

2016 No. 252

PENSIONS

**The Pensions Act 2014 (Contributions Equivalent Premium)
(Consequential Provision) and (Savings) (Amendment) Order
2016**

<i>Made</i>	- - - -	<i>24th February 2016</i>
<i>Laid before Parliament</i>		<i>2nd March 2016</i>
<i>Coming into force</i>	- -	<i>6th April 2016</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 53(1) and (2), 54(5) and (6) and 56(8) of the Pensions Act 2014(a), makes the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016.

(2) This Order comes into force on 6th April 2016.

Interpretation

2. In this Order—

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992(b);

“the 1993 Act” means the Pension Schemes Act 1993(c);

“the 2004 Act” means the Pensions Act 2004(d);

“contracted-out employment” has the meaning given by section 8 (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”)(e) of the 1993 Act;

“contracted-out occupational pension scheme” is a scheme which satisfied the requirements in section 7B (meaning of “contracted-out scheme” and “appropriate scheme”, etc.)(f) of the 1993 Act;

“guaranteed minimum pension” has the meaning given by section 8 of the 1993 Act;

(a) 2014 c.19.

(b) 1992 c.4.

(c) 1993 c.48.

(d) 2004 c.35.

(e) Section 8 was amended by paragraph 23 of Schedule 5 and part 7 of Schedule 7 to the Pensions Act 1995 (c.26), paragraph 34(a) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), paragraph 1 of Schedule 1 to S.I. 2005/2050, paragraphs 1, 2, 3, 7(1) and (4), 46 and 47 of Schedule 4 and part 7 of Schedule 7 to the Pensions Act 2007 (c.22) (with the savings detailed in part 3 of Schedule 4 of that Act), paragraphs 7 and 8 of Schedule 1 to the National Insurance Contributions Act 2008 (c.16), paragraphs 18 and 19 of Schedule 4 to the Marriage (Same Sex Couples) Act 2013 (c.30) (and paragraph 11 of Schedule 5 to S.I. 2014/3229 in relation to Scotland) and paragraphs 1, 2 and 7 of Schedule 13 to the Pensions Act 2014.

(f) Section 7B was inserted by paragraphs 1 and 6 of Schedule 13 to the Pensions Act 2014.

“normal pension age” has the meaning given by section 180 (normal pension age) of the 1993 Act;

“pensionable age” has the meaning given by section 181 (general interpretation)(a) of the 1993 Act;

“relevant person” means—

(a) in a case where a transfer has been made in relation to the scheme under section 161 of the 2004 Act (effect of Board assuming responsibility for a scheme), the Board of the Pension Protection Fund (as defined in that Act); and

(b) in all other cases, the trustees or managers of the scheme; and

“the second abolition date” has the meaning given by section 7A(b) of the 1993 Act.

Payment of contributions equivalent premium in respect of earners in formerly contracted-out schemes

3.—(1) Where a scheme ceases to be a contracted-out occupational pension scheme on the second abolition date, the relevant person may, upon the occurrence of a relevant event, elect to pay a premium in respect of a relevant member and must do so if paragraph (6) applies.

(2) A premium paid under paragraph (1) is to be known as a “contributions equivalent premium”.

(3) A “relevant member” is a member who—

(a) was serving in contracted-out employment by reference to the scheme immediately prior to the second abolition date; and

(b) at the date of the relevant event, has served for less than two years in that employment.

(4) A “relevant event” is an event which—

(a) occurs before the member attains the scheme’s normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age; and

(b) is of a description listed in paragraph (5).

(5) For the purposes of paragraph (4), a relevant event occurs when—

(a) the member’s service in the employment ceases otherwise than on the member’s death;

(b) the member ceases to be a member of the scheme otherwise than on the member’s death;

(c) the member’s service in the employment ceases on the member’s death and the member dies leaving a widow, widower or surviving civil partner; or

(d) the scheme begins to be wound up.

(6) This paragraph applies if—

(a) at the date of the relevant event, the member has no accrued right to any benefit under the scheme; and

(b) none of paragraphs (7), (8) or (9) applies.

