
STATUTORY INSTRUMENTS

2017 No. 354

**PENSIONS
SOCIAL SECURITY**

**The Occupational Pension Schemes and Social Security
(Schemes that were Contracted-out and Graduated Retirement
Benefit) (Miscellaneous Amendments) Regulations 2017**

Made - - - - *9th March 2017*
Laid before Parliament *13th March 2017*
Coming into force - - *6th April 2017*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 62(1)(a) and (c) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(1), sections 16(3) and (4), 17(6), 20(1) and (3), 55(2C), 56(2), 57(1) and (2), 181(1)(2), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(3) and sections 51(2C), 52(2), 53(1) and (2), 176(1)(4), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(5).

In accordance with section 185(1) of the Pension Schemes Act 1993(6), and for the purposes of regulations 2 and 4, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

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- (1) 1992 c. 4. Section 62(1)(a) was amended by paragraph 7 of Schedule 4 to the Pensions Act 1995 (c. 26) and paragraph 17(a) of Schedule 11 to the Pensions Act 2004 (c. 35). Section 62(1)(c) was amended by paragraph 17(b) of Schedule 11 to the Pensions Act 2004 and S.I. 2005/2053.
- (2) 1993 c. 48. Section 181(1) is cited for the meaning it gives to ‘prescribed’ and ‘regulations’.
- (3) Section 16(3) was amended by section 151 of, and paragraph 28(a) of Schedule 5 to, the Pensions Act 1995 (c. 26). Section 17(6) was amended by section 56 of, and paragraph 1(3) of Part 1 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000 (c. 19) and S.I. 2005/2050; and in relation to England and Wales by section 11(4) of, and paragraphs 18 and 20(1), (5)(a) and (b) of Part 6 of Schedule 4 to, the Marriage (Same Sex Couples) Act 2013 (c. 30); and in relation to Scotland by S.I. 2014/3229. Section 20(1) was amended by paragraph 2 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000. Section 20(3) was amended by sections 15(3)(a) and 27(2) of, and paragraphs 46 and 48 of Schedule 4 to, and Part 7 of Schedule 7 to, the Pensions Act 2007 (c. 22) and S.I. 2011/1730. Sections 55 to 57 were repealed with savings by section 24(1) of, and paragraphs 1 and 37 of Part 1 of Schedule 13 to, the Pensions Act 2014 and S.I. 2015/1502. Section 183(1) was amended by paragraph 79 of Schedule 5, paragraph 15(a) of Schedule 6, and Parts 3 and 4 of Schedule 7 to, the Pensions Act 1995.
- (4) 1993 c. 49. Section 176(1) is cited for the meaning it gives to ‘prescribed’ and ‘regulations’, and the definition of ‘regulations’ was amended by section 73(1) of the Pension Schemes Act 2015 (c. 8).
- (5) Sections 51 to 53 were repealed with savings by section 24(1) of, and paragraphs 1 and 37 of Part 1 of Schedule 13 to, the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) and S.R. 2016/106. Section 178(1) was amended by S.I. 1995/3213 (N.I. 22).
- (6) Section 185(1) was amended by sections 122, 151 and 177 of, and paragraph 46 of Schedule 3, and paragraph 80(a), (d) and (f) of Schedule 5, and Part 1 of Schedule 7 to, the Pensions Act 1995 (c. 26).

The Social Security Advisory Committee has agreed that the proposals in respect of regulation 3 of these Regulations should not be referred to it⁽⁷⁾.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Occupational Pension Schemes and Social Security (Schemes that were Contracted-out and Graduated Retirement Benefit) (Miscellaneous Amendments) Regulations 2017.

(2) These Regulations come into force on 6th April 2017.

(3) These Regulations, except for regulation 4(9), (10) and (11), extend to England and Wales and Scotland.

(4) Regulation 4(9), (10) and (11), and this regulation in so far as it relates to regulation 4(9), (10) and (11), extends to Northern Ireland.

