
S T A T U T O R Y I N S T R U M E N T S

2014 No.

PENSIONS

**The Occupational Pension Schemes (Schemes that were
Contracted-out) Regulations 2014**

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SCHEDULE — PROVISIONS CONFERRING POWERS EXERCISED IN
MAKING THESE REGULATIONS

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers set out in the Schedule.

The Secretary of State has consulted such persons as the Secretary of State considers appropriate, in accordance with section 185(1) of the Pension Schemes Act 1993(a).

PART 1
GENERAL

Citation, commencement and application

- 1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations 2014.
- (2) These Regulations come into force—
 - (a) for all purposes, other than that of regulation 38, on 6th April 2016;
 - (b) for the purposes of regulation 38, on 6th April 2019.
- (3) Except as provided in paragraph (4), these Regulations apply to England, Wales and Scotland.
- (4) Part 7, and this regulation and regulation 2 in so far as they relate to that Part, apply to Northern Ireland.

Interpretation

- 2.—(1) In these Regulations—

(a) 1993 c.48.

“the 1993 Act” means the Pension Schemes Act 1993;

“the 1995 Act” means the Pensions Act 1995(a);

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

“the 1996 Regulations” means the Occupational Pension Schemes (Contracting-out) Regulations 1996(c);

“the Administration Act” means the Social Security Administration Act 1992(d);

“administrator”, in relation to an occupational pension scheme, means the person resident in the United Kingdom having responsibility for the management of the scheme or, in the case of an overseas scheme (within the meaning of regulation 6) the person who is appointed in accordance with section 270 of the Finance Act 2004;

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

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

“employer” includes a person who, by virtue of paragraph (2), is treated as an employer for the purposes of these Regulations;

“the Finance Act” means the Finance Act 2004(f)

“section 9(2B) rights” are—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a scheme contracted-out by virtue of section 9(2B) of the 1993 Act(g), so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day(h); and
- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—
 - (i) such rights as are referred to in sub-paragraph (a) under another scheme contracted-out by virtue of section 9(2B) of the 1993 Act; or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of employment on or after the principal appointed day where that transfer payment was made before the first abolition date(i);

“trustees” in relation to a scheme which is not set up or established under a trust, means the managers or administrators of the scheme.

(2) For the purposes of these Regulations—

- (a) any person, government department or public authority who, under or by virtue of Part 1 of the Contributions and Benefits Act is, or is to be treated as, the secondary Class 1 contributor, is to be treated as the employer of the earner in respect of whom the Class 1 contributions are payable;
- (b) without prejudice to sub-paragraph (a), there is to be treated as the employer of a self-employed earner to whom a scheme that was a salary related contracted-out scheme applies any person (other than the self-employed earner), government department or public authority who makes or is liable to make payments towards the resources of the scheme in respect of the self-employed earner (either under actual or contingent legal obligation or in the exercise of power conferred, or duty imposed, on a Minister of the

(a) 1995 c.26.

(b) 2004 c.35.

(c) S.I. 1996/1172, as amended.

(d) 1992 c.5.

(e) 1992 c.4.

(f) 2004 c.12.

(g) Section 9(2B) was inserted by section 136 of the 1995 Act.

(h) See section 181(1) of the 1993 Act, as amended by [paragraph 43 of Schedule 13 to] the Pensions Act 2014 (“the 2014 Act”).

(i) See section 7A of the 1993 Act, inserted by [paragraph 6 of Schedule 13 to] the 2014 Act.

Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money).

PART 2

GENERAL PROVISIONS RELATING TO SCHEMES THAT WERE SALARY RELATED CONTRACTED-OUT SCHEMES

Alteration of scheme rules

3. For the purposes of section 37(1) of the 1993 Act^(a) (prohibition on alteration of rules of schemes that were contracted-out unless alteration is of a prescribed description), the alterations which are prescribed are any alterations which are prohibited by neither regulation 18 nor regulation 21.

Determination that an earner was in contracted-out employment

4.—(1) This regulation applies where—

- (a) an earner (“E”) has been employed in an employment during a period in which employment of that description was contracted-out, but such employment was not (apart from this regulation) contracted-out in relation to E; and
- (b) the Commissioners are satisfied—
 - (i) that the employment was not contracted-out in relation to E solely because E was not, during that period, a member of the relevant scheme; and
 - (ii) that E was not, during that period, a member of that scheme solely because of inadvertence.

(2) Where this regulation applies, the Commissioners may determine that E was in contracted-out employment by reference to that scheme during that period.

Provision of information

5.—(1) The Secretary of State or the Commissioners may give any information that they could, in accordance with section 156(1) of the 1993 Act (information for purposes of contracting-out), to the trustees or managers of an occupational pension scheme, to—

- (a) the earner, or widow, widower or surviving civil partner of an earner, to whom the information relates;
- (b) the employer in relation to the contracted-out employment of an earner to whom the information relates;
- (c) any independent trade union recognised in relation to earners who are members of a scheme that was a salary related contracted-out scheme; and
- (d) any person who is or who, in the opinion of the Commissioners, is likely to become, responsible for paying guaranteed minimum pensions, or pensions in respect of section 9(2B) rights, in accordance with the pension scheme.

(2) Paragraph (1)(c) is subject to the condition that the information to be furnished is either—

- (a) as to—
 - (i) the total amount of the guaranteed minimum pensions to which it appears to the Commissioners that all persons entitled under the scheme (whether immediately or prospectively) are so entitled;
 - (ii) whether the scheme is liable in respect of any section 9(2B) rights; or

(a) Section 37(1) was substituted by [paragraph 24 of Schedule 13 to] the 2014 Act.

- (b) is furnished with the consent of the earner, widow, widower or surviving civil partner to whom it relates, such consent being given in writing, or by means of an electronic communication in such form as the Commissioners may approve.

(3) For the purposes of this regulation, “independent trade union” means an independent trade union which is recognised to any extent for the purpose of collective bargaining.

Overseas schemes

6.—(1) The rules of an overseas scheme are to provide—

- (a) that, if the scheme is wound up, the assets of the scheme are to be applied first towards satisfying the amounts of the liabilities mentioned in section 73(4) of the 1995 Act (preferential liabilities on winding up) and, if they are insufficient to satisfy those amounts in full, then—
 - (i) they are to be applied towards satisfying the amounts of the liabilities mentioned in earlier paragraphs of that section before those mentioned in later paragraphs; and
 - (ii) where the amounts of the liabilities mentioned in one of those paragraphs cannot be satisfied in full, all such liabilities are to be satisfied in the same proportions;
- (b) that not more than 5 per cent of the current market value of the scheme’s resources are invested in a person who is an employer, or connected with an employer, in relation to the scheme if such investments are required to meet the liabilities specified in sub-paragraph (a) and the value of such investments is to be calculated and determined in a manner approved by the Commissioners; and
- (c) in respect of rights that have accrued as a result of contracted-out employment in the scheme in Great Britain, for revaluation of accrued rights in accordance with sections 83 to 86 of the 1993 Act and for indexation of pensions in accordance with sections 51 to 54 of the 1995 Act.

(2) In this regulation “overseas scheme” means an occupational pension scheme that was a salary related contracted-out scheme and that has its main administration outside the EEA states, but does not include a scheme that was contracted-out in the Isle of Man by virtue of satisfying section 9(2) of the 1993 Act as it had effect in the Isle of Man before the second abolition date.

Restoration of state scheme rights

7.—(1) This regulation applies where paragraph 5(3B) of Schedule 2 to the 1993 Act (state scheme premiums: schemes which were being wound up before the second abolition date) applies in relation to a member of a scheme that was a contracted-out scheme and that was being wound up before the second abolition date if, by virtue of that provision—

- (a) the member was treated as if sections 46 to 48 or 48A(1) of the 1993 Act (effect of entitlement to guaranteed minimum pensions on payments of social security benefits) did not apply; or
- (b) in a case where the cash equivalent of the member’s rights was less than the amount required for restoring their state scheme rights, the member was treated as if sections 46 to 48 or, as the case may be, 48A(1) of the 1993 Act applied only in so far as they extinguish such part of the member’s state scheme rights as, in the opinion of the Commissioners, corresponded to that shortfall.

(2) Where this regulation applies, the member is to continue to be treated as mentioned in paragraph (1)(a) or, as the case may be, (1)(b).

Contributions equivalent premiums: application of regulations

8. Regulations 9 to 15 apply—

- (a) in relation to schemes which ceased to be contracted-out on or before the second abolition date; and

- (b) on and after 6th April 2019, only in relation to schemes which were being wound up before the second abolition date.

Contributions equivalent premiums: prescribed person

9.—(1) For the purposes of section 55(2) of the 1993 Act^(a) (which requires the prescribed person to pay a contributions equivalent premium in the case mentioned in section 55(2B) of that Act and enables them to elect to do so in certain other cases) the prescribed person is—

- (a) in a case where a transfer has been made in relation to a 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^(b)); and
- (b) in all other cases, the trustees of the scheme.

(2) Where, in accordance with paragraph (1)(a), the prescribed person is the Board of the Pension Protection Fund, regulations 10 to 15 apply with the following modifications—

- (a) except in regulation 13(1), references to “the trustees of the scheme”, “the trustees” or “the trustees of a scheme” are to be read as references to “the Board of the Pension Protection Fund”; and
- (b) references to “the resources of the scheme” are to be read as references to “the Pension Protection Fund”, being the Pension Protection Fund specified in section 173(1) of the 2004 Act (Pension Protection Fund”).

