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STATUTORY INSTRUMENTS

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**2011 No. 1245**

**The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011**

**PART 2**

Amendments coming into force on 6th April 2012

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

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987<sup>M1</sup> are amended as follows.

(2) In regulation 1(2) (interpretation)<sup>M2</sup>, omit the definition of “contracted-out employment”.

(3) For regulation 3(4) (constitution of scheme)<sup>M3</sup>, substitute—

“(4) The categories of persons mentioned in paragraphs (1) to (3) are—

- (a) members of the scheme, and
- (b) beneficiaries under the scheme.”.

(4) For regulation 4(3) (basic information about the scheme)<sup>M4</sup>, substitute—

“(3) The information specified in Schedule 1 shall be given to—

- (a) members of the scheme, and
- (b) beneficiaries under the scheme,

on request (not being a request made by a person within 3 years of the last occasion on which the same person was furnished with the information in accordance with paragraph (2) or this paragraph) as soon as practicable after that person requests it.”.

(5) In regulation 5 (information to be made available to individuals)<sup>M5</sup>—

- (a) omit paragraphs (6) and (7),
- (b) in paragraph (8)—
  - (i) omit “the scheme is not an appropriate scheme and”, and
  - (ii) for “wind it up”, substitute “wind up the scheme ”,

(c) for paragraph (9) substitute—

“(9) Subject to paragraph (9A), where a scheme ceases to be an appropriate scheme by virtue of section 15(1) of the Pensions Act 2007, the trustees shall—

- (a) inform each member in relation to whom the scheme has ceased to be such a scheme (“the affected member”), except an excluded person, that the scheme has ceased to be an appropriate scheme, as soon as practicable and in any event not more than 1 month after the abolition date,

- (b) furnish the affected member, except an excluded person, as soon as practicable and in any event not more than 4 months after the abolition date, with the information mentioned in paragraph 9 of Schedule 2, and
- (c) where the scheme is unable to meet in full its liabilities to its members, furnish the affected member, except an excluded person, as soon as practicable and in any event not more than 4 months after the abolition date, with the information mentioned in paragraph 8 of Schedule 2.”, and
- (d) after paragraph (9) insert—
  - “(9A) Paragraph (9) does not apply where the trustees have informed the affected member of the abolition date and have furnished the affected member with the information specified in paragraph (9)(b) and, if applicable, paragraph (9)(c), within the period of 12 months ending with the abolition date.”.
- (6) In Schedule 1 (basic information about the scheme) <sup>M6</sup>—
  - (a) omit paragraph 5, and
  - (b) in paragraph 6, for “(if the scheme is an appropriate scheme)” substitute “ (if the scheme was an appropriate scheme) ”.
- (7) In Schedule 2 (information to be made available to individuals) <sup>M7</sup>—
  - (a) in paragraph 1, for “for the whole or any part of that period” substitute “ at any time before the abolition date ”,
  - (b) in paragraph 2A—
    - (i) after sub-paragraph (3)(b)(i), add “ and ”,
    - (ii) omit sub-paragraph (3)(b)(iii), and the word “and” immediately preceding it, and
    - (iii) in sub-paragraph (7)(d), for “sub-paragraphs (3)(b)(iii) and (4)” substitute “ sub-paragraph (4) ”, and
  - (c) in paragraph 9—
    - (i) paragraph 9 is renumbered as sub-paragraph (1) of that paragraph, and
    - (ii) after sub-paragraph (1) as so renumbered, add—
      - “(2) A statement that, as a result of no longer being a member of a contracted-out scheme, the member may build up entitlement to an additional state pension from the date the scheme ceased to be an appropriate scheme.”.

