
STATUTORY INSTRUMENTS

2013 No. 459

**The Occupational and Stakeholder Pension Schemes
(Miscellaneous Amendments) Regulations 2013**

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

3. In regulation 42 of the Occupational Pension Schemes (Contracting-out) Regulations 1996 (alteration of rules of contracted-out schemes)⁽¹⁾—

- (a) in paragraph (1), after “paragraph (2)” insert “, (2ZA)”;
- (b) in paragraph (2), for “section 9(2B) rights under the scheme” substitute “rights which are to accrue under the scheme in so far as such rights are attributable to an earner’s service in contracted-out employment on or after the date on which the alteration to the rules takes effect (other than rights attributable to the payment of voluntary contributions)”;
- (c) after paragraph (2) insert—

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

- (a) following the alteration, the scheme provides benefits for the member and for that member’s widow, widower or surviving civil partner, in respect of the period of pensionable service to which the alteration relates and in which the member’s employment was contracted-out under section 9(2B) of the 1993 Act (requirements for certification of schemes: general) which are at least equal to the benefits that would be provided by a reference scheme (within the meaning of section 12B(2) of the 1993 Act (reference scheme)),
 - (b) the alteration is one to which section 67 of the 1995 Act (the subsisting rights provisions) does not apply,
 - (c) the alteration is one which is not a protected modification or a detrimental modification within the meaning given in section 67A of the 1995 Act (the subsisting rights provisions: interpretation), or
 - (d) if the alteration is a detrimental modification within the meaning of section 67A of the 1995 Act, the actuarial equivalence requirements provided for in sections 67C and 67D of that Act (the actuarial equivalence requirements and further provisions) are met in relation to the proposed modification of those rights.
- (a) (2ZB) This paragraph applies in the case of alterations falling within paragraph (2ZA)(c) or (d), but not falling within (2ZA)(a) or (b).
 - (b) Subject to sub-paragraph (c), the altered scheme must provide for a pension to be paid to the member’s widow, widower or surviving civil partner in respect of the period in which the member’s employment was contracted-out under section 9(2B) of the 1993 Act (“relevant survivor’s post-1997 pension”) which is at least as generous, either as regards the amount of the pension or as regards

⁽¹⁾ [S.I. 1996/1172](#). Regulation 42 was amended by [S.I. 1997/786](#), regulation 3 and Schedule 1 paragraph 4(8) and [S.I. 2011/1245](#), regulation 1(2)(a).

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the circumstances in which it will be paid, as it would have been before the alteration.

- (c) In relation to a member who is an active member of the scheme immediately before the alteration takes effect, the requirement in sub-paragraph (b) shall be deemed to be satisfied if the relevant survivor's post-1997 pension which the scheme would provide in respect of the member if the member left pensionable service immediately after the alteration is at least as generous as the relevant survivor's post-1997 pension which the scheme would have provided in respect of the member had the member left service immediately before the alteration.
- (d) In sub-paragraph (c), "active member" means a person who is in pensionable service under the scheme."⁽²⁾.

(2) Section 9(2B) of the 1993 Act was inserted by section 136(3) of the Pensions Act 1995, and amended by paragraph 35(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2). Section 12B of the 1993 Act was inserted by section 136(5) of the Pensions Act 1995. Section 67 of the 1995 Act was substituted by, and sections 67A to 67I of the 1995 Act were inserted by, section 262 of the Pensions Act 2004.