompany the information described in paragraph 5 of Schedule 3; or

(b) be otherwise furnished by the trustees or manager.

(7) Where—

(a) a statement has been issued to a member under paragraph (1);

(b) in that statement, the trustees or manager provided the information listed in paragraph 3, rather than paragraph 2, of Schedule 3 to that member; and

(c) that member requests any information listed in paragraph 2 of Schedule 3 from the scheme,

the trustees or manager must provide to the member a statement in accordance with the conditions referred to in paragraph (8) of this regulation containing the information listed in paragraph 2 of Schedule 3 which the member has requested.

(8) The conditions referred to in this paragraph as mentioned in paragraph (7) are—

(a) the statement must be provided—

(i) as soon as practicable, and

(ii) within two months of the date on which the request referred to in paragraph (7)(c) is received; and

(b) the information must relate to the same statement year, or part of a statement year, to which the statement issued under paragraph (1) relates.

(9) Each member must be provided with a statement setting out the information in paragraph 7 of Schedule 3.

(10) The statement mentioned in paragraph (9) must be provided within one month of the change mentioned in paragraph 7 of Schedule 3.

18B.—(1) The amount referred to in regulation 18A(2) must be determined by reference to—

(a) the relevant guidance; and

(b) the assumptions about contributions specified in paragraph (2) of this regulation and about annuities specified in paragraphs (3) and (4) of this regulation, and such other assumptions as may be specified for the purpose in the relevant guidance,

having regard to the value of the member's accrued rights to money purchase benefits under the scheme on the illustration date.

(2) The assumptions about contributions referred to in paragraph (1)(b) are—

(a) where the calculation relates to the rights of a non-contributing member, that no contributions will be made to the scheme by the member or on the member's behalf after the illustration date; and

(b) in any other case, that, until the member's retirement date—

(i) contributions to the scheme will be made by the member or on the member's behalf;

(ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004 (registration of pension schemes); and

(iii) where a member is in contracted-out employment, sums will continue to be paid by the Commissioners of Her Majesty's Revenue and Customs in respect of the member under section 42A(3) (rebates) or, as the case may be, section 43 of the 1993 Act (payment of minimum contributions to personal pension schemes) in the amounts to be determined by reference to the relevant guidance.

(3) The assumptions about annuities referred to in paragraph (1)(b) are—

(a) that the rate of pension is to be increased annually by the relevant percentage for the time being specified in the relevant guidance; and

(b) that, subject to paragraph (4), irrespective of whether or not the member is married or in a civil partnership at the time when the information referred to in regulation 18A(2) is furnished, the annuity will include provision for the payment, to a surviving spouse or surviving civil partner of the member, of a pension of an amount equal to one half of the pension which was payable to the member immediately before the member's death.

(4) Paragraph (3)(b) does not apply where—

(a) the trustees or manager decide to use a different assumption in substitution for that specified in paragraph (3)(b) on the basis that the scheme records indicate that the member is not married or not in a civil partnership; or

(b) the member and either the trustees or manager agree to use a different assumption.

Service of information by a scheme

18C.—(1) Except where these Regulations otherwise provide, the trustees or manager of the scheme may furnish or give any relevant information by—

(a) sending it to a member or beneficiary's last known postal address; or

(b) subject to paragraphs (2) to (4), using either or both of the following methods—

(i) sending it to a member or beneficiary's last known electronic address,

(ii) making it available on a website (see regulation 18E).

(2) Where the member or beneficiary has requested in writing that—

(a) any relevant information; or

(b) all relevant information,

is not furnished or given in accordance with paragraph (1)(b), that relevant information may not be furnished or given in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished or given in accordance with paragraph (1)(b) where the trustees or manager of the scheme are satisfied that the electronic communications have been designed—

(a) so that members or beneficiaries will be able to—

(i) get access to, and

(ii) store or print,

the relevant information; and

(b) taking into account the requirements of disabled persons.

(4) Where—

(a) a member or beneficiary was a member or beneficiary of the scheme on 1st December 2010; and

(b) that member or beneficiary has not received relevant information by means of an electronic communication before 1st December 2010,

relevant information may not be furnished or given to that member or beneficiary in accordance with paragraph (1)(b) unless the trustees or manager of the scheme have given them by post the written notice referred to in paragraph (5).

