
STATUTORY INSTRUMENTS

2014 No. 1711

The Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014

PART 5

Modification of schemes

The subsisting rights provisions

8.—(1) This regulation applies where—

- (a) on or after 6th April 2006 but before the appointed day, a power under an occupational pension scheme to which section 67 of the 1995 Act (the subsisting rights provisions)(**1**) applies has been exercised so as to modify the scheme by replacing or converting a right or entitlement to any of the benefits specified in paragraph (2) with or to a right or entitlement to money purchase benefits (“the scheme modification”);
- (b) if section 29 of the Act had been in force at the time that the scheme modification took effect (and if this regulation did not apply), the modification would have been a protected modification; and
- (c) the consent requirements (see section 67B(3) of the 1995 Act(**2**)) were not satisfied before the scheme modification took effect.

(2) The benefits specified in this paragraph are—

- (a) cash balance benefits;
- (b) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits); and
- (c) top-up benefits.

(3) Where this regulation applies and the requirements specified by—

- (a) section 67(2)(b) and (c) of the 1995 Act (trustee approval and reporting requirements); and
- (b) in the case of each affected member, the actuarial equivalence requirements (within the meaning of section 67C of that Act (the actuarial equivalence requirements)(**3**),

are satisfied, section 67A(3)(a) of that Act (the subsisting rights provisions: interpretation)(**4**) applies as if the right or entitlement to a benefit specified in paragraph (2) which was replaced by or converted to a right or entitlement to money purchase benefits were a right or entitlement to money purchase benefits.

(1) Section 67 was substituted for that section as originally enacted by section 262 of the 2004 Act.

(2) Section 67B was inserted by section 262 of the 2004 Act.

(3) Section 67C was inserted by section 262 of the 2004 Act.

(4) Section 67A was inserted by section 262 of the 2004 Act.

Commencement Information

II Reg. 8 comes into force in accordance with reg. 1(1)

Money purchase underpin benefits and top-up benefits

9.—(1) This regulation applies in relation to any time on or after the appointed day when a member of an occupational pension scheme or a survivor of a member has under the scheme a right or entitlement to—

- (a) money purchase underpin benefits; or
- (b) money purchase benefits, where, under the scheme, the member has a contingent right to a top-up benefit if the amount of the member’s rights to money purchase benefits falls short of a defined benefit minimum promised to the member.

(2) Where this regulation applies, section 67A of the 1995 Act applies as if—

- (a) in subsection (6)—
 - (i) in paragraph (a)(i) the second “or” were omitted; and
 - (ii) after paragraph (a)(i), there were inserted—
 - “(ia) any contingent right under the scheme rules to a defined benefit minimum (in relation to money purchase underpin benefits) or to a top-up benefit (to which, under the scheme, a member only has rights where the amount of the member’s rights to money purchase benefits falls short of a defined benefit minimum promised to the member); or”;
- (b) after subsection (6), there were inserted—
 - “(6A) In subsection (6)—
 - (a) “defined benefit minimum” and “top-up benefit” have the meaning given by regulation 3(2) of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014; and
 - (b) “money purchase underpin benefits” has the meaning given by regulation 1(4) of those Regulations.”;
- (c) in subsection (7), after “At any time when the pensionable service of a member of an occupational pension scheme is continuing,”, there were inserted “subject to subsection (7A)”; and
- (d) after subsection (7), there were inserted—
 - “(7A) Where a contingent right specified in subsection (6)(a)(ia) would be extinguished if a member had opted to terminate pensionable service under the scheme, the member’s subsisting right to that contingent benefit is to be determined as if the member had not opted to terminate that pensionable service.”.

(3) In this regulation “defined benefit minimum” and “top-up benefit” have the meaning given by regulation 3(2) (interpretation and application of Part 2).

Commencement Information

I2 Reg. 9 comes into force in accordance with reg. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014, PART 5.