(7) This paragraph applies where—

(a) the member’s service in the employment ceases on the member’s death; and

(b) the member leaves a surviving spouse or civil partner who is not entitled to any of the following benefits—

(i) a widowed mother’s allowance under section 37 of the 1992 Act (widowed mother’s allowance: deaths before 9 April 2001)(c);

(a) The definition of “pensionable age” in section 181 was substituted by paragraph 17 of Schedule 4 to the Pensions Act 1995.

(b) Section 7A was inserted by paragraphs 1 and 6 of Schedule 13 to the Pensions Act 2014.

(c) Section 37 was amended by paragraph 18(1) and (2) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 (c.33), paragraphs 1 and 2 of Schedule 1 to the Child Benefit Act 2005 (c.6), section 50 of, and Schedule 8 to, the Welfare Reform Act 2007 (c.5) and paragraphs 2 and 10 of Schedule 16 to the Pensions Act 2014. Amendments were also made by

- (ii) a widow's pension under section 38 of the 1992 Act (widow's pension: deaths before 9 April 2001)(a);
- (iii) a widowed parent's allowance under section 39A of the 1992 Act (widowed parent's allowance)(b);
- (iv) a bereavement allowance under section 39B of the 1992 Act (bereavement allowance where no dependent children)(c); or
- (v) a bereavement support payment under section 30 of the Pensions Act 2014 (bereavement support payment).

(8) This paragraph applies where the member is a woman who has made, or is treated as having made, an election under regulations made under section 19(4)(d) of the 1992 Act (general power to regulate liability for contributions), which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.

(9) This paragraph applies where, on the termination of pensionable service, the member elects to acquire a right to a cash transfer sum in accordance with section 101AB(1)(a)(e) of the 1993 Act (right to cash transfer sum and contribution refund).

Supplementary provision about contributions equivalent premiums paid under article 3

4.—(1) A contributions equivalent premium payable under article 3 shall be paid by the relevant person to the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") on or before whichever is the later of—

- (a) the day which falls 6 months after—
 - (i) the date the assessment period (construed in accordance with section 132 of the 2004 Act (assessment periods)) ended, where the relevant person is the Board of the Pension Protection Fund; or
 - (ii) the day on which the relevant event occurred, in all other cases; and
- (b) the day which falls one month after the day on which the Commissioners send to the relevant person a notice certifying the amount of the contributions equivalent premium payable.

(2) Where the amount of the contributions equivalent premium does not exceed £17, the relevant person is not liable to pay it, but it is to be treated as paid for the purposes of section 48A(2)(f) (additional pension and other benefits) and section 60(g) (effect of payment of premiums on rights) of the 1993 Act.

paragraph 22(1) and (3) of Schedule 1 to S.I. 2014/560 in relation to England and Wales and by paragraph 2(1) and (3) of Schedule 4 to S.I. 2014/3229 in relation to Scotland.

- (a) Section 38 was amended by paragraph 19(1) and (2) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004, paragraph 40 of Schedule 1 to the Pensions Act 2007 and paragraphs 2 and 11 of Schedule 16 to the Pensions Act 2014. Amendments were also made by paragraph 22(1) and (4) of Schedule 1 to S.I. 2014/560 in relation to England and Wales and by paragraph 2(1) and (4) of Schedule 4 to S.I. 2014/3229 in relation to Scotland.
- (b) Section 39A was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 (c.30) and amended by paragraph 20(1) to (6) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004, paragraphs 1 and 3 of Schedule 1 to the Child Benefit Act 2005, section 51 of the Welfare Reform Act 2007 and paragraphs 2 and 12 of Schedule 16 to the Pensions Act 2014. Amendments were also made by paragraph 22(1) and (5) of Schedule 1 to S.I. 2014/560 in relation to England and Wales and by paragraph 2(1) and (5) of Schedule 4 to S.I. 2014/3229 in relation to Scotland.
- (c) Section 39B was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 and amended by paragraph 21(1) to (5) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004. Amendments were also made by paragraph 22(1) and (6) of Schedule 1 to S.I. 2014/560 in relation to England and Wales and by paragraphs 2(1) and (6) of Schedule 4 to S.I. 2014/3229 in relation to Scotland.
- (d) Section 19(4) was amended by paragraphs 1 and 5(1) and (4) of Schedule 1 to the National Insurance Contributions Act 2002 (c.19).
- (e) Section 101AB was inserted by section 264 of the 2004 Act.
- (f) Section 48A was inserted by section 140(1) of the Pensions Act 1995 and amended by section 38(1) of the Child Support, Pensions and Social Security Act 2000 (c.19), paragraphs 35 and 39 of Schedule 1 to the National Insurance Contributions Act 2002, paragraphs 1 and 23 of Schedule 4 to the Pensions Act 2007 (with the savings detailed in part 3 of that Schedule) and paragraphs 1 and 31 of Schedule 13 to the Pensions Act 2014.
- (g) Section 60 is repealed by paragraphs 1 and 5 of Schedule 13 to the Pensions Act 2014, but saved for certain purposes (see S.I. 2015/1502 as amended by article 5 of this Order). Section 60 was amended by paragraph 54 of Schedule 5 and Part 3 of Schedule 7 to the Pensions Act 1995 and by paragraph 17 of Schedule 1 to S.I. 2005/2050.