(5) The written notice mentioned in paragraph (4) must state that—

(a) the trustees or manager of the scheme propose to furnish or give relevant information to the member or beneficiary by means of an electronic communication; and

(b) the member or beneficiary may request in writing that relevant information is not furnished or given by means of an electronic communication.

(6) In this regulation, "relevant information" means any information, declaration, notice, notification or statement which these Regulations require the trustees or manager of a scheme to give or furnish to a member or beneficiary of the scheme.

Service of information to a scheme

18D. Any—

(a) request for information to be given or furnished in pursuance of these Regulations; or

(b) information to be given to the trustees or manager of a scheme in relation to requirements imposed by these Regulations,

may be furnished, made or given by sending it to the trustees or manager of the scheme by post.

Provision of information on a website

18E.—(1) This regulation sets out the conditions which must be met when making relevant information available on a website under regulation 18C(1)(b)(ii).

(2) When the trustees or manager of the scheme make the first relevant information available on a website, they must send a notification to the recipient's last known—

(a) postal address; or

(b) electronic address.

(3) The notification referred to in paragraph (2) must include—

(a) a statement that the relevant information is available on the website;

(b) the website address;

(c) details of the place on the website where the relevant information may be read; and

(d) an explanation of how the recipient may read the relevant information on the website.

(4) Except where paragraph (6) applies, when the trustees or manager of the scheme make any subsequent relevant information available on a website, they must send a notification to the recipient's last known—

(a) postal address; or

(b) electronic address.

(5) The notification referred to in paragraph (4) must include a statement that the relevant information is available on the website.

(6) This paragraph applies where—

(a) at least three letters have been—

(i) given to the recipient by hand, or

(ii) sent to the recipient's last known postal address;

(b) each of those letters—

(i) asks the recipient to send their electronic address to the trustees or manager of the scheme, and

(ii) states that the recipient may request in writing that relevant information is not furnished or given by means of an electronic communication; and

(c) the trustees or manager of the scheme—

(i) do not know the recipient's electronic address, or

(ii) have not received a written request that relevant information is not furnished or given to the recipient by means of an electronic communication.

(7) In this regulation—

"recipient" means the person or body to whom these Regulations require statements or information to be made available, and

"relevant information" has the same meaning as in regulation 18C(6).".

(7) After Schedule 2 (regulations applying to schemes which are or have been registered under section 2), there is inserted as Schedule 3 the Schedule set out in the Schedule to these Regulations.

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

Steve Webb
Minister of State,
1st November 2010 Department for Work and Pensions

SCHEDULE

Regulation 4(7)

Insertion of Schedule 3 to the Stakeholder Pension Schemes Regulations 2000

After Schedule 2 to the Stakeholder Pension Schemes Regulations 2000(**30**), insert—

"SCHEDULE 3

Regulations 18 and 18A

Information for members

1. The information which is to be provided under regulation 18A(1) is, subject to paragraph 4—

(a) the value of the member's rights under the scheme on the day before the first day of the statement year, being an amount which is not less than the cash equivalent of those rights on that date, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents);

(b) the value of the member's rights—

(i) on the last day of the statement year, being an amount which is not less than the cash equivalent of those rights on that day; or

(ii) where the member ceases during the statement year to be a member, at the time immediately prior to the time at which the member so ceases, being an amount which is not less than the cash equivalent of those rights at the time immediately prior to the time at which the member so ceases,

as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act;

(c) in relation to any reduction under any of paragraphs (2) to (4) of regulation 14—

(i) the rate, expressed as an annual percentage rate, at which, and the period in relation to which, deductions giving rise to that reduction were made; or

(ii) where such deductions were made in relation to different periods at different rates—

(aa) each rate, expressed as an annual percentage rate, at which those deductions were made; and

(bb) the period in relation to which they were made at that rate; and

(d) the member's date of birth used in determining the appropriate age-related percentage for the purposes of section 42A of the 1993 Act and the name and address of whom to contact should that date be incorrect.