Notification of requirement to pay a contributions equivalent premium

10.—(1) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of section 55(2) of the 1993 Act (payment of state scheme premiums on termination of certified status), the trustees of the scheme are to notify the Commissioners of that fact in such form as the Commissioners may reasonably require for the purpose of identifying the earner.

(2) Such notification is to be given—

- (a) where the scheme is being wound up, within the period of two years starting with the date of cessation of the scheme; and
- (b) where the earner ceased to serve in employment which was contracted-out employment for any other reason mentioned in section 55(2A) of the 1993 Act, within the period starting one month before and ending six months after the date on which the earner so ceased.

(3) The Commissioners may in any particular case or class of case extend the period within which notification is to be given if it appears to them that notification could not reasonably have been given within the period specified in paragraph (2).

Cases where payment of a contributions equivalent premium is not required

11.—(1) Section 55(2B) of the 1993 Act (by virtue of which a contributions equivalent premium must be paid in any case where the earner has no accrued right to benefit under the scheme) does not apply if any of the following paragraphs of this regulation apply.

(2) This paragraph applies where—

- (a) the earner’s service in the employment ceased on the earner’s death; and
- (b) the earner left a surviving spouse or civil partner who is not entitled to any of the following benefits—

^(a) Section 55 is prospectively repealed by [paragraph 37 of Schedule 13 to] the 2014 Act.

^(b) See section 107.

- (i) a widowed mother's allowance under section 37 of the Contributions and Benefits Act;
- (ii) a widow's pension under section 38 of that Act;
- (iii) a widowed parent's allowance under section 39A of that Act;
- (iv) a bereavement support payment under section 30 of the Pensions Act 2014^(a).

(3) This paragraph applies where the earner is a woman who has made, or is treated as having made, an election under regulations made under section 19(4) of the Contributions and Benefits Act, which has not been revoked, that her liability in respect of primary Class 1 contributions is to be at a reduced rate.

(4) This paragraph applies where, on termination of an earner's pensionable service, the earner elects to acquire a right to a cash transfer sum in accordance with section 101AB(1)(a) of the 1993 Act^(b) (right to cash transfer sum and contribution refund).

Elections to pay contributions equivalent premiums

12.—(1) Subject to paragraph (2), the obligation under section 57(2) of the 1993 Act^(c) (not to discriminate between different earners when making or abstaining from making elections to pay contributions equivalent premiums) does not apply to—

- (a) cases where an earner's rights are transferred in accordance with regulations under section 37A of the 1993 Act^(d) (transfer of liabilities etc: schemes contracted-out on or after 6th April 1997);
- (b) cases where the earner is a woman who has made, or is treated as having made, an election under regulations made under section 19(4) of the Contributions and Benefits Act, which has not been revoked, that her liability in respect of primary Class 1 contributions is to be at a reduced rate;
- (c) cases where, on the death of an earner, there arose an entitlement to a widow's, widower's or surviving civil partner's pension which comprises amounts of pension which accrued by reference both to the earner's service in employment which was not contracted-out and to service in employment which was contracted-out;
- (d) cases where the earner—
 - (i) has completed less than two years qualifying service for the purposes of Chapter 1 of Part IV of the 1993 Act (preservation);
 - (ii) is entitled under the rules of the scheme to elect that accrued rights are to be preserved; and
 - (iii) has made the election mentioned in paragraph (ii); or
- (e) cases where any liability to provide pensions to an earner has been discharged in accordance with regulations under section 12C of the 1993 Act^(e) (transfer, commutation etc) (as it had effect before the second abolition date) or under section 37A of that Act.

(2) An employer is not to discriminate between different earners falling within the same class of case mentioned in paragraph (1).

(3) An election under section 55(2) of the 1993 Act is to be notified to the Commissioners in such form as they may reasonably require for the purpose of identifying the earner to whom the election relates.

(4) Such notification is to be given—

- (a) where the scheme is being wound up, within the period of two years starting with the date of cessation of the scheme;

(a) 2014 c.XXXX.

(b) Section 101AB was inserted by section 264 of the 2004 Act.

(c) Section 57 is prospectively repealed by [paragraph 37 of Schedule 13 to] the 2014 Act.

(d) Section 37A was inserted by [paragraph 25 of Schedule 13 to] the 2014 Act.

(e) Section 12C is prospectively repealed by [paragraph 11 of Schedule 13 to] the 2014 Act.

- (b) where the circumstances specified in section 55(2A)(a) to (c) or (e) of the 1993 Act applied, within the period beginning one month before, and ending six months after, the date on which the person ceased to serve in employment which was contracted-out employment by reference to the scheme.

(5) The Commissioners may, in any case or class of case extend the period within which notification of an election is to be given if it appears to them that notification could not reasonably have been given within the period specified in paragraph (4).

Payment of a contributions equivalent premium

13.—(1) A contributions equivalent premium which the trustees are required or have elected to pay is to be paid on or before—

- (a) the day six months after the date of termination of contracted-out employment in respect of which the premium is payable; or
 - (b) the day one month after the day on which the Commissioners send to the trustees a notice certifying the amount of the premium payable,
- whichever is the later.

(2) In a case to which regulation 9(1)(a) applies, the Board of the Pension Protection Fund (as defined in that regulation) (“the Board”) is to pay the contributions equivalent premium on or before—

- (a) the day six months after the date the assessment period (construed in accordance with section 132 of the 2004 Act) ended; or
 - (b) the day one month after the day on which the Commissioners send to the Board a notice certifying the amount of the premium payable,
- whichever is the later.

(3) On an application made to them for that purpose, the Commissioners may, in any case or class of case, extend the period within which a premium is to be paid under paragraph (1) or (2)—

- (a) if they are satisfied that the circumstances are such that payment of the premium could not reasonably be required to be made within the period specified in that paragraph, by a period not exceeding six months; and
- (b) if they are satisfied that to require earlier payment would be prejudicial to the interests of the earner in respect of whom the premium is payable or of the generality of the members of the scheme, by such further period as they consider reasonable.

(4) Where the amount of any contributions equivalent premium which is payable does not exceed £17, the trustees are not liable to pay it and, accordingly, if it is not paid, it is to be treated as paid for the purposes of section 48A(2) (additional pension and other benefits) and section 60(a) (effect of payment of premiums on rights) of the 1993 Act.

(5) Any liability for a contributions equivalent premium is a liability to make payment out of the resources of the scheme.

Payment in lieu of benefit

14.—(1) For the purposes of section 61(10) of the 1993 Act **(b)** (payments in lieu of benefit) a payment in lieu of benefit is to include a payment made or to be made out of the resources of the scheme towards the provision of deferred benefits for the earner.

(2) The following provisions of this regulation apply, for the purpose of enabling any right of recovery conferred by section 61 of the 1993 Act to be exercised, where an employed earner (or, by virtue of a connection with the earner, any other person) is entitled to a refund of any payments

(a) Section 60 is prospectively repealed by [paragraph 37 of Schedule 13 to] the 2014 Act. For savings *see* S.I.XXXX

(b) Section 61 is prospectively repealed by [paragraph 37 of Schedule 13 to] the 2014 Act. For savings *see* S.I.XXXX.

made under a scheme that was contracted-out in respect of the earner towards the provision of benefits under the scheme (“the refund”).

(3) Subject to paragraph (4), where a contributions equivalent premium falls to be paid in respect of the earner under the 1993 Act and the person liable for the refund has been given a notice of delay in accordance with paragraph (5), that person is not to make the refund in whole or in part until after the end of the period of four weeks starting with—

- (a) payment of the contributions equivalent premium; or
 - (b) the end of the prescribed period for payment of that premium,
- whichever occurs first.

(4) Paragraph (3) does not apply to so much, if any, of the refund as exceeds the amount certified by the Commissioners under section 63(1)(d) of the 1993 Act^(a) (certification of amount attributable to reductions of contributions).

(5) A notice of delay is a notice in writing given by the trustees of the scheme concerned, relating either to a particular case or to a class of case and containing the following particulars—

- (a) the name of the earner or such particulars as will sufficiently identify the class of case concerned;
- (b) such particulars as will sufficiently identify the refund or refunds concerned; and
- (c) a memorandum in a form approved by the Commissioners giving brief particulars of the effect of paragraphs (3) and (4).

(6) Where the trustees of a scheme have given notice of delay, they are to inform the person to whom the notice was given of the ending of the period during which they may not make a refund to which the notice applies.

Refund of a contributions equivalent premium

15.—(1) 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 earner’s accrued rights will be made in accordance with regulations under section 20 (transfer of accrued rights) or section 37A 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 Contributions and Benefits Act) or both and the Commissioners are satisfied that the earner in respect of whom the 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.

(2) Where a contributions equivalent premium is refunded under paragraph (1), the earner’s accrued rights under the scheme, which were extinguished by payment of the premium, are to be restored.

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

(4) In paragraph (1)(a), “error” means an error which—

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

(5) Where—

(a) Section 63 is prospectively repealed by [paragraph 37 of Schedule 13 to] the 2014 Act. For savings *see* S.I. XXXX.

- (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 Contributions and Benefits 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 (reduced rates of Class 1 contributions) in the normal percentage of primary Class 1 contributions bears to the total reduction under that subsection in the total normal percentage of Class 1 contributions.

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

- (a) where it was paid in the circumstances mentioned in section 55(2A)(a), (b), (d) or (e) of the 1993 Act, the person in respect of whom it was paid has died, without leaving a widow, widower or surviving civil partner, on or before the later of the days mentioned in sub-paragraphs (a) and (b) respectively of regulation 13(1); or
- (b) where it was paid in the circumstances mentioned in section 55(2A)(c) of the 1993 Act, 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.