(3) Any liability for a contributions equivalent premium is a liability to make payment out of the resources of the scheme or, where the relevant person is the Board of the Pension Protection Fund, the Pension Protection Fund as specified in section 173(1)(a) of the 2004 Act (pension protection fund).

(4) The Commissioners are to refund a contributions equivalent premium if—

- (a) it was paid in error;
- (b) they are satisfied that a transfer of the member's accrued rights will be made in accordance with regulations made under section 20(b) (transfer of accrued rights) or section 37A(c) (transfer of liabilities, etc: schemes contracted-out on or after 6 April 1997) of the 1993 Act; or
- (c) the scheme is one under which a member may qualify for benefits by virtue of service either in employed earner's employment or as a self-employed earner (within the meaning of section 2 of the 1992 Act(d) (categories of earners)) or both, and the Commissioners are satisfied that the member in respect of whom the contributions equivalent premium was paid has completed a period of membership of the scheme as a self-employed earner which, when aggregated with service in employed earner's employment, amounts to not less than two years.

(5) Where a contributions equivalent premium is refunded under paragraph (4), the member's accrued rights under the scheme, which were extinguished by payment of the premium(e), are to be restored.

(6) A refund under this article is only to be made if an application is made in writing in such form as the Commissioners may reasonably require for that purpose, or by means of an electronic communication in such form as the Commissioners may approve.

(7) In paragraph (4)(a), "error" means an error which—

- (a) was made at the time of payment; and
- (b) relates to some present or past matter.

(8) Where—

- (a) an earner has been employed concurrently in two or more contracted-out employments, on the termination of one or more of which a contributions equivalent premium has been paid; and
- (b) the aggregate amount of any such payments has the effect that the National Insurance Fund has gained, by reference to any employment in respect of which such a payment has been made, a greater amount than it would have gained from Class 1 contributions under the 1992 Act if those employments had not been contracted-out,

there is to be paid out of the National Insurance Fund to the earner (or to the earner's estate) an amount which bears the same proportion to the amount of the excess as the reduction under section 41(1A) of the 1993 Act (f) (as it had effect immediately before the second abolition date) (reduced rates of Class 1 contributions) in the normal percentage of primary Class 1 contributions

(a) Section 173(1) was amended by paragraphs 2 and 4 of Schedule 10 to the Pensions Act 2008 (c.30).
(b) Section 20 was amended by section 56 of, and paragraph 2 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000, S.I. 2005/2050, paragraphs 46 and 48 of Schedule 4 and Part 7 of Schedule 7 to the Pension Act 2007, S.I. 2011/1730, and is amended by paragraph 18 of Schedule 13 to the Pensions Act 2014.
(c) Section 37A was inserted by paragraphs 1 and 25 of Schedule 13 to the Pensions Act 2014.
(d) Section 2 was amended by paragraph 2 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999, paragraphs 1 and 2 of Schedule 11 to the Welfare Reform and Pensions Act 1999, paragraphs 169 and 171 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1), section 15 of the National Insurance Contributions Act 2014 (c.7), and section 6 of the National Insurance Contributions Act 2015 (c.5).
(e) Under section 60 of the Pension Schemes Act 1993 (as modified by article 2(5F) of S.I. 2015/1502, as amended by article 5 of this Order), payment of a contributions equivalent premium extinguishes the earner's (or the earner's survivor's) accrued rights to any guaranteed minimum pension or pension under the scheme attributable to the amount of the premium.
(f) Section 41 is repealed by paragraph 29 of Schedule 13 to the Pensions Act 2014, but saved for certain purposes, see S.I. 2015/1502. Subsection (1A) was inserted by section 137 of the Pensions Act 1995, and substituted by paragraph 6 of Schedule 9 to the Welfare Reform and Pensions Act 1999, and amended by paragraphs 35 and 36 of Schedule 1 to the National Insurance Contributions Act 2002, and S.I. 2011/1036.