### Marginal Citations

- M1** [S.I. 1987/1110](#).
- M2** The definition of “contracted-out employment” was inserted by [S.I. 2002/1383](#).
- M3** Regulation 3(4) was amended by [S.I. 2005/2877](#).
- M4** Regulation 4(3) was amended by [S.I. 2005/2877](#).
- M5** The relevant amending instruments are [S.I. 1992/1531](#), 1994/1062 and 1997/786.
- M6** The relevant amending instrument is [S.I. 1997/786](#).
- M7** Paragraph 1 was amended by [S.I. 1988/474](#), 1992/1531, 1993/519, 1994/1062, 2006/744 and 2007/814. Paragraph 2A was inserted by [S.I. 2002/1383](#) and amended by [S.I. 2005/2877](#), 2006/744 and 2010/2659.

### **Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991**

3. In regulation 11A (further alternative to short service benefit – transfer to an overseas arrangement) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 <sup>M8</sup>, in paragraph (2)—

- (a) at the end of sub-paragraph (a), add “ and ”, and
- (b) omit sub-paragraph (b), and the word “and” immediately following it.

#### **Marginal Citations**

**M8** S.I. 1991/167. Regulation 11A was inserted by S.I. 1996/2131.

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

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996 <sup>M9</sup> are amended as follows.

(2) In regulation 1(2) (interpretation) <sup>M10</sup> in the definition of “overseas scheme” omit “or (3)”.

(3) In regulation 3(2)(g)(i) (notices by employers of intended election) <sup>M11</sup>, omit “whether the employment would be contracted-out by reference to a salary-related or money purchase contracted-out scheme and”.

(4) Omit regulation 6(4) (information to be included in an election).

(5) In regulation 9(3)(b) (making of elections by employers for the variation or surrender of contracting-out certificates), omit “in the case of a money purchase contracted-out scheme, the protected rights under, or in the case of any other scheme,”.

(6) In regulation 10(1)(a) (special provision with regard to elections for the issue, variation or surrender of certificates where the employment remains contracted-out) omit “or for protected rights, as the case may be,”.

(7) In regulation 16 (requirement to confirm relevant requirements are satisfied), omit paragraph (1)(b).

(8) Omit regulation 30 (further contracting-out requirements for money purchase contracted-out schemes).

(9) In regulation 31(3)(a) (deduction of minimum payments from earnings) <sup>M12</sup> after “section 42B of the 1993 Act” insert “ as it had effect immediately prior to the abolition date ”.

(10) In regulation 32(1) (minimum payments to be made by employers to trustees)—

- (a) for “section 8(1)” substitute “ section 8(1A) ”, and
- (b) for “employment is contracted-out” substitute “ employment was contracted-out ”.

(11) Omit regulations 39 (circumstances in which schemes may change mode of contracting-out) and 40 (schemes which may not be contracted-out under section 9(3) of the 1993 Act).

(12) In regulation 42 (alteration of rules of contracted-out schemes) <sup>M13</sup>—

- (a) in paragraph (1), omit “, (2A)”,
- (b) omit paragraph (2A), and
- (c) for paragraph (2B)(c), substitute—  
“ (c) otherwise prevent the scheme from satisfying section 9(2) of that Act.”

(13) In regulation 43 (termination of periods of contracted-out employment)—

- (a) in paragraph (3)(a)(iii), omit from the words “or, as the case may be” to the end, and
  - (b) in paragraph (5)(a), for the words “, section 9(2B) rights or protected” substitute “ or section 9(2B) ”.
- (14) In regulation 45(2) (approval of arrangements for schemes ceasing to be contracted-out) omit “, section 28(2)(b) and (3) of that Act (transfer of protected rights)”.
- (15) Omit regulation 48(6) (special provision for overseas schemes).
- (16) In regulation 49 (insolvent schemes) <sup>M14</sup>—
- (a) omit paragraph (3)(a), and
  - (b) for paragraph (4)(a) substitute—
    - “(a) in the case of a scheme to which Part 3 of the 2004 Act applies (scheme funding), the cash equivalent of a member's rights under the scheme shall be determined as if the requirements of section 222(1) of that Act were satisfied;”.
- (17) In regulation 62(3) (fixed rate revaluation of guaranteed minimum pensions for early leavers)
- (a) omit “or section 28 (ways of giving effect to protected rights)”, and
  - (b) for “those provisions” substitute “ that provision ”.