Continuation of transitional arrangements for schemes that began winding up before 6th April 1997

16. Where a scheme that was a salary related contracted-out scheme began winding up before the principal appointed day—

- (a) regulation 40 (priorities on the winding-up of a scheme) of the Occupational Pension Schemes (Contracting-out) Regulations 1984(a) continues to have effect in relation to that scheme; and
- (b) the resources of the scheme must be sufficient to meet the liabilities specified in section 24(1)(c) of the 1993 Act (as it then had effect), such resources being calculated, determined and verified in a manner approved by the Commissioners of Inland Revenue.

Continuation of savings in respect of state scheme premiums

17. The following regulations continue to have effect in relation to any state scheme premium which was paid before the principal appointed day—

- (a) regulations 18 to 26, 34, 44, 45, 47, 48 and 49 of the Occupational Pension Schemes (Contracting-out) Regulations 1984;
- (b) the Occupational Pension Schemes (Contracted-out Protected Rights Premiums) Regulations 1987(b)).

(a) S.I. 1984/380. See S.I. 1996/1172, regulation 73, for previous transitional arrangements.

(b) S.I. 1987/1103. See S.I. 1996/1172, regulation 77, for previous savings.

PART 3

ADDITIONAL REQUIREMENTS IN RELATION TO RIGHTS ATTRIBUTABLE TO CONTRACTED-OUT EMPLOYMENT ON AND AFTER 6TH APRIL 1997

Alteration of scheme rules

18.—(1) The rules of a scheme may be altered in relation to section 9(2B) rights only if—

- (a) following the alteration, the scheme provides benefits for the earner and for the earner's widow, widower or surviving civil partner, in respect of the period of pensionable service to which the alteration relates, that are at least equal to the benefits that would have been provided to the earner and the earner's widow, widower or surviving civil partner before the alteration;
- (b) the alteration is one to which the subsisting rights provisions (within the meaning of section 67(4) of the 1995 Act) do not apply, by virtue of section 67 of that Act;
- (c) the alteration is one that is not a protected modification or a detrimental modification (within the meaning of section 67A of the 1995 Act) and the requirements of paragraph (2) are met; or
- (d) the alteration is a detrimental modification (within the meaning of section 67A(4) of the 1995 Act) and—
 - (i) the actuarial equivalence requirements provided for in sections 67C and 67D of that Act are met in relation to the proposed modification of those rights; and
 - (ii) the requirements of paragraph (2) are met.

(2) The requirements are—

- (a) subject to sub-paragraph (b), the altered scheme is to provide for a pension to be paid to the earner's widow, widower or surviving civil partner (referred to in this regulation as the "relevant survivor's section 9(2B) pension") that is at least as generous, both as regards the amount of the pension and as regards the circumstances in which it will be paid, as it would have been before the alteration; and
- (b) in relation to an earner who is in pensionable service under the scheme immediately before the alteration takes effect, the requirement in sub-paragraph (a) is to be deemed to be satisfied if the relevant survivor's section 9(2B) pension that the scheme would provide in respect of the earner if the earner left pensionable service immediately after the alteration is at least as generous as the relevant survivor's section 9(2B) pension that the scheme would have provided in respect of the earner had the earner left service immediately before the alteration.

Payment of a lump sum instead of a pension

19.—(1) A relevant scheme(a) may not provide for the payment of a lump sum instead of a pension that is attributable to section 9(2B) rights, unless the payment to be made is authorised under section 164 of the Finance Act (authorised member payments) and the payment—

- (a) is permitted by the lump sum rule in section 166 of the Finance Act and qualifies as—
 - (i) a pension commencement lump sum for the purposes of paragraph 1 of Schedule 29 to that Act;
 - (ii) a serious ill-health lump sum for the purposes of paragraph 4 of that Schedule;
 - (iii) a trivial commutation lump sum for the purposes of paragraph 7 of that Schedule; or
 - (iv) a winding-up lump sum for the purposes of paragraph 10 of that Schedule; or

(a) See section 37A(2) of the 1993 Act, inserted by the 2014 Act.

(b) is permitted by the lump sum death benefit rule in section 168 of the Finance Act and qualifies as—

- (i) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Schedule 29 to that Act; or
- (ii) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Schedule; or

(c) is—

- (i) made by a registered pension scheme (within the meaning of section 150(2) of the Finance Act);
- (ii) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009^(a) (commutation payments); and
- (iii) made to or in respect of a member.

(2) Where, under the scheme—

- (a) an earner qualifies for a lump sum payment on the ground of serious ill-health; and
- (b) the earner's widow, widower or surviving civil partner qualifies for a pension ("a survivor's pension"),

the scheme is to continue to provide for a survivor's pension notwithstanding the payment of a lump sum to the earner.

Forfeiture of accrued rights

20. Section 92(1) of the 1995 Act (no forfeiture of entitlement under an occupational pension scheme) does not prevent forfeiture of section 9(2B) rights under a relevant scheme if—

- (a) the person entitled to payments giving effect to those rights ("the pensioner") is, in the opinion of the trustees of the scheme, unable to act by reason of mental disorder; and
- (b) there is provision in the scheme that requires that, while the pensioner is so unable to act, sums equivalent to those payments—
 - (i) must be paid or applied for the pensioner's maintenance, except in so far as such sums are not, in the opinion of the trustees, required for that purpose;
 - (ii) may, in so far as such sums are not, in the opinion of the trustees required for the maintenance of the pensioner, be paid or applied for the maintenance of any dependants of the pensioner; and
 - (iii) must, in so far as such sums are not, in the opinion of the trustees, required for the maintenance of the pensioner or any dependant of the pensioner, be held by the trustees for the pensioner until the pensioner is again able to act or, if the pensioner dies before that happens, for the pensioner's estate.

PART 4

ADDITIONAL REQUIREMENTS IN RELATION TO GUARANTEED MINIMUM PENSIONS

Alteration of scheme rules

21. The rules of a scheme may be altered in relation to a guaranteed minimum under section 14 (earner's guaranteed minimum) or 17 (minimum pensions for widows and widowers) of the 1993 Act only if the alteration would not—

^(a) S.I. 2009/1171, amended by S.I. 2011/1751 and 2012/522.

- (a) affect any of the matters dealt with in Part III of the 1993 Act (schemes that were contracted-out etc and effects on members' state scheme rights), or any regulations made under that Part, that relate to guaranteed minimum pensions, in a manner that would or might adversely affect any entitlement or accrued rights of any member of the scheme acquired before the alteration takes effect;
- (b) affect any of the matters dealt with in sections 87 to 92 of the 1993 Act (protection of increases in guaranteed minimum pensions) or sections 109 and 110 of that Act (annual increases of guaranteed minimum pensions) or any matters dealt with in regulations made under any of those provisions.

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

22.—(1) In addition to providing for a widower's, widow's or surviving civil partner's pension to be payable in the circumstances specified in section 17(4A) of the 1993 Act, a scheme that was a salary related contracted-out scheme is to make provision for such a pension to be payable if—

- (a) the widower, widow or surviving civil partner and the earner were both over pensionable age when the earner died;
- (b) the widower, widow or surviving civil partner is entitled to child benefit in respect of a child who is—
 - (i) a child of the widower, widow or surviving civil partner and the earner, or
 - (ii) a child in respect of whom the earner was, immediately before the earner's death, entitled to child benefit, or would have been so entitled, if the child had not been absent from Great Britain;
- (c) the widower, widow or surviving civil partner and the earner were residing together immediately before the earner's death and the widower, widow or surviving civil partner was, at that time, entitled to child benefit in respect of a child, or would have been so entitled, if the child had not been absent from Great Britain;
- (d) the widower, widow or surviving civil partner is entitled to child benefit in respect of a child who is residing with a young person under 16 and sub-paragraph (b) or (c) would have applied if the widower, widow or surviving civil partner had been entitled to child benefit in respect of the young person;
- (e) the widower, widow or surviving civil partner attained the age of 45—
 - (i) before the earner died; or
 - (ii) during a period when the circumstances mentioned in sub-paragraph (b), (c) or (d) existed.

(2) For the purposes of this regulation "child benefit" has the same meaning as in the Contributions and Benefits Act(a).

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

23.—(1) Where a pension is payable by virtue of regulation 22(1)(a), 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.

(2) Subject to paragraph (4), where a pension is payable by virtue of regulation 22(1)(b), (c) or (d), but not by virtue of regulation 22(1)(a) or (e), the scheme is to make provision for the pension to be payable for the period during which the circumstances described in regulation 22(1)(b), (c) or (d) continue to exist.

(a) See section 141.

(3) Subject to paragraph (4), where a pension is payable by virtue of regulation 22(1)(e), but not by virtue of regulation 22(1)(a), 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.

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

- (a) after the widower or widow has remarried whilst under pensionable age, or the surviving civil partner has married whilst under that age;
- (b) after the formation of a civil partnership by the widower or widow whilst under pensionable age, or the formation of a subsequent civil partnership by the surviving civil partner whilst under that age;
- (c) 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;
- (d) after the widower or widow has attained pensionable age if, immediately before he or she attained that age, he or she and another person whom he or she was not married to, or in a civil partnership with, were living together as a married couple; or
- (e) after the surviving civil partner has attained pensionable age if, immediately before he or she attained that age, he or she and another person whom he or she was not married to, or in a civil partnership with, were living together as a married couple.

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

- (a) paragraph (4)(a) so far as it relates to a marriage or remarriage involving two people of the same sex;
- (b) paragraph (4)(b); and
- (c) paragraphs (4)(c) and (4)(d) so far as they relate to the living together of two people of the same sex.