2. The information which is listed in this paragraph, as mentioned in regulation 18A(1) and (7) and subject to paragraph 4, is—

(a) the amount of the value mentioned in paragraph 1(b) that is attributable to investment gains or losses made or sustained by the scheme during that statement year;

(b) the amount of each contribution made by or on behalf of, or made in respect of, the member (except contributions falling within sub-paragraph (c) of this paragraph) and the date on which it was received;

(c) the amount of each contribution made by any employer on behalf of or in respect of the member and the date on which it was received;

(d) except where contributions referred to in sub-paragraphs (b) and (c) are increased by the trustees or manager in anticipation of a payment to the scheme by the Inland Revenue by way of tax relief in respect of the member, the amount of each such payment by the Inland Revenue and the date on which it was received;

(**30**) S.I. 2000/1403.

(e) the amount of each payment to the scheme by way of minimum contributions in respect of the member and the date on which it was received;

(f) the amount of each payment made to the scheme by way of minimum payments in respect of the member and the date on which it was received;

(g) the amount of each payment made to the scheme under section 42A(3) of the 1993 Act (reduced rates of Class 1 contributions, and rebates) in respect of the member and the date on which it was received;

(h) the amount of any transfer payment made to the scheme in respect of the member, the name of the scheme or arrangement from which the payment was made and the date on which it was made;

(i) any amount credited to the member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits);

(j) any reduction under section 31 (pension sharing: reduction of benefit), or any enactment in force in Northern Ireland corresponding to that section, in the benefits or future benefits to which the member is entitled under the scheme;

(k) any contributions refunded under the provisions of Chapter 4 of Part 14 of the Income and Corporation Taxes Act (pension schemes, social security benefits, life annuities etc);

(l) any amount paid to the member by way of income withdrawal or dependants' income withdrawal as defined in paragraph 7 or, as the case may be, 21 of Schedule 28 to the Finance Act 2004 (registered pension schemes: authorised pensions – supplementary);

(m) any other amount deducted from the member's account, the nature of the deduction and the date on which it was made;

(n) the total amount of any part of any of the contributions and payments mentioned in sub-paragraphs (b) to (i) which has not been credited to the member's account and the manner in which that amount has been used; and

(o) where the whole or any part of the member's rights under the scheme is represented by rights in a with-profits fund—

(i) the principles adopted in allocating rights under that fund, including the extent of any smoothing of investment returns and the levels of any guarantees, and

(ii) the principles which will be adopted in allocating such rights if the member's rights under the scheme cease to be represented by rights in that fund.

3. The information listed in this paragraph, as mentioned in regulation 18A(1) and (7), is—

(a) the total amount of contributions (not including contributions falling within sub-paragraph (b)) made by or on behalf of, or made in respect of, the member;

(b) the total amount of contributions made by any employer on behalf of, or in respect of, the member;

(c) except where contributions referred to in sub-paragraphs (a) and (b) are increased by the trustees or manager in anticipation of a payment to the scheme by the Inland Revenue by way of tax relief in respect of the member, the total amount of such payments by the Inland Revenue;

(d) the total amount of any deductions or payments from the member's account; and

(e) a statement that the member may request from the scheme any of the information listed in paragraph 2.

4. The information mentioned in paragraphs 1, 2 and 3 does not include—

(a) the amount of any reduction or deduction under any of paragraphs (2) to (4) of regulation 14;

(b) the amount of any reduction under regulation 14(5)(c).

5. The additional information which is to accompany the information provided under regulation 18A(2) is—

(a) a statement to the effect that the information provided under regulation 18A(2) is provided only for the purposes of illustration and that it does not represent any promise or guarantee as to the amount of benefit which may be receivable by the member or a beneficiary under the scheme;

(b) a statement specifying the means by which the person to whom the information relates may obtain from the trustees or manager further information about the information provided under regulation 18A(2);

(c) a statement to the effect that certain general assumptions have been made in relation to the information provided under regulation 18A(2);

(d) a statement to the effect that the amount referred to in regulation 18A(2) is expressed in today's prices;

(e) a statement of the member's retirement date for the purpose of regulation 18A(2); and

(f) a statement of the illustration date used for the purpose of calculating the amount referred to in regulation 18A(2).

6. The further information which is to be provided, as mentioned in regulation 18A(3)(b) and (5)(b), is—

(a) a statement to the effect that assumptions have been made about the nature of the investments made for the purposes of the member's money purchase benefits and their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;

(b) a statement to the effect that the actual amount of any pension payable to or in respect of the member under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purposes of providing the information under regulation 18A(2);

(c) a statement specifying any assumptions made in relation to future contributions to the scheme; and

(d) a statement of the assumptions made in accordance with regulation 18B(2)(b)(iii) and (3), or as mentioned in regulation 18B(4).