#### Marginal Citations

- M9** [S.I. 1996/1172](#). See also section 1(2) of, and Schedule 2 to, the [Social Security Contributions \(Transfer of Functions, etc\) Act 1999 \(c.2\)](#) (“the 1999 Act”) which transferred to the Commissioners of Inland Revenue the functions of the Secretary of State under these Regulations.
- M10** The definition of “overseas scheme” was substituted by [S.I. 2007/814](#), and amended by [S.I. 2007/3014](#).
- M11** The relevant amending instrument is [S.I. 2002/681](#).
- M12** The relevant amending instruments are [S.I. 2002/681](#).
- M13** Paragraphs (2A) and (2B) were inserted by [S.I. 1997/786](#).
- M14** The relevant amending instruments are [S.I. 2005/3377](#) and 2008/1903.

### Revocation of the Protected Rights (Transfer Payment) Regulations 1996

5. The Protected Rights (Transfer Payment) Regulations 1996 <sup>M15</sup> are revoked.

#### Marginal Citations

- M15** [S.I. 1996/1461](#).

### Amendment of the Contracting-out (Transfer and Transfer Payments) Regulations 1996

6.—(1) The Contracting-out (Transfer and Transfer Payments) Regulations 1996 <sup>M16</sup> are amended as follows.

- (2) In regulation 1(2) (interpretation)—
  - (a) omit the definitions of “appropriate personal pension scheme” and “money purchase contracted-out scheme”, and
  - (b) in the definition of “overseas arrangement”—
    - (i) after paragraph (a), add “ and ”, and

(ii) omit paragraph (b), and the word “and” immediately following it.

(3) For regulation 5 (transfer payments in respect of guaranteed minimum pensions to money purchase contracted-out schemes and appropriate personal pension schemes), substitute—

**“Transfer payments in respect of guaranteed minimum pensions to occupational and personal pension schemes**

**5.** A transfer payment in respect of a guaranteed minimum pension may be made to a scheme which is not a salary-related contracted-out scheme, an overseas scheme or overseas arrangement, if—

- (a) the earner consents in writing;
- (b) the transfer payment (whether or not it forms part of a larger payment in respect of both guaranteed minimum pensions and other rights) is of an amount at least equal to the cash equivalent of the earner's accrued rights to guaranteed minimum pensions, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents); and
- (c) the earner has acknowledged in writing to the transferring scheme that the earner has received a statement from the receiving scheme showing the benefits to be awarded in respect of the transfer payment, and that the earner accepts that—
  - (i) the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been payable by the transferring scheme, and
  - (ii) there is no statutory requirement on the receiving scheme to provide for survivor's benefits out of the transfer payment.”.

(4) For regulation 10 (transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes in respect of section 9(2B) rights), substitute—

**“10 Transfer payments to occupational and person pension schemes in respect of section 9(2B) rights**

**10.** A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to a scheme which is not a salary-related contracted-out scheme, an overseas scheme or overseas arrangement, if—

- (a) the earner consents in writing; and
- (b) the earner has acknowledged in writing to the transferring scheme that the earner has received a statement from the receiving scheme showing the benefits to be awarded in respect of the transfer payment, and that the earner accepts that—
  - (i) the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been payable by the transferring scheme, and
  - (ii) there is no statutory requirement on the receiving scheme to provide for survivor's benefits out of the transfer payment.”.

