

2017 No.

PENSIONS

SOCIAL SECURITY

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

Made - - - -

Laid before Parliament

Coming into force - -

6th April 2017

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by [(a)], sections 16(3) and (4), 17(6), 20(1) and (3), 37(1), 55(2C), 56(2), 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(b) and sections 51(2C), 52(2), 176(1), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(c).

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

(a) [].

(b) 1993 c. 48. Section 16(3) was amended by section 151 of, and paragraph 28(a) of Schedule 5 to the Pensions Act 1995 (c. 26). Section 17(6) was amended by section 56 of, and paragraph 1(3) of Part 1 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000 (c. 19); and by article 2(1) of, and paragraph 4(f) of Schedule 1 to, S.I. 2005/2050; and in relation to England and Wales by section 11(4) of, and paragraphs 18 and 20(1), (5)(a) and (b) of Part 6 of Schedule 4 to, the Marriage (Same Sex Couples) Act 2013; and in relation to Scotland by article 29 of, and paragraph 11(1), (3)(e)(i) and (ii) of Schedule 5 to, S.I. 2014/3229. Section 20(1) was amended by paragraph 2 of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c. 19). Section 20(3) was amended by sections 15(3)(a) and 27(2) of, and paragraphs 46 and 48 of Schedule 4 to, and Part 7 of Schedule 7 to, the Pensions Act 2007 (c. 22), and S.I. 2011/1730. Section 37(1) was amended by section 24(1) of, and paragraphs 1 and 24 of Part 1 of Schedule 13 to, the Pensions Act 2014 (c. 19). Sections 55 and 56 were repealed with savings by section 24(1) of, and paragraphs 1 and 37 of Part 1 of Schedule 13 to, the Pensions Act 2014 (c. 19) and article 2(1), (2)(i), (4) and (5) of S.I. 2015/1502. Section 181(1) defines 'prescribed' and 'regulations'. Section 183(1) was amended by paragraph 79 of Schedule 5, paragraph 15(a) of Schedule 6, and Parts 3 and 4 of Schedule 7, to the Pensions Act 1995 (c. 26).

(c) 1993 c. 49. Section 51(2) was substituted by Article 138(1) of S.I. 1995/3213 (N.I. 22) and amended by paragraph 7(2)(a) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30) and paragraph 26 of Schedule 4 to the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)). Subsection (2C) was inserted by paragraph 7(2)(c) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 52(2) was amended by Schedule 5 to S.I. 1995/3213 and paragraph 64(2) of Schedule 1 to S.I. 1999/671. Section 176(1) defines 'prescribed' and 'regulations', and the definition of 'regulations' was amended by section 73(1) of the Pension Schemes Act 2015 (c. 8). Section 178(1) was amended by Schedule 5 to S.I. 1995/3213.

(d) Section 185(1) was amended by sections 122, 151 and 177 of, and paragraph 46 of Schedule 3, and paragraph 80(a), (d) and (f) of Schedule 5, and Part 1 of Schedule 7 to, the Pensions Act 1995 (c. 26).

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Citation, commencement and extent

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

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

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

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

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

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

Amendment of []

3. [(d) (e)].

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

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

(2) In regulation 2 (interpretation)(g) after the definition of—

(a) “administrator” insert—

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

(b) “section 9(2B) rights” insert—

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

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

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

(a) Regulation 13(B) was inserted by S.I. 2015/1677.

(b) S.I. 1996/1462, amended by S.I. 2015/1677; there are other amending instruments but none is relevant.

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

(d) [].

(e) [].

(f) S.I. 2015/1677, amended by S.I. 2016/199, S.I. 2016/200 and S.I. 2016/231.

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

(h) 2014 c. 19.

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

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

(b) if—

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

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

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

(a) after paragraph (a) omit “and”;

(b) after paragraph (b) insert—

“; and

(c) if—

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

(ii) as a result of doing so, the Commissioners and the trustees agree that a premium is payable, by such further period as they consider reasonable.”.

(5) In regulation 17 (alteration of scheme rules)—

(a) in paragraph (1)(a) for “by a reference scheme (within the meaning of section 12B(2) of the 1993 Act (reference scheme) as it had effect immediately before the second abolition date)” substitute “to the earner and the earner's widow, widower or surviving civil partner before the alteration”;

(b) in paragraph (2)—

(i) for “either” substitute “both”; and

(ii) in the second place where the word appears, for “or” substitute “and”.

(6) In regulation 21 (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) after paragraph (1)(c) insert—

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

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

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

(a) after paragraph (3) insert—

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

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

(b) for paragraph (4) substitute—

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

- (a) after the time of any—
 - (i) marriage; or
 - (ii) formation of a civil partnership,

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

- (b) during which the widower, widow or surviving civil partner is under pensionable age and he or she and another person are living together as a married couple; or
- (c) after the widower, widow or surviving civil partner has attained pensionable age if, immediately before he or she attained that age, he or she and another person were living together as a married couple.”.

(c) after paragraph (4) insert—

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

- (a) after the time of any—
 - (i) marriage; or
 - (ii) formation of a civil partnership,

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

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

(d) for paragraph (5) substitute—

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

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

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

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

- (a) 4.75 per cent compound, where the period of pensionable service^(b) under the scheme terminates on or after 6th April 2016 but before 6th April 2017;
- (b) 4 per cent compound, where the period of pensionable service under the scheme terminates on or after 6th April 2017.”.

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

(a) The definition of “pensionable age” in section 181 was substituted by paragraph 17 of Schedule 4 to the Pensions Act 1995.
(b) “Pensionable service” is defined in section 70(2) of the Pension Schemes Act 1993 (c. 48).

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

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

(10) In regulation 40(3) (payment of a contributions equivalent premium: Northern Ireland)—

- (a) after paragraph (a) omit “and”;
- (b) after paragraph (b) insert—

“; and

- (c) if—
 - (i) the trustees are seeking to reach, or have reached, an agreement with the Commissioners as to the scheme’s liabilities for guaranteed minimum pensions or section 5(2B) rights of members through the scheme reconciliation service; and
 - (ii) as a result of doing so, the Commissioners and the trustees agree that a premium is payable, by such further period as they consider reasonable.”.

Address
Date

Parliamentary Under Secretary of State
Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to secondary legislation relating to the abolition of contracting-out of the state additional pension for salary related pension schemes.

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

[]

Regulation 4 makes amendments to the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015 (S.I. 2015/1677) to supplement provision in relation to the timing for notification and payment of contributions equivalent premium; to apply two changes to the requirements for altering scheme rules; add entitlement to bereavement support payment to the circumstances in which guaranteed minimum pension (GMP) can be paid to an earner’s survivor; and deal with the revaluation of GMPs.

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

There are no additional costs to business, the private and civil society organisations as a result of this instrument and, as such, no impact assessment has been prepared.