7. The information listed in this paragraph, as mentioned in regulation 18A(9), is any change in the scheme's rules or practice as regards the extent to which or the circumstances in which—

(a) any payment made to the scheme by or on behalf of a member,

(b) any amount credited to the member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits),

(c) any income or capital gain arising from the investment of such a payment, or

(d) the value of any rights under the scheme,

may, in accordance with regulations 13, 14 and 14B, be used otherwise than to provide benefits for or in respect of that member.

8. In this Schedule "annual percentage rate" means the daily percentage rate at which deductions were made under regulation 14(2), (3) or (4) (being no greater than 1/365% of the value of the fund, share or rights in the with-profits fund respectively from which they were made) multiplied by 365.".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend—

- the Personal Pension Schemes (Disclosure of Information) Regulations 1987 (S.I. 1987/1110) ("the Personals Regulations"),
- the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (S.I. 1996/1655) ("the Occupationals Regulations"), and
- the Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403) ("the Stakeholders Regulations").

These Regulations make amendments to the circumstances in which information is disclosed by pension schemes to persons such as members of the schemes and vice versa. The amendments relate to occupational, personal and stakeholder pension schemes.

The Personals Regulations, the Occupationals Regulations and the Stakeholders Regulations are amended to allow certain information to be disclosed by electronic means, in particular by email and websites. These amendments do not prevent information from being disclosed by post. Similar changes are made for each of these three sets of Regulations.

Regulation 2(2)(c) makes an amendment to provisions in the Personals Regulations which allow pension schemes not to provide certain information to a certain group of members. The amendment adds to that group of members. It makes the addition where the scheme has sent certain information to a member's email address (or other electronic address) which has not been delivered. Regulation 3(2)(c) makes a similar amendment to the Occupationals Regulations, regulation 4(4) makes a similar amendment to the Stakeholders Regulations and there is a similar change in new regulation 18(7) of the Stakeholders Regulations.

Regulation 2(3) and (5) amends provisions in the Personals Regulations which allow persons to inspect certain documents relating to a pension scheme. The amendment allows the scheme to make those documents available on a website for inspection. Regulation 3(3) makes a similar amendment to the Occupationals Regulations.

Regulation 2(4) makes amendments to the Personals Regulations to allow schemes to provide certain information electronically. Regulation 3(5) makes similar amendments to the Occupationals Regulations and there are similar changes in new regulations 18(6) and 18A(1), (2), (3), (5), (6), (7) and (8) of the Stakeholders Regulations.

Regulation 2(6) inserts new regulations 7 to 9 into the Personals Regulations. New regulation 7 sets out how schemes can provide information. Electronic communications can only be used if specified conditions are met. In particular, a person can choose to prevent a scheme from using electronic communications. New regulation 8 sets out how information can be provided to schemes. New regulation 9 sets out how a scheme must act if it provides information on a website. In particular, a scheme cannot start providing information on a website unless it tells the person that information is on the website and explains how that information can be accessed. Regulation 3(7) makes similar amendments to the Occupationals Regulations and there are similar changes in new regulations 18C to 18E of the Stakeholders Regulations.

Regulation 2(7) amends the information that schemes have to make available to persons under the Personals Regulations. Some information no longer has to be made available. Regulation 3(8)

makes similar amendments to the Occupationals Regulations and there are similar changes in new paragraphs 1 and 5 of Schedule 3 to the Stakeholders Regulations.

Regulation 3(6) removes a provision from the Occupationals Regulations that no longer has any effect.

In addition to the amendments referred to above, regulation 4(6) also amends the ways in which certain information has to be provided under the Stakeholders Regulations. Some information is now provided on request rather than automatically.

Regulation 4(6) also consolidates the main regulation relating to disclosure of information in the Stakeholders Regulations. The provisions which were in regulation 18 of the Stakeholders Regulations are consolidated into new regulations 18 to 18B of, and Schedule 3 to, those Regulations.

An assessment of the impact these Regulations have on business, charities and the voluntary sector has been made. Copies of that Impact Assessment are available from the libraries of both Houses of Parliament, the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA and the Department's website at: http://www.dwp.gov.uk/publications/impact-assessments.