bears to the total reduction under subsections (1A) and (1B)(a) of that section in the total normal percentage of Class 1 contributions.

(9) The Commissioners are also to refund a contributions equivalent premium if they are satisfied that—

- (a) where it was paid in the circumstances mentioned in article 3(5)(a), (b) or (d), the relevant member has died, without leaving a widow, widower or surviving civil partner, on or before the later of the days mentioned in paragraph (1)(a) and (b); or
- (b) where it was paid in the circumstances mentioned in article 3(5)(c), there are no accrued rights to guaranteed minimum pensions or section 9(2B) rights under the scheme in question in respect of the widow, widower or surviving civil partner in question.

(10) In paragraph (9) “section 9(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015(b) (interpretation).

Amendment of the Pensions Act 2014 (Savings) Order 2015

5.—(1) The Pensions Act 2014 (Savings) Order 2015(c) is amended as follows.

(2) In paragraph (3) of article 1 (citation, commencement and interpretation) for “and (3A)” substitute “, (3A) and (5A)”.

(3) In article 2 (savings)—

- (a) in paragraph (1) omit “, 37”;
- (b) in paragraph (2) omit sub-paragraph (i);
- (c) in paragraph (4) after “employment ended” omit “on or”; and
- (d) after paragraph (5) insert—

“(5A) Sections 55 to 68 of the 1993 Act (state scheme premiums)(d) continue to have effect as if they had not been repealed by paragraph 37 of Schedule 13 to the 2014 Act (abolition of contracting-out for salary related schemes) for the purposes of allowing action to be taken by HMRC and the trustees or managers of a scheme in relation to the payment of a contributions equivalent premium in respect of an earner to whom section 55(2)(a) to (c) applied before the second abolition date.

(5B) Sections 56 to 68 of the 1993 Act additionally continue to have effect as if they had not been repealed by paragraph 37 of Schedule 13 to the 2014 Act insofar as necessary for the purposes of article 3 of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016 with the modifications specified in paragraphs (5C) to (5F).

(5C) In section 56 (provisions supplementary to s55)—

- (a) omit subsection (2);
- (b) in subsection (4) for the wording following paragraph (b) substitute—

“the earner’s length of service in employment for the purposes of article 3(3)(b) of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016 shall include any period of

(a) Subsection (1B) was inserted by section 137 of the Pensions Act 1995, and substituted by paragraph 6 of Schedule 9 to the Welfare Reform and Pensions Act 1999, and S.I. 2011/1036.

(b) S.I. 2015/1677 as amended by S.I. 2016/200.

(c) S.I. 2015/1502 as amended by S.I. 2015/2058.

(d) Sections 55 to 68 are repealed by paragraph 37 of Schedule 13 to the Pensions Act 2014, although sections 59 and 64-66 were repealed by paragraphs 18, 53 and 58 to 60 of Schedule 5 to the Pensions Act 1995. Sections 55 to 58, 60 to 63, 67 and 68 were amended by paragraphs 50 to 52, 54 to 57, and 61 of Schedule 5 to, the Pensions Act 1995, section 4(2) of the Magistrates’ Courts (Procedure) Act 1998 (c.15), paragraphs 54 to 58 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999, paragraph 7 of Schedule 2 to the Welfare Reform and Pensions Act 1999, paragraph 5 of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c.19), paragraph 361 of Schedule 8 to the Courts Act 2003 (c.39), S.I. 2005/2050 and paragraphs 1 and 26 of Schedule 4 to, and Part 6 of Schedule 7 to, the Pensions Act 2007.

linked qualifying service which was contracted-out employment by reference to the other scheme.”;

(c) in subsection (6) for “section 55(2A)” substitute “article 3(5) of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016”;

(d) in subsection (7)—

(i) for “section 55” substitute “article 3 of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016”; and

(ii) for “sections 55 to 68” substitute “sections 56 to 68”; and

(e) in subsection (8) for “section 55” substitute “article 3 of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016”.

