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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167) (“the Preservation of Benefit Regulations”), the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) (“the Contracting-out Regulations”) and the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462) (“the Transfer Regulations”), and the Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403) (“the Stakeholder Regulations”). They also revoke spent provisions of the Stakeholder Regulations, the Stakeholder Pension Schemes (Amendment) Regulations 2001 (S.I. 2001/104) and the Stakeholder Pension Schemes (Amendment) (No. 2) Regulations 2001 (S.I. 2001/934), and make consequential provisions to other regulations. These Regulations come into force on 6th April 2013.

Regulation 2 amends the Preservation of Benefit Regulations to provide for a new alternative to the provision of a short service benefit under section 73(2) of the Pension Schemes Act 1993 (c. 48), that is, the transfer of a member’s accrued rights to a European pensions institution, without the member’s consent, in accordance with the conditions set out in regulation 12 of those Regulations. Regulation 2 also amends the conditions in regulation 12(2) that apply to transfers of a member’s rights without their consent, to allow for a transferring scheme and a receiving scheme to relate to both persons who are currently employed, or who have been employed in the past, by the same employer.

Regulation 3 amends regulation 42 of the Contracting-out Regulations, to provide a new set of requirements that apply to the amendment of scheme rules in relation to accrued contracted-out rights (section 9(2B) rights). Regulation 42(2) is amended so that the conditions in that regulation now only apply to the alteration of rules in relation to contracted-out rights that are to accrue in the future under the contracted-out scheme. New regulation 42(2ZA) and (2ZB) set out new restrictions on the amendment of rules in relation to accrued contracted-out rights. Amendments to such rights are not allowed unless the benefits provided to members and survivors are at least as good as those provided by a reference scheme, unless section 67 of the Pensions Act 1995 (c. 26) does not apply or, if section 67 does apply, the alterations are neither detrimental nor protected modifications. Lastly, if an alteration is a detrimental modification, the actuarial equivalence test must be applied. In both the cases where the alteration is within the scope of section 67, regulation 42(2ZB) requires that the level of survivors’ benefits cannot be reduced.

Regulation 4 makes amendments to the Transfer Regulations to allow connected employer transfers to take place where the transferring scheme and receiving scheme relate to both persons who are currently employed, or who have been employed in the past, by the same employer, and where either scheme is a contracted-out or a former contracted-out scheme.

Regulations 5 and 10 make consequential amendments to regulations to insert references to new regulation 11B of the Preservation of Benefit Regulations (as inserted by regulation 2 of this instrument) alongside references to regulation 12 of those Regulations where appropriate.

Regulation 6 changes the reference to the Retail Prices Index (“RPI”) to a reference to a rise in the general level of prices. Chapter 4 of the Pension Schemes Act 1993 (c. 48) gives most members of occupational pension schemes rights to transfer preserved benefits – or a cash equivalent thereof – to another scheme, if that scheme is willing to accept the transfer. Exceptions to this right are found in Regulation 2 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (S.I. 1996/1847). One such exception applies to members who left schemes before 1st January 1986 if the scheme fully revalues the preserved rights by the RPI.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 7 replaces the existing regulation 32 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054). Paragraphs (2) to (4) of new regulation 32 will permit schemes which have paid RPI-based increases to continue to do so without tracking the consumer prices index (“CPI”) levels as well.

The definition of “appropriate percentage” at paragraph (7) will make it clear which of the two figures in the revaluation order should be used in which circumstances. The higher percentage is appropriate where the pension was shared prior to 6th April 2005 and the lower percentage for pensions shared after that date. The definition of “relevant percentage” replaces a reference to the Retail Prices Index with a reference to the Consumer Prices Index, reflecting how the requirement is prescribed for main scheme benefits in section 51 of the Pensions Act 1995.

Regulation 8 amends and revokes provisions in the Stakeholder Regulations:

- paragraph (2) revokes provisions which have no longer have any effect;
- paragraph (3) makes amendments consequential to changes made by tax legislation; and
- paragraph (4) amends regulation 14 as a consequence of the revocation made in paragraph (3).

The amendments in paragraph (5) are consequential, incidental and supplementary to the amendments to section 3 of the Welfare Reform and Pensions Act 1999 (c. 30) (“the 1999 Act”) made by section 87 of the Pensions Act 2008 (c. 30) (“the 2008 Act”), and to the supplementary provision made by the Pensions Act 2008 (Commencement No. 14 and Supplementary Provisions) Order 2012 (S.I. 2012/2480), which removed the requirement for employers to designate a stakeholder pension scheme, deduct contributions from employees’ remuneration and pay them to the scheme, except where an employee had, before 1st October 2012, requested deductions to be made and has not withdrawn that request. Paragraph (5)(a) to (f) and (h) amends regulation 24 of the Stakeholder Regulations to reflect the amendments made to section 3 of the 1999 Act, paragraph (5)(g) inserts paragraphs (5A) and (5B) into regulation 24 and removes the duty to deduct contributions where the employer’s designated scheme commences winding up or the employer withdraws designation of a scheme for reasons beyond the employer’s control. Paragraph (5)(i) omits references to regulation 25 of the Stakeholder Regulations which lapsed when the statutory power under which it was made was repealed by section 87 of the 2008 Act.

Regulation 10 revokes provisions in the [Stakeholder Pension Schemes \(Amendment\) Regulations 2001 \(2001/104\)](#), the [Stakeholder Pension Schemes \(Amendment\) \(No. 2\) Regulations 2001 \(2001/934\)](#) and the [Personal and Occupational Pension Schemes \(Indexation and Disclosure of Information\) \(Miscellaneous Amendments\) Regulations \(S.I. 2005/704\)](#).

An assessment of the impact of this instrument has been made. A copy of each of the impact assessments for regulations 2 to 5 and 9, and for regulations 6 and 7 respectively, is available in the libraries of both Houses of Parliament and alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk). An assessment of the impact of regulation 8 was made when the changes to the stakeholder designation requirement were made by section 87 of the 2008 Act. A copy of that assessment is available on [www.legislation.gov.uk/ukSI/2012/2480/resources](http://www.legislation.gov.uk/ukSI/2012/2480/resources).