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**Marginal Citations**

**M16** [S.I. 1996/1462](#).

## Revocation of part of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

7. In the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996<sup>M17</sup>, the following regulations are revoked—

- (a) regulation 1(2) (interpretation), in so far as it relates to the regulations listed in paragraphs (b) to (m),
- (b) regulation 2 (manner of calculation and verification of protected rights),
- (c) regulation 4 (conditions applying to pensions and annuities which give effect to protected rights),
- (d) regulation 5 (circumstances in which and period for which pension or annuity is to be paid to widow, widower or surviving civil partner),
- (e) regulation 6 (interim arrangements),
- (f) regulation 8 (giving effect to protected rights by provision of a lump sum),
- (g) regulation 10 (choice of insurance company by annuitant),
- (h) regulation 11 (insurers that may provide protected rights by way of annuities),
- (i) regulation 12 (death of member before effect is given to his protected rights),
- (j) regulation 13 (death before effect given to protected rights: interim arrangements for widow, widower or surviving civil partner),
- (k) regulation 14 (enforceable entitlement after death of member),
- (l) regulation 15 (further requirements in respect of giving effect to protected rights), and
- (m) regulation 17 (tax registration).

### Marginal Citations

M17 S.I. 1996/1537.

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

8.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996<sup>M18</sup> are amended as follows.

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

(a) for paragraph (7) substitute—

“(7) Subject to paragraph (7ZA), where a scheme ceases to be a money purchase contracted-out scheme by virtue of section 15(1) of the Pensions Act 2007<sup>M19</sup>, the trustees of the scheme shall inform each member in relation to whom the scheme has ceased to be such a scheme (“the affected member”), as soon as practicable, and in any event not more than 1 month after the abolition date, that the scheme is no longer a money purchase contracted-out scheme, and furnish the affected member, as soon as practicable and in any event not more than 4 months after the abolition date with—

(a) the information mentioned in paragraph 8 of Schedule 2, and

(b) except where the scheme is able to meet in full its liabilities to the affected member, the information mentioned in paragraph 10 of Schedule 2.”,

(b) after paragraph (7) insert—

“(7ZA) Paragraph (7) does not apply where the trustees of the scheme have informed the affected member of the date on which the scheme is to cease to be a money purchase contracted-out scheme and have furnished the information specified in paragraph (7) (a) and, if applicable, paragraph (7)(b), within the period of 12 months ending with the abolition date.”, and

- (c) omit paragraph (7A) <sup>M20</sup>.
- (3) In Schedule 1 (basic information about the scheme), in paragraph 10, omit the words from “, and whether the scheme is contracted-out” to the end.
- (4) In Schedule 2 (information to be made available to individuals)—
  - (a) in paragraph 5(a), for “for the whole or any part of the period” substitute “ at any time before the abolition date ”,
  - (b) in paragraph 6ZA <sup>M21</sup>—
    - (i) in sub-paragraph (3)(b)(i), at the end insert “ and ”,
    - (ii) omit sub-paragraph (3)(b)(iii), and the word “and” immediately preceding it, and
    - (iii) in sub-paragraph (7)(d) for “sub-paragraphs (3)(b)(iii) and (4)” substitute “ sub-paragraph (4) ”,
  - (c) in paragraph 8—
    - (i) paragraph 8 is renumbered as sub-paragraph (1) of that paragraph,
    - (ii) in sub-paragraph (1) as so renumbered, omit “in relation to the member's employment”, and
    - (iii) after sub-paragraph (1) as so renumbered, add—

“(2) A statement that, as a result of no longer being a member of a contracted-out scheme, the member may build up entitlement to an additional state pension from the date the scheme ceased to be a money purchase contracted-out scheme.”, and
  - (d) omit paragraph 8A <sup>M22</sup>.

**Marginal Citations**

**M18** [S.I. 1996/1655](#).

**M19** [2007 c.22](#).

**M20** Regulation 5(7A) was inserted by [S.I. 2000/2691](#).

**M21** Paragraph 6ZA was inserted by [S.I. 2002/1383](#) and amended by [S.I. 2005/2877](#) and 2010/2659.

**M22** Paragraph 8A was inserted by [S.I. 2000/2691](#).

**Amendment of the Occupational and Personal Pension Schemes (Contracting-out etc: Review of Determinations) Regulations 1997**

**9.** In regulation 2 (application of regulations) of the Occupational and Personal Pension Schemes (Contracting-out etc: Review of Determinations) Regulations 1997 <sup>M23</sup>, omit “or appropriate schemes certificates”.