Statutory references to persons entitled to guaranteed minimum pensions – application to widowers, widows of female earners and surviving civil partners

24.—(1) The provisions of section 50(1)(a) of the 1993 Act (powers of Commissioners to approve arrangements for the preservation or transfer of accrued rights) are to be construed as if the reference to earners' accrued rights to guaranteed minimum pensions included a reference to the rights of a person so entitled by virtue of being—

- (a) a widower of an earner only in the case where the earner and the widower were both over pensionable age when the earner died;
- (b) a widow of a female earner only in the case where the earner and the widow were both over pensionable age when the earner died; or
- (c) the surviving civil partner of an earner only in the case where the earner and the surviving civil partner were both over pensionable age when the earner died.

(2) The provisions of section 52(a) of the 1993 Act^(a) (supervision of former salary related contracted-out schemes) are to be construed as if the reference to a person entitled to receive, or having accrued rights to, a guaranteed minimum pension included a reference to a person so entitled by virtue of any of the circumstances mentioned in paragraph (1)(a) to (c).

Fixed rate revaluation of guaranteed minimum pensions secured by insurance policies or annuity contracts

25. A scheme may make provision by virtue of section 16(2) of the 1993 Act (revaluation of earnings factors for the purposes of section 14: early leavers etc) for the case of those of its members whose guaranteed minimum pensions are, or are to be, appropriately secured (within

(a) Section 52 was substituted by [paragraph 35 of Schedule 13 to] the 2014 Act.

the meaning of section 19(3) of the 1993 Act), even though the same provision is not made for other members of the scheme.

Fixed rate revaluation of guaranteed minimum pensions for early leavers

26.—(1) This regulation applies where a scheme provides, in accordance with section 16(2) of the 1993 Act, for a person's earnings factors to be determined for the purposes of section 14(2) of that Act by reference to the last order to come into force under section 148 of the Administration Act before the end of the last service tax year.

(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 by at least the percentage mentioned below in relation to each period of service in respect of which accrued rights to a guaranteed minimum pension have been acquired under, or transferred to, the scheme—

- (a) where the period of service terminated before 6th April 1988, 8.5 per cent compound;
- (b) where the period of service terminated on or after 6th April 1988 but before 6th April 1993, 7.5 per cent compound;
- (c) where the period of service terminated on or after 6th April 1993 but before 6th April 1997, 7 per cent compound;
- (d) where the period of service terminated on or after 6th April 1997 but before 6th April 2002, 6.25 per cent compound;
- (e) where the period of service terminated on or after 6th April 2002 but before 6th April 2007, 4.5 per cent compound;
- (f) where the period of service terminated on or after 6th April 2007 but before 6th April 2012, 4 per cent compound;
- (g) where the period of service terminated on or after 6th April 2012, 4.75 per cent compound.

(3) The scheme may make provision which is different to that made by virtue of paragraph (2) with respect to—

- (a) members whose rights to guaranteed minimum pensions under the scheme arise in respect of a transfer or transfer payment made in accordance with section 20(1) of the 1993 Act or regulations made under that provision;
- (b) members whose guaranteed minimum pensions are, or are to be, appropriately secured within the meaning of section 19(3) of the 1993 Act.

Revaluation after transfer from another scheme

27.—(1) This regulation applies where the following conditions are satisfied—

- (a) on or after 5th April 1983, a transfer of the earner's accrued rights to guaranteed minimum pensions under scheme A was made (under or by virtue of section 20(1) of the 1993 Act) to another scheme ("scheme B") that was at the time a contracted-out scheme;
- (b) the earner commenced employment that was contracted-out by reference to scheme B;
- (c) by virtue of section 14(1) of the 1993 Act, as modified by regulations made under section 20 of that Act, the calculation, under the provisions of scheme B, of the earner's guaranteed minimum pension for the purposes of section 14(2) falls to include earnings factors arising out of contracted-out employment in any period of linked qualifying service(a) that was contracted-out employment by reference to scheme A; and
- (d) either—
 - (i) scheme B provides for the earnings factors to be increased at the rate by which they fell to be increased under the provisions of scheme A, or would have fallen to be

(a) See section 179 of the 1993 Act.

increased under the provisions of that scheme relating to an earner whose service in contracted-out employment by reference to the scheme terminated before the earner attained pensionable age;

- (ii) if the provisions of scheme A provided for those earning factors to be increased by reference to orders under section 148 of the Administration Act, scheme B provides for them to be increased in accordance with the provisions of section 16(2) and (3) of the 1993 Act;
- (iii) if scheme A provided for those earnings factors to be increased in accordance with the provisions of section 16(2) and (3) of the 1993 Act, scheme B includes provision for them to be increased by reference to orders under section 148 of the Administration Act from the date of termination of the earner's service in the period of contracted-out employment from which those earnings factors arose; or
- (iv) if a transfer of the earner's accrued rights to scheme B is not one to which paragraph (iii) applies and those rights were previously being increased at a rate calculated by reference to orders under section 148 of the Administration Act, scheme B includes provision for those earnings factors to be increased at a rate calculated otherwise than by reference to orders under that section.

(2) In paragraph (1), references to earnings factors include the weekly equivalent mentioned in section 14(2) of the 1993 Act.

(3) Where this regulation applies—

- (a) section 16(1) of the 1993 Act applies as if there were added at the end “or, in respect of the earner's earnings factor (or the weekly equivalent mentioned in section 14(2)) for any relevant year in a period of linked qualifying service, shall be taken to be that factor (or weekly equivalent) as increased in accordance with the provisions of the scheme under regulations made under section 16(3)”; and
- (b) where earnings factors of an earner whose accrued rights to guaranteed minimum pensions, including such rights derived from linked qualifying service, have been transferred under or by virtue of section 20(1) of the 1993 Act to another scheme that was contracted-out, section 16(2) and (3) of that Act applies as if it permitted that scheme to provide for those earnings factors to be determined for the purpose of section 14(2) of that Act without reference to any order coming into force under section 148 of the Administration Act—
 - (i) where such earnings factors had previously fallen to be determined by reference to orders under section 148 of the Administration Act, after the relevant year in which the earner's service in the contracted-out employment by reference to the scheme from which those rights were transferred, was terminated; or
 - (ii) in any other case, in and after the relevant year in which that service was terminated, and as if section 16(3) of the 1993 Act had effect accordingly, save, in a case to which paragraph (ii) applies, for treating the reference to the amount of the increase in section 16(3) as a reference to the amount by which the earnings factors relevant to the weekly equivalent would be increased.

Revaluation after contracting-out has ended before the second abolition date

28.—(1) Subject to regulations 29 and 30, where—

- (a) a scheme ceased to be contracted-out before the second abolition date; and
- (b) immediately before the scheme ceased to be contracted-out, the scheme contained provisions authorised by section 16(2) of the 1993 Act,

section 51 of that Act (calculation of guaranteed minimum pensions preserved under approved arrangements) is to have effect in relation to the scheme, with the modification specified in paragraph (2).

(2) The modification is that section 51(2)(b) does not apply where the earner's service in contracted-out employment by reference to the scheme terminated before the earner attained pensionable age and before the start of the period of five years ending with the tax year in which the scheme ceased to be contracted-out.

(3) Where the earner's service in contracted-out employment by reference to the scheme terminated before the earner attained pensionable age and during the period of five years ending with the tax year in which the scheme ceased to be contracted-out, section 51(2)(b) applies, but the earner's weekly equivalent is not to be increased pursuant to any provision of the scheme required by section 16(2) and (3) of the 1993 Act for the years in respect of which that factor is treated as increased by 12 per cent.

Revaluation after contracting-out has ended: further provision

29.—(1) Subject to paragraphs (2) and (3) and to regulation 30, where an earner's accrued rights to a guaranteed minimum pension under a scheme that ceased to be contracted-out before the second abolition date—

- (a) are transferred (under or by virtue of section 20(1) of the 1993 Act) to another scheme that was a salary related contracted-out scheme; or
- (b) have arisen in such a scheme by reason of a transfer payment giving effect to the earner's protected rights in accordance with regulations made under section 28(2)(b) of the 1993 Act (as they had effect prior to the first abolition date),

section 51(2)(b) of the 1993 Act applies only to earnings factors arising from the earner's service in employment by reference to which the scheme that has ceased to be contracted-out was contracted-out.

(2) Any service of the earner that is linked qualifying service^(a) is to be included for the purposes of paragraph (1) only if the earnings factors to which it relates are being increased by reference to orders under section 148 of the Administration Act.

(3) For the purposes of paragraph (1), where an earner has a guaranteed minimum pension in consequence of a transfer payment made in accordance with regulations made under section 28(2) of the 1993 Act (as they had effect before the first abolition date) ("the section 28(2) regulations")—

- (a) that pension is to be treated as if it had arisen as a result of the earner's service in the employment by reference to which the scheme to which the transfer was made was contracted-out; and
- (b) the reference to earnings factors, to the extent that they relate to that pension, is to be construed so as to include only those earnings factors that do not fall to be revalued in accordance with section 16(2) and (3) of the 1993 Act, as modified by the section 28(2) regulations.

Exceptions to provisions about revaluation after contracting-out has ended

30.—(1) Where section 51 of the 1993 Act applies in relation to rights under a scheme that ceased to be contracted-out before the second abolition date, section 16(1) of that Act has effect, subject to the provisions of section 51(2), unless an earner's accrued rights to guaranteed minimum pensions under a scheme ("scheme A") are transferred to another scheme that was a salary related contracted-out scheme ("scheme B") and—

- (a) the same employer is the earner's employer in relation to both scheme A and scheme B; or
- (b) the employers in relation to those schemes are connected employers.