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

2. In regulation 13B(1) (modification of section 16: revaluation after transfer from another scheme) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996⁽⁸⁾, after “This regulation applies” insert “where an earner’s service in contracted-out employment⁽⁹⁾ ended on the second abolition date⁽¹⁰⁾ and”.

Amendment of the Social Security (Graduated Retirement Benefit) Regulations 2005

3. In paragraphs 6(2), 10(2), 16(2) and 20(2) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005 (calculating lump sums for the purposes of increasing lump sums in relation to deferred graduated retirement benefit)⁽¹¹⁾, in the definition of “accrual period” after “Social Security (Claims and Payments) Regulations 1987” insert “or in accordance with regulation 22C(3) or (4) of those Regulations”.

Amendment of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015

4.—(1) The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015⁽¹²⁾ are amended as follows.

(2) In regulation 2 (interpretation)⁽¹³⁾—

(a) after the definition of “administrator” insert—

““bereavement support payment” means the benefit described in section 30 (bereavement support payment) of the Pensions Act 2014⁽¹⁴⁾”;

(b) after the definition of “the Finance Act” insert—

(7) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c.5).

(8) S.I. 1996/1462. Regulation 13B was inserted by S.I. 2015/1677.

(9) The definition of “contracted-out employment” in section 8 of the Pension Schemes Act 1993 (c. 48) was amended by the Pensions Act 2007 (c. 22) and Pensions Act 2014 (c. 19).

(10) The definition of “the second abolition date” in section 7A of the Pension Schemes Act 1993 (c. 48) was inserted by paragraphs 1 and 6 of Schedule 13 to the Pensions Act 2014 (c. 19).

(11) S.I. 2005/454.

(12) S.I. 2015/1677; relevant amending instrument is S.I. 2016/200.

(13) There are amendments to regulation 2 that are not relevant to these Regulations.

(14) 2014 c. 19.

““scheme reconciliation service” means the service set up by the Commissioners which allows schemes to compare the scheme’s records of members who have been contracted-out, and the value of members’ guaranteed minimum pensions⁽¹⁵⁾, with the Commissioner’s records of the same, with a view to removing any errors in the scheme’s or the Commissioner’s records;”.

(3) For regulation 9(3) (notification of requirement to pay a contributions equivalent premium) substitute—

“(3) The Commissioners may in any particular case or class of case extend the period within which notification is to be given—

(a) if it appears to them that notification could not reasonably have been given within the period specified in paragraph (2); or

(b) if—

(i) the trustees are seeking to reach, or have reached, an agreement with the Commissioners as to the scheme’s liabilities for guaranteed minimum pensions or section 9(2B) rights of members through the scheme reconciliation service; and

(ii) as a result of doing so, the Commissioners and the trustees agree that a premium is payable.”.

(4) For regulation 11(5) (elections to pay contributions equivalent premiums) substitute—

“(5) The Commissioners may in any particular case or class of case extend the period within which notification of an election is to be given—

(a) if it appears to them that notification could not reasonably have been given within the period specified in paragraph (4); or

(b) if—

(i) the trustees are seeking to reach, or have reached, an agreement with the Commissioners as to the scheme’s liabilities for guaranteed minimum pensions or section 9(2B) rights of members through the scheme reconciliation service; and

(ii) as a result of doing so, the Commissioners and the trustees agree that a premium is payable.”.

(5) In regulation 12(3) (payment of a contributions equivalent premium)—

(a) after sub-paragraph (a) omit “and”;

(b) after sub-paragraph (b) insert—

“; and

(c) if—

(i) the trustees are seeking to reach, or have reached, an agreement with the Commissioners as to the scheme’s liabilities for guaranteed minimum pensions or section 9(2B) rights of members through the scheme reconciliation service; and

(ii) as a result of doing so, the Commissioners and the trustees agree that a premium is payable,

by such further period as they consider reasonable.”.

