

2014 No. 540

PENSIONS

**The Occupational Pension Schemes (Miscellaneous
Amendments) Regulations 2014**

<i>Made</i>	- - - -	<i>6th March 2014</i>
<i>Laid before Parliament</i>		<i>12th March 2014</i>
<i>Coming into force</i>	- -	<i>6th April 2014</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 19(4)(c) and 182(2) of the Pension Schemes Act 1993(a), sections 47(5)(b), 89(2), 124(1) and 174(2) and (3) of the Pensions Act 1995(b) and sections 258(7), 315(2) and 318(1) of the Pensions Act 2004(c).

In accordance with section 185(1) of the Pension Schemes Act 1993, section 120(1) of the Pensions Act 1995 and section 317(1) of the Pensions Act 2004, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2014 and come into force on 6th April 2014.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996

2.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations 1996(d) are amended as follows.

(2) In regulation 4(e) (qualifications and experience or approval required for appointment as the auditor or actuary)—

(a) at the beginning of paragraph (2)(d), insert “subject to paragraph (3),”;

(b) after paragraph (2) insert—

“(3) Paragraph (2)(d) does not apply in relation to the accounts and auditor’s statement for a relevant scheme for a scheme year—

(a) in which, on the first day of that scheme year, the scheme has at least 500 participating employers; or

(a) 1993 c. 48.

(b) 1995 c. 26. Section 89(2) was amended by sections 319(1) and 320 of, and Schedule 12, paragraph 66(b) and Schedule 13 to, the Pensions Act 2004 (c. 35). Section 124(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(c) 2004 c.35. Section 318(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(d) S.I. 1996/1715.

(e) Regulation 4 was amended by S.I. 2008/948 and 2012/692.

(b) which immediately precedes a scheme year in which sub-paragraph (a) is satisfied.

(4) In paragraph (3), “relevant scheme” means a trust scheme which applies to earners in employment under different employers.”.

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997

3.—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations 1997(a) are amended as follows.

(2) In regulation 4(b) (conditions on which policies of insurance and annuity contracts may be commuted)—

(a) in paragraph (1)(b), at the end insert “; or”;

(b) after paragraph (1)(b) insert—

“(c) subject to paragraph (2A)—

(i) the benefits secured by the policy of insurance or annuity contract have become payable;

(ii) the earner requests or consents to the amount secured by the policy of insurance or annuity contract being paid as a lump sum; and

(iii) that payment does not exceed the amount for the time being permitted for a lump sum payment by the lump sum rule in section 166 of the Finance Act 2004(c) and qualifies as a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act.”; and

(c) after paragraph (2) insert—

“(2A) The commutation referred to in paragraph (1)(c) does not apply to that part of the benefits which consist of the earner’s and the earner’s widow’s, widower’s or surviving civil partner’s guaranteed minimum pensions.”.

Amendment of the Transfer of Employment (Pension Protection) Regulations 2005

4.—(1) The Transfer of Employment (Pension Protection) Regulations 2005(d) are amended as follows.

(2) In regulation 1 (citation, commencement, application and interpretation), for paragraph (3) substitute—

“(3) In these Regulations—

“the Act” means the Pensions Act 2004;

“remuneration period” means a period in respect of which the employee is paid remuneration.

(4) In calculating the amount of the employee’s remuneration for the purposes of these Regulations—

(a) only payments made in respect of basic pay shall be taken into account and bonus, commission, overtime and similar payments shall be disregarded; and

(b) no account shall be taken of any deductions which are made in respect of tax, national insurance or pension contributions.

(5) In calculating the amount of a transferee’s pension contributions for the purposes of these Regulations in the case of a scheme which is contracted-out by virtue of section 9 of the Pension Schemes Act 1993, minimum payments within the meaning of that Act shall be disregarded.”.

(a) S.I. 1997/784.

(b) Regulation 4 was amended by S.I. 2005/2050 and 2006/744.

(c) 2004 c. 12.

(d) S.I. 2005/649.

(3) For the heading to regulation 2 substitute “Requirements where the transferee’s pension scheme is not a money purchase scheme”.

(4) In regulation 2, after the definition of “pensionable pay” in paragraph (2) add—

““relevant contributions” means contributions—

- (a) made by the transferee in respect of each remuneration period in respect of which the employee contributes to the scheme; and
- (b) the amount of which is—
 - (i) where the employee’s contributions are less than 6 per cent. of the employee’s remuneration, not less than the contributions made by the employee; or
 - (ii) where the employee’s contributions equal or exceed 6 per cent. of the employee’s remuneration, not less than 6 per cent. of that remuneration.”.