(5D) In section 57 (elections to pay contributions equivalent premiums)—

(a) for subsection (1) substitute—

“(1) Where the relevant person is required to make a contributions equivalent premium or elects to do so under article 3 of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016, the relevant person must notify HMRC in writing in such form as HMRC may reasonably require for the purpose of identifying the earner to whom the election relates.

(1A) Such notification must be given—

(a) where the circumstances specified in article 3(5)(d) of that Order apply, within the period of two years starting with the date the scheme began to be wound up; or

(b) where the circumstances specified in article 3(5)(a), (b) or (c) apply, within the period beginning one month before, and ending 6 months after, the date on which the earner’s service in employment in relation to the scheme or membership of the scheme ceased.

(1B) In this section the “relevant person” means—

(a) in a case where a transfer has been made in relation to the scheme under section 161 of the Pensions Act 2004 (effect of Board assuming responsibility for a scheme), the Board of the Pension Protection Fund (as defined in that Act); and

(b) in all other cases, the trustees or managers of the scheme.”;

(b) in subsection (2) for “prescribed person” substitute “relevant person”; and

(c) omit subsection (4).

(5E) In section 58 (amount of premiums payable under s. 55) for “section 55(2)” substitute “article 3 of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016”.

(5F) In section 60 (effect of payment of premium on rights)—

(a) in subsection (4) for “section 55(2A)(a) and (b), (d) and (e)” substitute “article 3(5)(a), (b) and (d) of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016”; and

(b) in subsection (5) for “section 55(2A)(c)” substitute “article 3(5)(c) of the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016”.”.

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

24th February 2016

Altmann
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the payment of contributions equivalent premiums (“CEP”) following the ending of contracting-out.

The Pensions Act 2014 (c.19) creates a new state pension for people reaching pensionable age after 6th April 2016. The new state pension replaces the current state pension which has two components – the basic state pension and the additional state pension. Prior to 6th April 2016 members of occupational pension schemes could be contracted-out of the additional state pension.

Under section 55 of the Pension Schemes Act 1993 (c.48), a member who had been contracted out of the additional state pension could be bought back into the additional state pension via payment of a CEP if they had less than 2 years’ pensionable service when they died or left the scheme or when the scheme wound up or ceased to be contracted-out. Subject to certain exceptions, schemes were required to pay the CEP in respect of such members if they had no accrued rights in the scheme at that point.

Article 3 makes provision in relation to the payment of CEPs in respect of those members who are in contracted-out employment immediately before the ending of contracting-out on 6th April 2016. Under article 3, CEPs may be paid if the scheme subsequently begins to be wound up or if the member dies or leaves the scheme prior to completing 2 years’ service. CEPs are required to be paid in these circumstances if the member has no accrued rights in the scheme at that point.

Article 4 makes supplementary provision in relation to practical aspects of CEP payments made under article 3, such as timing for notification and payment and refunds. These mirror provisions made for CEP payments which arise under section 55 of the Pension Schemes Act 1993.

Article 5 amends the Pensions Act 2014 (Savings) Order 2015 (S.I.2015/1502), making clear that sections 55 to 68 of the Pension Schemes Act 1993 are saved insofar as necessary for action to be taken in relation to the payment of a CEP where the criteria for payment were satisfied before the ending of contracting out. Sections 56 to 68 are additionally saved with modifications for the purposes of CEPs which are payable as a result of article 3 of this Order.

An assessment of the impact of this legislation has been made and is available in the libraries of both Houses of Parliament and from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1H 9NA.

© Crown copyright 2016

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£6.00

UK2016030129 03/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/252>

ISBN 978-0-11-114448-0



9 780111 144480