(15) The definition of “guaranteed minimum pension” in section 8 of the Pension Schemes Act 1993 (c. 48) was amended by the Pensions Act 2014 (c. 19) and S.I. 2005/2050.

(6) In regulation 21(1) (circumstances for the purposes of section 17(6) of the 1993 Act in which widower's, widow's or surviving civil partner's guaranteed minimum pension is payable)—

(a) after sub-paragraph (b) omit “or”;

(b) after sub-paragraph (c) insert—

“(d) the widower, widow or surviving civil partner is entitled to a bereavement support payment by virtue of the earner's contributions; or

(e) the widower, widow or surviving civil partner was entitled to a bereavement support payment by virtue of the earner's contributions but that entitlement came to an end at a time after the widower, widow or surviving civil partner attained the age of 45.”.

(7) In regulation 22 (period for the purposes of section 17(6) of the 1993 Act for which widower's, widow's or surviving civil partner's guaranteed minimum pension is payable)—

(a) after paragraph (3) insert—

“(3A) Where a pension is payable by virtue of regulation 21(1)(d) but not by virtue of regulation 21(1)(a), (b), (c) or (e), the scheme is to make provision for the pension to be payable for the period during which the circumstances described in regulation 21(1)(d) continue to exist.

(3B) Subject to paragraph (4A), where a pension is payable by virtue of regulation 21(1)(e) but not by virtue of regulation 21(1)(a), (b), (c) or (d), the scheme is to make provision for the pension to be payable for the remainder of the widower's, widow's or surviving civil partner's life.”;

(b) for paragraphs (4) and (5) substitute—

“(4) Subject to paragraph (5), there is excluded from the periods prescribed by paragraphs (2) and (3) any period—

(a) after the time of any—

(i) marriage; or

(ii) formation of a civil partnership,

by the widower, widow or surviving civil partner whilst under pensionable age⁽¹⁶⁾ and which takes place after the earner's death; or

(b) during which the widower, widow or surviving civil partner is under pensionable age and he or she and another person are living together as a married couple; or

(c) after the widower, widow or surviving civil partner has attained pensionable age if, immediately before he or she attained that age, he or she and another person were living together as a married couple.

(4A) Subject to paragraph (5), there is excluded from the period prescribed by paragraph (3B) any period—

(a) after the time of any—

(i) marriage; or

(ii) formation of a civil partnership,

by the widower, widow or surviving civil partner which takes place after the earner's death; or

(16) The definition of “pensionable age” in section 181 of the Pension Schemes Act 1993 (c. 48) was substituted by paragraph 17 of Schedule 4 to the Pensions Act 1995.

(b) during which the widower, widow or surviving civil partner and another person are living together as a married couple.

(5) The following provisions do not apply where a man became a widower before 5th December 2005—

- (a) paragraphs 4(a)(i) and (4A)(a)(i) so far as they relate to a marriage involving two people of the same sex;
- (b) paragraphs 4(a)(ii) and (4A)(a)(ii); and
- (c) paragraphs (4)(b), (4)(c) and (4A)(b) so far as they relate to the living together of two people of the same sex.”.

(8) For regulation 24(2) (fixed rate revaluation of guaranteed minimum pensions for early leavers) substitute—

“(2) Subject to paragraph (3), in a case to which this regulation applies, the scheme is to provide for the weekly equivalent mentioned in section 14(2) of the 1993 Act to be increased, in relation to the period of service in respect of which accrued rights to a guaranteed minimum pension have been acquired under, or transferred to, the scheme, by at least—

- (a) 4.75 per cent compound, where the period of pensionable service⁽¹⁷⁾ under the scheme terminates on or after 6th April 2016 but before 6th April 2017;
- (b) 3.5 per cent compound, where the period of pensionable service under the scheme terminates on or after 6th April 2017.”.