(2) For the purposes of this regulation—

(a) See section 179 of the 1993 Act.

“connected employers” means two employers who are—

- (a) a holding company and a subsidiary;
- (b) subsidiaries of the same holding company;
- (c) partnerships, each having the same persons as at least half of its partners;

“holding company” means a body corporate that is either—

- (a) a holding company within the meaning of section 1159 of the Companies Act 2006(a) (“the 2006 Act”); or
- (b) an employer who is the principal employer for the purposes of the scheme in accordance with the scheme rules, or the employer who has power to act on behalf of all employers in the scheme in relation to the scheme rules;

“subsidiary” means a body corporate that is an employer in the scheme and is either—

- (a) a subsidiary within the meaning of section 1159 of the 2006 Act; or
- (b) an employer subject to the rules of the scheme.

Payment of a lump sum instead of a pension

31.—(1) The scheme may provide for the payment of a lump sum instead of a pension that the scheme is required to provide in accordance with section 13 or 17 of the 1993 Act if—

- (a) a guaranteed minimum pension has become payable (but see also paragraph (3); and
- (b) the payment of a lump sum is authorised under section 164 of the Finance Act and the payment fulfils the conditions in paragraph (2).

(2) The conditions are that the payment is—

- (a) permitted by the lump sum rule in section 166 of the Finance Act and qualifies as—
 - (i) a trivial commutation lump sum for the purposes of paragraph 7 of Schedule 29 to that Act; or
 - (ii) a winding-up lump sum for the purposes of paragraph 10 of that Schedule;
- (b) permitted by the lump sum death benefit rule in section 168 of the Finance Act and qualifies as—
 - (i) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Schedule 29 to that Act; or
 - (ii) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Schedule; or
- (c) made by a registered pension scheme (within the meaning of section 150(2) of the Finance Act), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member.

(3) The condition in paragraph (1)(a) does not apply in cases where the scheme is being wound up or an earner retires before pensionable age and—

- (a) a premium under section 55(2) of the 1993 Act (contributions equivalent premium) has been paid or treated as paid; or
- (b) the scheme has made the provision mentioned in section 16(2) and (3) of the 1993 Act, provided that the conditions in paragraph (4) are met.

(4) The conditions are—

- (a) for the purposes of paragraph (1)(b), where the aggregate amount of the benefits that have accrued to the earner at the date of winding-up or, as the case may be, of the earner’s retirement, increased—
 - (i) in accordance with section 16(2) and (3) of the 1993 Act; or

(a) 2006 c.46.

- (ii) in a case where section 16(2) or (3) applies, to the amount that would have been payable at pensionable age,
that aggregate amount is to be treated as the amount of benefits currently payable to the earner under the scheme;
 - (b) in the case of an earner who retires before normal pension age, commutation is not permitted before the date on which benefits become payable to the earner under the scheme's early retirement provisions;
 - (c) in cases where the earner is a member of more than one scheme relating to the same employment, all those schemes are being wound up or, as the case may be, the earner is treated by all those schemes as having retired and, in each case, all those schemes have paid a contributions equivalent premium or have made the provisions mentioned in section 16(2) and (3) of the 1993 Act.
- (5) Subject to paragraph (6), the scheme may provide for the payment of a lump sum instead of a pension that the scheme is required to provide in accordance with section 13 or 17 of the 1993 Act if the payment—
- (a) is authorised under section 164 of the Finance Act;
 - (b) is permitted by the lump sum rule in section 166 of that Act; and
 - (c) qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Schedule 29 to that Act.
- (6) Where—
- (a) under the scheme, an earner qualifies for a lump sum payment on the ground of serious ill-health; and
 - (b) the scheme also provides for the payment of a guaranteed minimum pension to the widow, widower or surviving civil partner of the earner ("a survivor's pension"),
- the scheme is to continue to include provision for a survivor's pension notwithstanding the payment of a lump sum to the earner.

Suspension and forfeiture of guaranteed minimum pension

32.—(1) The scheme may provide for an earner's or an earner's widow's, widower's or surviving civil partner's guaranteed minimum pension to be suspended if—

- (a) the pensioner is, in the opinion of the trustees of the scheme, unable to act by reason of mental disorder and there is provision in the scheme that requires that, in those circumstances, sums equivalent to the guaranteed minimum pension—
 - (i) must be paid or applied for the maintenance of the pensioner, except in so far as they are not, in the opinion of the trustees, required for that purpose;
 - (ii) may, in so far as they are not, in the opinion of the trustees, required for the maintenance of the pensioner, be paid or applied for the maintenance of any dependants of the pensioner;
 - (iii) must, in so far as such sums are not, in the opinion of the trustees, required for the maintenance of the pensioner or of any dependant of the pensioner, be held by the trustees for the pensioner until the pensioner is again able to act, or if the pensioner dies before that happens, for the pensioner's estate;
- (b) the pensioner is in prison or detained in legal custody and there is provision in the scheme for sums equivalent to the guaranteed minimum pension to be paid or applied during such circumstances for the maintenance of such one or more of the pensioner's dependants as the trustees of the scheme may in their discretion determine;
- (c) the earner is re-employed by the employer by whom the earner was previously employed in contracted-out employment in respect of which the guaranteed minimum pension became payable and there is provision in the scheme for the guaranteed minimum pension that becomes payable when the suspension is lifted to be increased in accordance with section 15(1) of the 1993 Act.

(2) The scheme may provide for an earner's or an earner's widow's, widower's or surviving civil partner's guaranteed minimum pension (whether current or prospective) to be forfeited if—

- (a) the person entitled to that pension has been convicted of—
 - (i) an offence of treason; or
 - (ii) one or more offences under the Official Secrets Acts 1911^(a) to 1989^(b) for which the person has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in aggregate to, at least ten years;
- (b) in the case of a widow's, widower's or surviving civil partner's guaranteed minimum pension, that the earner by reference to whose contracted-out employment that pension is payable has been convicted of an offence of treason, or has been convicted of an offence or offences and has been sentenced to a term or terms of imprisonment as set out in paragraph (a)(ii);
- (c) in the case of a guaranteed minimum pension payable under a scheme for members of Her Majesty's forces, being a scheme for which the Secretary of State is responsible, that the person entitled to that pension or, as the case may be, the member of the forces whose widow, widower or surviving civil partner is currently or prospectively entitled to that pension has, in the opinion of the Secretary of State, committed an act which is gravely prejudicial to the defence, security or other interests of the State;
- (d) in the case of any payment of guaranteed minimum pension for which a claim has not been made, that a period of at least eight years has elapsed from the date on which that payment became due;
- (e) in the case of a widow's, widower's or surviving civil partner's guaranteed minimum pension, that person is convicted of the offence of murder or manslaughter of the earner by reference to whose contracted-out employment that pension is payable, or any other offence of which unlawful killing of that member is an element.

(3) For the purposes of paragraph (2)(e), "unlawful killing" includes unlawfully aiding, abetting, counselling or procuring the death of a person.

Conversion into other benefits: actuarial equivalence

33.—(1) For the purposes of Condition 1 of section 24B of the 1993 Act (the conversion conditions), actuarial equivalence is to be determined in accordance with this regulation.

- (2) The trustees are responsible for determining actuarial equivalence.
- (3) In determining actuarial equivalence, the trustees must—
 - (a) obtain advice from the actuary appointed for the scheme in pursuance of section 47(1)(b) of the 1995 Act ("the actuary") about what assumptions are appropriate at the conversion date;
 - (b) consider that advice;
 - (c) decide what assumptions are appropriate at the conversion date and, if the trustees later think it is necessary, change that decision; and
 - (d) arrange for the actuary to calculate the actuarial values of the post-conversion benefits and the pre-conversion benefits in accordance with paragraph (4).
- (4) In calculating the actuarial values mentioned in paragraph (3)(d), the actuary must—
 - (a) use the assumptions chosen by the trustees under paragraph (3)(c); and
 - (b) ignore the value of any—
 - (i) benefits that have been commuted;
 - (ii) amounts that have been paid in respect of any benefits;

^(a) 1911 c.28.

^(b) 1989 c.6.

- (iii) amounts in respect of any benefits that, before the conversion date, became due to be paid; and
 - (iv) discretionary benefits that might be awarded in the future.
- (5) When the actuarial values mentioned in paragraph (3)(d) have been calculated, the actuary must send the trustees a certificate if the post-conversion benefits are actuarially at least equivalent to the pre-conversion benefits.
- (6) The certificate is to—
- (a) state that—
 - (i) the calculations have been completed; and
 - (ii) the post-conversion benefits are actuarially at least equivalent to the pre-conversion benefits; and
 - (b) be sent to the trustees no later than three months after the calculations have been completed.

Conversion into other benefits: survivors' benefits

34.—(1) For the purposes of Condition 4 of section 24B of the 1993 Act (the conversion conditions), the circumstances in which, and periods during which, the converted scheme must provide survivors' benefits are the circumstances set out in paragraph (2) and the periods set out in paragraph (3).

(2) The circumstances are—

- (a) an earner's pre-conversion benefits include a guaranteed minimum pension; and
- (b) the scheme before conversion provided that—
 - (i) if the earner died (whether before or after attaining pensionable age) leaving a widow, widower or surviving civil partner, the widow, widower or surviving civil partner would be entitled to a guaranteed minimum pension; and
 - (ii) in a case where section 17(6) of the 1993 Act applies, a widower's, widow's or surviving civil partner's guaranteed minimum pension would be payable in the circumstances set out in regulation 22(1).