(5) For regulation 3 substitute—

“Requirements where the transferee’s pension scheme is a money purchase scheme or stakeholder pension scheme

3.—(1) In a case where these Regulations apply, the transferee’s contributions are relevant contributions for the purposes of subsection (2)(b) (money purchase scheme) and subsections (3) to (5) (stakeholder pension scheme) of section 258 of the Act if—

- (a) the contributions are made in respect of each remuneration period in respect of which the employee contributes to the scheme; and
- (b) paragraph (2) or (3) is satisfied.

(2) This paragraph is satisfied if the amount contributed by the transferee in respect of each remuneration period is—

- (a) where the employee’s contributions are less than 6 per cent. of the employee’s remuneration, an amount not less than the contributions made by the employee;
- (b) where the employee’s contributions equal or exceed 6 per cent. of the employee’s remuneration, an amount not less than 6 per cent. of that remuneration.

(3) This paragraph is satisfied if—

- (a) in respect of the remuneration period immediately before the relevant time—
 - (i) the transferor had been required to make contributions; and
 - (ii) those contributions had been solely for the purpose of producing money purchase benefits for the employee; and
- (b) the amount contributed by the transferee is not less than the amount the transferor had been required to contribute.”.

Amendment of the Occupational Pension Schemes (Employer Debt) Regulations 2005

5. In regulation 10(3)(b)(i) of the Occupational Pension Schemes (Employer Debt) Regulations 2005(a) for “section 81(1)(c) of the 1995 Act” substitute “section 182(1)(b) of the 2004 Act”.

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

Steve Webb
Minister of State,
Department for Work and Pensions

6th March 2014

(a) S.I. 2005/678.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 amends regulation 4 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715) (“the Scheme Administration Regulations”). Regulation 4(2)(d) of the Scheme Administration Regulations provides that a person shall be prohibited from acting as a statutory auditor on the grounds of lack of independence as set out in section 1214 of the Companies Act 2006 (c. 46). The amendment provides that regulation 4(2)(d) does not apply to the accounts and auditor’s statement for a relevant scheme for a scheme year—

- in which the scheme has at least 500 participating employers at the start of that scheme year; or
- which immediately precedes a scheme year in which the scheme has at least 500 participating employers at the start of the scheme year.

A relevant scheme is a trust scheme which applies to earners in employment under different employers.

Regulation 3 amends regulation 4 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (S.I. 1997/784), which prescribes the conditions on which policies of insurance and annuity contracts may be commuted to provide a lump sum. The amendment ensures that commutation may take place if benefits secured by an insurance policy or annuity contract have become payable, the earner requests or consents to payment of a lump sum and the payment qualifies under the Finance Act 2004 (c. 12) as a pension commencement lump sum. However, commutation under this provision does not apply to benefits consisting of the guaranteed minimum pension (as defined in section 8(2) of the Pension Schemes Act 1993 (c. 48)) of an earner or their widow, widower or surviving civil partner.

Regulation 4 amends the Transfer of Employment (Pension Protection) Regulations 2005 (S.I. 2005/649) (“the 2005 Regulations”). Regulation 4(2) amends regulation 1 of the 2005 Regulations by inserting the definition of “remuneration period” which is relevant to both regulations 2 and 3 of those Regulations. Also inserted are provisions for the calculation of the employee’s remuneration and transferee contributions. Regulation 4(4) inserts a definition of “relevant contributions” into regulation 2 of the 2005 Regulations so that it operates without the need to cross refer to regulation 3. Regulation 4(5) substitutes a new regulation 3 in the 2005 Regulations that defines “relevant contributions” where the transferee sponsors a money purchase scheme or a stakeholder pension scheme. Contributions are “relevant contributions” if they match either those made by the employee, up to 6 per cent. of the employee’s remuneration or, in certain circumstances, the contributions the transferor had been required to make.

Regulation 5 updates a reference in regulation 10(3) of the Occupational Pension Schemes (Employer Debt) Regulations 2005 (S.I. 2005/678) to take account of the repeal of section 81(1)(c) of the Pensions Act 1995 (c. 26) and its reenactment in section 182(1)(b) of the Pensions Act 2004 (c. 35).

Two separate assessments of the impact of regulations in this instrument have been made. A copy of each of the impact assessments for regulations 2, 3 and 5, and for regulation 4 respectively, is available in the libraries of both Houses of Parliament and alongside this instrument on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D, Caxton House, Tothill Street, London SW1H 9NA.

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