**Marginal Citations**

**M23** [S.I. 1997/358](#). See also section 1(2) of, and Schedule 2 to, the 1999 Act which transferred to the Commissioners of Inland Revenue the functions of the Secretary of State under these Regulations.

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

**10.**—(1) The Personal Pension Schemes (Appropriate Schemes) Regulations 1997 <sup>M24</sup> are amended as follows.

- (2) In regulation 1(2) (interpretation), omit the definition of “administrators”.
- (3) The following regulations are revoked—
- (a) regulation 2 (forms of schemes which may be appropriate schemes),
  - (b) regulation 4 (requirements in respect of an application for an appropriate schemes certificate),
  - (c) regulation 5 (issue of appropriate scheme certificates),
  - (d) regulation 6 (requirements to give the Commissioners of Inland Revenue information),
  - (e) regulation 6A (provision of information for purposes of contracting-out),
  - (f) regulation 7 (cancellation, variation and surrender of an appropriate scheme certificate),
  - (g) regulation 8 (applications for the variation of, and to surrender, appropriate scheme certificates),
  - (h) regulation 9 (cancellation of an appropriate scheme certificate),
  - (i) regulation 10 (notice under section 44(1) of the 1993 Act),
  - (j) regulation 11 (notice under section 44(2) of the 1993 Act), and
  - (k) regulation 14 (allocation of minimum contributions).

#### **Marginal Citations**

**M24** [S.I. 1997/470](#). Regulation 6A was inserted by [S.I. 2002/681](#).

### **Revocation of the Occupational Pension Schemes (Age-related Payments) Regulations 1997**

**11.** The Occupational Pension Schemes (Age-related Payments) Regulations 1997 <sup>M25</sup> are revoked.

#### **Marginal Citations**

**M25** [S.I. 1997/946](#).

### **Amendment of the Pension Sharing (Valuation) Regulations 2000**

**12.** In regulation 2 (rights under a pension arrangement which are not shareable) of the Pension Sharing (Valuation) Regulations 2000 <sup>M26</sup>, in paragraph (1)—

- (a) at the end of sub-paragraph (b)(ii), add “ or ”, and
- (b) omit sub-paragraph (b)(iii), and the word “or” immediately following that sub-paragraph.

#### **Marginal Citations**

**M26** [S.I. 2000/1052](#). The relevant amending instruments are [S.I. 2005/2877](#) and 2006/744.



### **Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000**

13. In regulation 1(2) (interpretation) of the Pension Sharing (Pension Credit Benefit) Regulations 2000<sup>M27</sup>, omit the definitions of “appropriate scheme” and “money purchase contracted-out scheme”.

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**Marginal Citations**

**M27** [S.I. 2000/1054](#).

### **Amendment of the Stakeholder Pension Scheme Regulations 2000**

- 14.—(1) The Stakeholder Pension Scheme Regulations 2000<sup>M28</sup> are amended as follows.
- (2) In regulation 1(3) (interpretation), omit the definition of “contracted-out employment”<sup>M29</sup>.
- (3) In regulation 18B (disclosure of information to members)<sup>M30</sup>—
- (a) after paragraph (2)(b)(i) insert “ and ”, and
  - (b) omit paragraph (2)(b)(iii) and the word “and” immediately preceding it.
- (4) In paragraph 6(d) of Schedule 3 (information for members)<sup>M31</sup>, for “regulations 18B(2)(b) (iii) and (3)” substitute “ regulation 18B(3) ”.

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**Marginal Citations**

**M28** [S.I. 2000/1403](#).

**M29** The definition of “contracted-out employment” was inserted by [S.I. 2002/1383](#).

**M30** Regulation 18B was inserted by [S.I. 2010/2659](#).

**M31** Schedule 3 was inserted by [S.I. 2010/2659](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011, PART 2.