(3) The periods are—

- (a) for widows, widowers and surviving civil partners, any period mentioned in section 17(4A)(aa), (ab), (a) or (b) of the 1993 Act;
- (b) subject to paragraph (4), for widows, widowers and surviving civil partners whose entitlement by virtue of the earner's contributions to a widowed parent's allowance or bereavement allowance has come to an end at a time after the widow, widower or surviving civil partner attained the age of 45, so much of the period beginning with the time when that entitlement came to an end as neither—
 - (i) comprises a period during which the widow, widower or surviving civil partner and another person are living together as a married couple; nor
 - (ii) falls after the time of any—
 - (aa) marriage; or
 - (bb) formation of a civil partnership,
 by the widow, widower or surviving civil partner which takes place after the earner's death;
- (c) for widows whose spouse was a man, any period for which a widowed mother's allowance or widow's pension is payable to the widow by virtue of the earner's contributions; and
- (d) for widowers, widows whose spouse was a woman and surviving civil partners, any period for which a scheme must make provision for the payment of a widower's or

surviving civil partner's pension, by virtue of section 17(6) of the 1993 Act and regulation 23.

(4) For the purposes of paragraph (3)(b), the following provisions do not apply where the earner died before 5th December 2005—

- (a) paragraph (3)(b)(i) so far as it relates to the living together of two people of the same sex;
- (b) paragraph (3)(b)(ii)(aa) so far as it relates to a marriage involving two people of the same sex; and
- (c) paragraph (3)(b)(ii)(bb).

PART 5

AMENDMENT OF THE OCCUPATIONAL PENSION SCHEMES (CONTRACTING-OUT) REGULATIONS 1996

Amendments relating to certification of employments for a period before the second abolition date

35.—(1) The 1996 Regulations are amended as follows.

(2) In regulation 1(2) (interpretation)—

- (a) in the definition of “the 1993 Act”, at the end insert “as it had effect immediately before the second abolition date^(a) (except where otherwise stated)”;
- (b) in the definition of “overseas scheme”^(b)—
 - (i) for “is contracted-out” substitute “was contracted-out”; and
 - (ii) for “has effect” substitute “had effect”; and
- (c) in paragraph (b)(ii) of the definition of “section 9(2B) rights”^(c), before “abolition date” insert “first”.

(3) In regulation 3 (notices by employers of intended election), in paragraph (2)(b) after “specify the date” insert “(being a date before the second abolition date)”.

(4) In regulation 6 (information to be included in an election)—

- (a) in paragraph (1)(d), after “shall have effect” insert “(being a date before the second abolition date)”;
- (b) in paragraph (3), for sub-paragraph (a) substitute—

“(a) unless the scheme is a public service pension scheme to which Part 3 of the 2004 Act does not apply, or a scheme in respect of which any Minister of the Crown has given a guarantee, or made any other arrangements for the purpose of securing that the assets of the scheme are sufficient to meet its liabilities, written confirmation or evidence that the actuary is satisfied that the resources of the scheme are sufficient to meet the requirement prescribed in regulation 18 (as it had effect immediately before the second abolition date) (requirement as to resources of the scheme); and”

(5) In regulation 8^(d) (issue of contracting-out certificates)—

- (a) in paragraph (2)(d) for the words after “is to have effect,” substitute “being a date before the second abolition date”; and
- (b) after paragraph (2) insert—

“(2A) The Commissioners of Inland Revenue are not to issue a contracting-out certificate unless they consider it appropriate to do so and the scheme satisfied any contracting-out

(a) See section 7A of the 1993 Act, inserted by [paragraph 6 of Schedule 13 to] the 2014 Act.

(b) This definition was substituted by S.I. 2007/814 and amended by S.I. 2007/3014 and 2011/1245.

(c) This definition was substituted by S.I. 1997/786 and amended by S.I. 1999/3198 and 2011/1246.

(d) Regulation 8 was amended by S.I. 1999/527.

conditions or requirements which applied to the scheme from the date on which the certificate is to have effect.”.

(6) In regulation 9(5)(b) (notice of date from which variation or surrender of a contracting-out certificate is to have effect), after “specify the date” insert “(being a date before the second abolition date)”.

(7) In regulation 10 (special provision with regard to elections for the issue, variation or surrender of certificates where the employment remains contracted out)—

- (a) in the heading after “where” insert “(before the second abolition date)”;
- (b) in paragraph (1)(a)—
 - (i) omit “regulation 71 (elections for replacement certificates by salary related schemes during transitional period) and to”; and
 - (ii) in sub-paragraph (c) at the end insert “when the election takes effect”; and
- (c) in paragraph (3)(c), after “the date” insert “(being a date before the second abolition date)”.

(8) In regulation 15(b) (further information and change of circumstances), omit “or an employer to whom such a certificate has been issued”.

(9) In regulation 23(g) (requirements for meeting the statutory standard), after “regulation 20A(2)” insert “(as it had effect immediately before the second abolition date)”.

Amendments relating to cessation of contracting-out before the second abolition date

36.—(1) The 1996 Regulations are amended as follows.

(2) In regulation 44(c) (notifications to the Commissioners of Inland Revenue)—

- (a) in paragraph (1)—
 - (i) after “treated as terminated” insert “before the second abolition date”; and
 - (ii) after “regulation 43” insert “(as it had effect immediately before that date)”;
- (b) in paragraph (2) for “A notification required to be given under paragraph (1) may be given at any time within the period of one month before the expected date of termination but if not so given” substitute “If a notification required to be given under paragraph (1) was not given before the expected date of termination it”;
- (c) in paragraph (4) after “any case where” insert “, before the second abolition date,”; and
- (d) in paragraph (7)—
 - (i) for “to whom a contracting-out certificate has been issued” substitute “to whom a contracting-out certificate was issued”; and
 - (ii) for “relates” in both places where it occurs, substitute “related”.

(3) In regulation 45(d) (approval of arrangements for schemes ceasing to be contracted-out)—

- (a) in paragraph (1)—
 - (i) omit the words from the beginning to “principal appointed day),”; and
 - (ii) after “arrangements” in the final place where it occurs, insert “for cessation of contracting-out before the second abolition date”;
- (b) in paragraph (2) for “sections 12C of the 1993 Act (transfer or discharge of section 9(2B) rights)” substitute “section 37A of the 1993 Act (transfer of liabilities etc: schemes contracted-out on or after 6 April 1997)”; and

(a) Paragraph (1) was amended by S.I. 1999/527, 2011/1245 and 2011/1246.

(b) Regulation 15 was amended by S.I. 1999/527.

(c) Regulation 44 was amended by S.I. 1999/527 and 2011/1246.

(d) Regulation 45 was amended by S.I. 1997/819, 1999/527, 2005/2050, 2011/1245 and 2011/1246.

- (c) in paragraph (3)(a), after “the scheme must” in the first place in which those words appear insert “, until the second abolition date,”.
- (4) In regulation 46(a) (supervision of schemes that have ceased to contract out), in the heading at the end insert “before the second abolition date”.
- (5) In regulation 47(b) (circumstances in which the Commissioners of Inland Revenue may vary or cancel a contracting-out certificate)—
 - (a) in paragraph (1)—
 - (i) for “applies” substitute “applied”; and
 - (ii) after “from such date” insert “(being a date before the second abolition date)”; and
 - (b) in paragraph (2)(a) and (b), before “salary-related contracted-out scheme” insert “scheme that was a”.
- (6) In regulation 76(1) (prevention of recovery by employers of Class 1 contributions where certificate cancelled under section 36(3) of the 1993 Act) at the end insert “before the second abolition date”.

PART 6

REVOCATION OF THE OCCUPATIONAL PENSION SCHEMES (CONTRACTING-OUT) REGULATIONS 1996

Revocations taking effect on the second abolition date

37. The 1996 Regulations are revoked, except in so far as they are revoked by regulation 38.

Revocations taking effect on 6th April 2019

38. The following provisions of the 1996 Regulations are revoked—

- (a) regulations 1 to 10;
- (b) regulations 12 to 15;
- (c) regulations 22 to 29;
- (d) regulations 44 to 47;
- (e) regulation 48(1) to (4);
- (f) regulation 64;
- (g) regulation 76;
- (h) Schedule 3.

PART 7

PROVISION FOR NORTHERN IRELAND

Interpretation of Part 7

39. In this Part—

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

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005(a);

(a) Regulation 46 was amended by S.I. 1997/819, 1999/527 and 2011/1246.
 (b) Regulation 47 was amended by S.I. 1999/527.
 (c) 1993 c.49.

“the Contributions and Benefits (NI) Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992**(b)**;

“section 5(2B) rights” are—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a scheme contracted-out by virtue of section 5(2B) of the 1993 (NI) Act**(c)**, so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day**(d)**; and
- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—
 - (i) such rights as are referred to in sub-paragraph (a) under another scheme contracted-out by virtue of section 5(2B) of the 1993 (NI) Act; or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of employment on or after the principal appointed day where that transfer payment was made before the first abolition date**(e)**.

Restoration of state scheme rights: Northern Ireland

40.—(1) This regulation applies where paragraph 5(3B) of Schedule 1 to the 1993 (NI) Act (state scheme premiums: schemes which were being wound up before the second abolition date) applies in relation to a member of a scheme that was a contracted-out scheme and that was being wound up before the second abolition date if, by virtue of that provision—

- (a) the member was treated as if sections 42 to 44 or 44A(1)**(f)** of the 1993 (NI) Act (effect of entitlement to guaranteed minimum pensions on payments of social security benefits) did not apply; or
- (b) in a case where the cash equivalent of the member’s rights was less than the amount required for restoring their state scheme rights, the member was treated as if sections 42 to 44 or, as the case may be, 44A(1) of the 1993 (NI) Act applied only in so far as they extinguish such part of the member’s state scheme rights as, in the opinion of the Commissioners, corresponded to that shortfall.