(9) For regulation 37(3) (notification of requirement to pay a contributions equivalent premium: Northern Ireland) substitute—

“(3) The Commissioners may in any particular case or class of case extend the period within which notification is to be given—

- (a) if it appears to them that notification could not reasonably have been given within the period specified in paragraph (2); or
- (b) if—
 - (i) the trustees are seeking to reach, or have reached, an agreement with the Commissioners as to the scheme’s liabilities for guaranteed minimum pensions⁽¹⁸⁾ or section 5(2B) rights of members through the scheme reconciliation service; and
 - (ii) as a result of doing so, the Commissioners and the trustees agree that a premium is payable.”.

(10) For regulation 39(5) (elections to pay contributions equivalent premiums: Northern Ireland) substitute—

“(5) The Commissioners may in any particular case or class of case extend the period within which notification of an election is to be given—

- (a) if it appears to them that notification could not reasonably have been given within the period specified in paragraph (4); or
- (b) if—
 - (i) the trustees are seeking to reach, or have reached, an agreement with the Commissioners as to the scheme’s liabilities for guaranteed minimum pensions or section 5(2B) rights of members through the scheme reconciliation service; and

⁽¹⁷⁾ “Pensionable service” is defined in section 70(2) of the Pension Schemes Act 1993 (c. 48).

⁽¹⁸⁾ “Guaranteed minimum pension” is defined in section 4(2) of the Pension Schemes (Northern Ireland) Act 1993 (c. 49).

- (ii) as a result of doing so, the Commissioners and the trustees agree that a premium is payable.”.
 - (11) In regulation 40(3) (payment of a contributions equivalent premium: Northern Ireland)—
 - (a) after sub-paragraph (a) omit “and”;
 - (b) after sub-paragraph (b) insert—
 - “; and
 - (c) if—
 - (i) the trustees are seeking to reach, or have reached, an agreement with the Commissioners as to the scheme’s liabilities for guaranteed minimum pensions or section 5(2B) rights of members through the scheme reconciliation service; and
 - (ii) as a result of doing so, the Commissioners and the trustees agree that a premium is payable,
- by such further period as they consider reasonable.”.

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

9th March 2017

Richard Harrington
Parliamentary Under Secretary of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to secondary legislation relating to: (i) the abolition of contracting-out of the additional State Pension for salary related pension schemes; and (ii) the calculation of a lump sum payment to an individual who deferred receipt of their Graduated Retirement Benefit.

These Regulations also make amendments to secondary legislation to provide a new fixed rate of revaluation of guaranteed minimum pensions for those leaving pensionable service after 5th April 2017.

Regulation 2 makes amendments to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462) to state that those regulations apply to salary related pension schemes that ceased to contract out on the second abolition date.

Regulation 3 makes amendments to the Social Security (Graduated Retirement Benefit) Regulations 2005 (S.I. 2005/454) in order to provide for the calculation of entitlement, under the old State Pension, to a Graduated Retirement Benefit. It inserts a cross-reference to regulation 22C of the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968). The cross-reference sets the day on which a period starts for the purposes of calculating the amount of a lump sum of Graduated Retirement Benefit.

Regulation 4 makes the following amendments to the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677). It enables HMRC to extend the deadline for late notification and payment of a contributions equivalent premium where a scheme has reconciled its records through HMRC's scheme reconciliation service. Further, it provides that a guaranteed minimum pension can also be paid to an earner's survivor where such a person is entitled to bereavement support payment and defines the period for which the guaranteed minimum pension can be paid in this situation. It also provides a new fixed rate of revaluation of guaranteed minimum pensions for those leaving pensionable service after 5 April 2017.

An impact assessment of the effect that this instrument, except for regulation 3, will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk and copies can be obtained from the Department for Work and Pensions, First Floor, Caxton House, Tothill Street, London, SW1H 9NA. An impact assessment of the effect that regulation 3 of this instrument will have has not been made because regulation 3 has no impact on the costs of business and the voluntary sector.