(2) Where this regulation applies, the member is to continue to be treated as mentioned in paragraph (1)(a) or, as the case may be, (1)(b).

Contributions equivalent premiums: application of regulations in this Part

41. Regulations 42 to 48 apply—

- (a) in relation to schemes which ceased to be contracted-out on or before the second abolition date; and
- (b) on and after 6th April 2019, only in relation to schemes which were winding up before the second abolition date.

Contributions equivalent premiums: prescribed person in Northern Ireland

42.—(1) For the purposes of section 51(2) of the 1993 (NI) Act**(g)** (which requires the prescribed person to pay a contributions equivalent premium in the case mentioned in section

(a) S.I. 2005/255 (N.I. 1).

(b) 1992 c.7.

(c) Paragraph 5(3B) was inserted by Article 138(2)(b) of S.I. 1995/3213 (N.I. 22) and amended by paragraph 77(5)(c) of Schedule 1 to S.I. 1999/671.

(d) Section 5(2B) was inserted by Article 133(3) of S.I. 1995/3213 (N.I. 22) and amended by paragraph 38(2) of Schedule 1 to S.I. 1999/671.

(e) See section 3A of the 1993 (NI) Act, inserted by [...] to the 2014 (NI) Act.

(f) Section 44A was inserted by S.I. 1995/3213 (N.I. 22) and has been amended by S.R. 1996/91 and S.R. 1997/192.

(g) Section 51 is prospectively repealed by [...] to the 2014 (NI) Act.

51(2B) of that Act and enables them to elect to do so in certain other cases) the prescribed person is—

- (a) in a case where a transfer has been made in relation to a scheme under Article 145 of the 2005 Order (effect of the Board assuming responsibility for a scheme), the Board of the Pension Protection Fund (as defined in that Order^(a)); and
- (b) in all other cases, the trustees of the scheme.

(2) Where, in accordance with paragraph (1)(a), the prescribed person is the Board of the Pension Protection Fund, regulations 43 to 48 apply with the following modifications—

- (a) except in regulation 46(1), references to “the trustees of the scheme”, “the trustees” or “the trustees of a scheme” are to be read as references to “the Board of the Pension Protection Fund”; and
- (b) references to “the resources of the scheme” are to be read as references to “the Pension Protection Fund”, being the Pension Protection Fund specified in section 173(1) of the 2004 Act.

Notification of requirement to pay a contributions equivalent premium: Northern Ireland

43.—(1) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of section 51(2) of the 1993 (NI) Act (payment of state scheme premiums on termination of certified status), the trustees of the scheme are to notify the Commissioners of that fact in such form as the Commissioners may reasonably require for the purpose of identifying the earner.

(2) Such notification is to be given—

- (a) where the scheme is being wound up, within the period of two years starting with the date of cessation of the scheme; and
- (b) where the earner ceased to serve in employment which was contracted-out employment for any other reason mentioned in section 51(2A) of the 1993 (NI) Act, within the period starting one month before and ending six months after the date on which the earner so ceased.

(3) The Commissioners may in any particular case or class of case extend the period within which notification is to be given if it appears to them that notification could not reasonably have been given within the period specified in paragraph (2).

Cases where payment of a contributions equivalent premium is not required: Northern Ireland

44.—(1) Section 51(2B) of the 1993 (NI) Act (by virtue of which a contributions equivalent premium must be paid in any case where the earner has no accrued right to benefit under the scheme) does not apply if any of the following paragraphs of this regulation apply.

(2) This paragraph applies where—

- (a) the earner’s service in the employment ceased on the earner’s death; and
- (b) the earner left 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 Contributions and Benefits (NI) Act;
 - (ii) a widow’s pension under section 38 of that Act;
 - (iii) a widowed parent’s allowance under section 39A of that Act;
 - (iv) a bereavement support payment under [Northern Ireland provision corresponding to section 30 of the Pensions Act 2014]^(a).

^(a) See Article 2(2).

(3) This paragraph applies where the earner is a woman who has made, or is treated as having made, an election under regulations made under section 19(4) of the Contributions and Benefits (NI) Act, which has not been revoked, that her liability in respect of primary Class 1 contributions is to be at a reduced rate.

(4) This paragraph applies where, on termination of an earner's pensionable service, the earner elects to acquire a right to a cash transfer sum in accordance with section 97AB(1)(a)(b) of the 1993 (NI) Act (right to cash transfer sum and contribution refund).

Elections to pay contributions equivalent premiums: Northern Ireland

45.—(1) Subject to paragraph (2), the obligation under section 53(2) of the 1993 (NI) Act (not to discriminate between different earners when making or abstaining from making elections to pay contributions equivalent premiums) does not apply to—

- (a) cases where an earner's rights are transferred in accordance with regulations under section 33A of the 1993 (NI) Act(c) (transfer of liabilities etc: schemes contracted-out on or after 6th April 1997);
- (b) cases where the earner is a woman who has made, or is treated as having made, an election under regulations made under section 19(4) of the Contributions and Benefits (NI) Act, which has not been revoked, that her liability in respect of primary Class 1 contributions is to be at a reduced rate;
- (c) cases where, on the death of an earner, there arose an entitlement to a widow's, widower's or surviving civil partner's pension which comprises amounts of pension which accrued by reference both to the earner's service in employment which was not contracted-out and to service in employment which was contracted-out;
- (d) cases where the earner—
 - (i) has completed less than two years qualifying service for the purposes of Chapter 1 of Part IV of the 1993 (NI) Act (preservation);
 - (ii) is entitled under the rules of the scheme to elect that accrued rights are to be preserved; and
 - (iii) has made the election mentioned in paragraph (ii); or
- (e) cases where any liability to provide pensions to an earner has been discharged in accordance with regulations under section 8C of the 1993 (NI) Act(d) (transfer, commutation etc) (as it had effect before the second abolition date) or under section 33A of that Act.

(2) An employer is not to discriminate between different earners falling within the same class of case mentioned in paragraph (1).

(3) An election under section 51(2) of the 1993 (NI) Act is to be notified to the Commissioners in such form as they may reasonably require for the purpose of identifying the earner to whom the election relates.

(4) Such notification is to be given—

- (a) where the scheme is being wound up, within the period of two years starting with the date of cessation of the scheme;
- (b) where the circumstances specified in section 51(2A)(a) to (c) or (e) of the 1993 (NI) Act applied, within the period beginning one month before, and ending six months after, the date on which the person ceased to serve in employment which was contracted-out employment by reference to the scheme.

(a) 2014 c.xx (N.I.).

(b) Section 97AB was inserted by Article 241 of the 2005 Order.

(c) Section 33A was inserted by [paragraph 25 of Schedule 13 to] the 2014 (NI) Act.

(d) Section 8C is prospectively repealed by [paragraph 11 of Schedule 13 to] the 2014 (NI) Act.

(5) The Commissioners may, in any case or class of case extend the period within which notification of an election is to be given if it appears to them that notification could not reasonably have been given within the period specified in paragraph (4).

Payment of a contributions equivalent premium : Northern Ireland

46.—(1) A contributions equivalent premium which the trustees are required or have elected to pay is to be paid on or before—

- (a) the day six months after the date of termination of contracted-out employment in respect of which the premium is payable; or
 - (b) the day one month after the day on which the Commissioners send to the trustees a notice certifying the amount of the premium payable,
- whichever is later.

(2) In a case to which regulation 42(1)(a) applies, the Board of the Pension Protection Fund (as defined in that regulation) (“the Board”) is to pay the contributions equivalent premium on or before—

- (a) the day six months after the date the assessment period (construed in accordance with Article 116 of the 2005 Order) ended; or
 - (b) the day one month after the day on which the Commissioners send to the Board a notice certifying the amount of the premium payable,
- whichever is the later.

(3) On an application made to them for that purpose, the Commissioners may, in any case or class of case, extend the period within which a premium is to be paid under paragraph (1) or (2)—

- (a) if they are satisfied that the circumstances are such that payment of the premium could not reasonably be required to be made within the period specified in that paragraph, by a period not exceeding six months; and
- (b) if they are satisfied that to require earlier payment would be prejudicial to the interests of the earner in respect of whom the premium is payable or of the generality of the members of the scheme, by such further period as they consider reasonable.

(4) Where the amount of any contributions equivalent premium which is payable does not exceed £17, the trustees are not liable to pay it and, accordingly, if it is not paid, it is to be treated as paid for the purposes of section 44A(2) (additional pension and other benefits) and section 56(a) (effect of payment of premiums on rights) of the 1993 (NI) Act.

(5) Any liability for a contributions equivalent premium is a liability to make payment out of the resources of the scheme.

Payment in lieu of benefit: Northern Ireland

47.—(1) For the purposes of section 57(10) of the 1993 (NI) Act^(b) (payments in lieu of benefit) a payment in lieu of benefit is to include a payment made or to be made out of the resources of the scheme towards the provision of deferred benefits for the earner.

(2) The following provisions of this regulation apply, for the purpose of enabling any right of recovery conferred by section 57 of the 1993 (NI) Act to be exercised, where an employed earner (or, by virtue of a connection with the earner, any other person) is entitled to a refund of any payments made under a scheme that was contracted-out in respect of the earner towards the provision of benefits under the scheme (“the refund”).

(3) Subject to paragraph (4), where a contributions equivalent premium falls to be paid in respect of the earner under the 1993 (NI) Act and the person liable for the refund has been given a

(a) Section 56 is prospectively repealed by [paragraph 37 of Schedule 13 to] the 2014 (NI) Act. For savings *see* S.R. xxxx.

(b) Section 57 is prospectively repealed by [paragraph 37 of Schedule 13 to] the 2014 (NI) Act. For savings *see* S.R. xxxx.

notice of delay in accordance with paragraph (5), that person is not to make the refund in whole or in part until after the end of the period of four weeks starting with—

- (a) payment of the contributions equivalent premium; or
 - (b) the end of the prescribed period for payment of that premium,
- whichever occurs first.

(4) Paragraph (3) does not apply to so much, if any, of the refund as exceeds the amount certified by the Commissioners under section 59(1)(d) of the 1993 (NI) Act^(a) (certification of amount attributable to reductions of contributions).

(5) A notice of delay is a notice in writing given by the trustees of the scheme concerned, relating either to a particular case or to a class of case and containing the following particulars—

- (a) the name of the earner or such particulars as will sufficiently identify the class of case concerned;
- (b) such particulars as will sufficiently identify the refund or refunds concerned; and
- (c) a memorandum in a form approved by the Commissioners giving brief particulars of the effect of paragraphs (3) and (4).

(6) Where the trustees of a scheme have given notice of delay, they are to inform the person to whom the notice was given of the ending of the period during which they may not make a refund to which the notice applies.

Refund of a contributions equivalent premium: Northern Ireland

48.—(1) 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 earner's accrued rights will be made in accordance with regulations under section 16 (transfer of accrued rights) or section 33A of the 1993 (NI) 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 Contributions and Benefits (NI) Act) or both and the Commissioners are satisfied that the earner in respect of whom the 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.

(2) Where a contributions equivalent premium is refunded under paragraph (1), the earner's accrued rights under the scheme, which were extinguished by payment of the premium, are to be restored.

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

(4) In paragraph (1)(a), "error" means an error which—

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

(5) 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

(a) Section 59 is prospectively repealed by [paragraph 37 of Schedule 13 to] the 2014 (NI) Act. For savings *see* S.R. xxxx.

been made, a greater amount than it would have gained from Class 1 contributions under the Contributions and Benefits (NI) 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 37(1A) of the 1993 (NI) Act (reduced rates of Class 1 contributions) in the normal percentage of primary Class 1 contributions bears to the total reduction under that subsection in the total normal percentage of Class 1 contributions.

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

- (a) where it was paid in the circumstances mentioned in section 51(2A)(a), (b), (d) or (e) of the 1993 (NI) Act, the person in respect of whom it was paid has died, without leaving a widow, widower or surviving civil partner, on or before the later of the days mentioned in sub-paragraphs (a) and (b) respectively of regulation 46(1); or
- (b) where it was paid in the circumstances mentioned in section 51(2A)(c) of the 1993 (NI) Act, there are no accrued rights to guaranteed minimum pensions or section 5(2B) rights under the scheme in question in respect of the widow, widower or surviving civil partner in question.

Continuation of savings in respect of state scheme premiums: Northern Ireland

49. The following regulations continue to have effect in relation to any state scheme premium which was paid before the principal appointed day—

- (a) regulations 17 to 25, 31, 41, 42 and 44 to 46 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985(a);
- (b) the Occupational Pension Schemes (Contracted-out Protected Rights Premiums) Regulations (Northern Ireland) 1987(b).

Revocations of the Occupational Pension Schemes (Contracting-Out) Regulations (Northern Ireland) 1996 taking effect on the second abolition date

50. Regulations 49 to 54 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(c) are revoked.

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

	<i>Name</i>
	Minister of State
Date	Department for Work and Pensions

(a) S.R. 1985 No.259. Relevant amending instruments are S.R. 1985 No. 355, 1986 Nos. 57 and 342, 1987 Nos. 281, 284 and 292, 1988 No. 108, 1989 No.105, 1990 No. 203, 1992 No. 304, 1993 No. 126 and 1994 No. 300. See S.R. 1996 No. 493 regulation 78 for previous savings.

(b) S.R. 1987 No. 281, amended by S.R. 1994 No. 300.

(c) S.R. 1996 No. 493.

SCHEDULE

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

The following provisions of the 1993 Act—

section 7

section 9

section 11(5)

section 12(3)

section 12A(4), (5) and (6)

section 12B(2) and (4)

section 12C(1) and (3)

section 12D

section 16(3) and (4)

section 17(6)

section 21(1) and (2)

section 24B(5)

section 24C

section 25(2)

section 34

section 35(6)

section 36(6)

section 37(1)

section 37A(1)(c)

section 42A

section 45B

section 50(1B) and (4)

section 51(2) and (4)

section 53(3)

section 55(2), (2B) and (2C)

section 56(2)

section 57(1) and (2)

section 61(7) and (11)

section 155

section 156(2)

section 178

section 179

section 181(1)

section 182(2) and (3)

section 183(1)

Schedule 2, paragraphs 1, 3 and 5(3B)

The following provisions of the Pension Schemes (Northern Ireland) Act 1993 and now vested in the Secretary of State^(a)—

section 38A

section 41B

section 51(2), (2B) and (2C)

section 53(1) and (2)

section 57(7) and (11)

section 176(1)

section 177(2) to (4)

section 178(1)

Schedule 1, paragraph 5(3B)

The following provisions of the 1995 Act—

section 92(6)

section 174(2) and (3)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) (“the 1996 Regulations”) in consequence of provision made by the Pensions Act 2014 (c.XX) (“the 2014 Act”).

The 2014 Act creates a new state pension for people reaching pensionable age after implementation on 6th April 2016. This date is referred to in the Pension Schemes Act 1993 (c.48) (“the 1993 Act”) (as amended by the 2014 Act) as “the second abolition date”. The new pension will be paid at a single weekly rate, replacing the current state pension which has two components: a basic state pension and an additional state pension. The 2014 Act therefore also makes amendments to existing primary legislation to abolish contracting-out of the state additional pension for salary related pension schemes. Much of the provision made by the 1996 Regulations is revoked with effect from the second abolition date by regulation 37.

(a) See paragraphs 66 and 77 of S.I. 1999/671.

Some provisions of the 1996 Regulations will remain in force until 6th April 2019, in accordance with regulation 38. In particular, provisions relating to the issue, variation and surrender of contracting-out certificates remain in force to enable the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") to issue certificates relating to a period before the second abolition date, and to deal with any variation or surrender of such a certificate which is to take effect from a date preceding that date. Provisions relating to schemes which have ceased to contract-out before the second abolition date also remain in force, to ensure that the Commissioners are notified of the termination of contracted-out employment in these circumstances and that earner's pension rights are protected.

Provisions of the 1996 Regulations which are to continue to have effect after the second abolition date are, where necessary, amended by regulations 35 and 36 to reflect the abolition of contracting-out.

Provisions of the 1996 Regulations which are to continue to apply indefinitely to pension schemes which were contracted-out prior to the second abolition date are re-enacted, with modifications reflecting the abolition of contracting-out, in these Regulations. Part 2 contains provisions relating to all pension schemes which were salary related contracted-out schemes, Part 3 carries forward additional requirements relating to section 9(2B) rights and Part 4 continues additional requirements in relation to guaranteed minimum pensions. "Section 9(2B) rights" are rights attributable to employment which was contracted-out on and after 6th April 1997 under section 9(2B) of the 1993 Act. Guaranteed minimum pensions relate to contracted-out employment before that date where, under scheme rules, the weekly rate of the pension is to be not less than the guaranteed minimum under sections 14 to 16 of the 1993 Act.

In Part 2, regulation 3 imposes limitations on the alteration of scheme rules, regulation 4 deals with correction of errors as to whether an earner was in contracted-out employment, regulation 5 provides for the disclosure of certain information by the Secretary of State and the Commissioners and regulation 6 continues requirements as to the rules of overseas schemes. Regulation 7 provides for restoration of rights in the State scheme where a scheme is insolvent and regulations 9 to 15 carry forward provisions relating to contributions equivalent premiums. Under regulation 8, these provisions apply only in relation to schemes which ceased to be contracted-out before the second abolition date and, after 6th April 2019, only in relation to such schemes which are winding up. Regulations 16 and 17 carry forward certain transitional provisions and savings from the 1996 Regulations.

In Part 3, regulation 18 sets out the circumstances in which scheme rules may be altered in relation to section 9(2B) rights and regulation 19 carries forward requirements for the payment of lump sums and commutation of benefits. Regulation 20 governs the circumstances in which section 9(2B) rights may be forfeited.

In Part 4, regulation 21 continues limitations on the alteration of scheme rules in relation to guaranteed minimum pensions and regulations 22 to 24 carry forward requirements as to the payment of pensions to surviving spouses and civil partners. Regulations 25 to 30 deal with revaluation of guaranteed minimum pensions and regulation 31 describes the circumstances in which a lump sum may be paid instead of a pension. Provision as to suspension and forfeiture of guaranteed minimum pensions is carried forward by regulation 32; regulations 33 and 34 deal with conversion of guaranteed minimum pensions into other benefits.

Part 7 of these Regulations replicates provisions of Part 2 relating to contributions equivalent premiums for Northern Ireland. Contributions equivalent premiums and rights to return to the state pension scheme are excepted matters under the Northern Ireland Act 1998 (c.47). Regulation 50 reflects for the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (S.R.1996 No.493) revocations of provisions relating to contributions equivalent premiums in the 1996 Regulations by regulation 37.

An analysis of the impact of this legislation has been made as part of the analysis of the Pensions Act 2014. A copy is available in the libraries of both Houses of Parliament. A copy is annexed to the Explanatory Memorandum which is available 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.