



Department  
for Work &  
Pensions

# The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments) Order 2016: consultation on the draft Order

Public consultation

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October 2015

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# Introduction

This consultation asks for views on the draft Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments) Order 2016 – “the 2016 Order”. The 2016 Order contains for the most part minor and technical changes to other secondary legislation to take account of the abolition of contracting-out. In some cases, where provisions are no longer necessary after the end of contracting-out, and are revoked, they will remain in place for a limited period to enable a smooth ending to contracting-out.

Other proposed changes to legislation include some minor consequential amendments to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (1996/1462) and omitting certain provisions relating to transfers and transfer payments of pension rights between schemes which are both contracted-out. These provisions continue to have effect under article 5 of the 2016 Order in relation to transfers which occurred before the second abolition date.

The proposed changes in the 2016 Order follow on from the regulations published in September 2015 (the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015)<sup>1</sup>, which were made to ensure that all rights accrued by employees in contracted-out defined benefit schemes before abolition are fully protected.

The 2016 Order provisions will come into force over the period from immediately before 6 April 2016 to 6 April 2021.

## Other Issues

In the Government response to the consultation on the draft Occupational Pension Schemes (Schemes that were Contracted-out) Regulations 2015, we said that we would revisit the following issues: how best to preserve the Reference Scheme Test (RST) for RST underpin schemes; alteration of scheme rules; transfers; Her Majesty’s Revenue and Customs’ (HMRC) rules on trivial commutation; and amendments to the Disclosure of Information Regulations. We deal with transfers changes and amendments to the Disclosure regulations in this consultation. We will communicate the outcome of the RST underpin schemes issue when we publish the response to the consultation on the 2016 Order. The alteration of scheme rules and HMRC rules on trivial commutation will be the subject of separate consultation in due course.

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<sup>1</sup> Due to a procedural error the original set of regulations published in July 2015 had to be re-laid on 16 September 2015. A full explanation can be found at: <https://www.gov.uk/government/consultations/occupational-pension-schemes-abolition-of-defined-benefit-contracting-out>

# About this consultation

## Who this consultation is aimed at

We particularly welcome comments on the draft Order from pension scheme trustees, their advisers, employers who sponsor contracted-out occupational pension schemes, pension scheme professionals, pension scheme members and member representative organisations, but we would be interested in views from any source.

## Purpose of the consultation

The consultation seeks views on:

- The draft Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments) Order 2016.

## Scope of the consultation

This consultation applies to England, Wales and Scotland. It is anticipated that Northern Ireland will make a corresponding order.

## Duration of the consultation

The consultation period begins on 20 October 2015 and runs until 16 November 2015.

## How to respond to this consultation

Please send your consultation responses to:

Email: [CONTRACTING.OUTTEAM@DWP.GSI.GOV.UK](mailto:CONTRACTING.OUTTEAM@DWP.GSI.GOV.UK)

Please ensure your response reaches us by 16 November 2015.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

## Queries about the content of this document

Please direct any queries about the subject matter of this consultation to:

Department for Work and Pensions  
Contracting-out Policy Team  
Level 1, Caxton House,  
Tothill St, London SW1H 9NA  
Email: [CONTRACTING.OUTTEAM@DWP.GSI.GOV.UK](mailto:CONTRACTING.OUTTEAM@DWP.GSI.GOV.UK)

## How we consult

### Freedom of information

The information you send us may need to be passed to colleagues within the Department for Work and Pensions, published in a summary of responses received and referred to in the published consultation report.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.

To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Freedom of Information Team  
Caxton House  
6-12 Tothill Street  
London  
SW1H 9NA  
[Freedom-of-information-request@dwp.gsi.gov.uk](mailto:Freedom-of-information-request@dwp.gsi.gov.uk)

The Central FoI team cannot advise on specific consultation exercises, only on Freedom of Information issues. More information about the Freedom of Information Act can be found at [www.dwp.gov.uk/freedom-of-information](http://www.dwp.gov.uk/freedom-of-information)

### The consultation criteria

The consultation is being conducted in line with the Cabinet Office Consultation Principles published on 17 July 2012, and can be found here: <https://www.gov.uk/government/publications/consultation-principles-guidance>

The key principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;

- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be “digital by default”, but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

## **Feedback on the consultation process**

We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Daniel Cross  
DWP Consultation Coordinator  
2<sup>nd</sup> Floor  
Caxton House  
Tothill Street  
London  
SW1H 9NA  
Phone 020 7449 7439  
[CAXTONHOUSE.LEGISLATION@DWP.GSI.GOV.UK](mailto:CAXTONHOUSE.LEGISLATION@DWP.GSI.GOV.UK)

In particular, please tell us if you feel that the consultation does not satisfy the consultation criteria. Please also make any suggestions as to how the process of consultation could be improved further.

If you have any requirements that we need to meet to enable you to comment, please let us know.

We will publish the responses to the consultation in early 2016 in a report on the consultation page on GOV.UK – [www.gov.uk/government/consultations/salary-related-pension-schemes-abolition-of-contracting-out-consequential-amendments](http://www.gov.uk/government/consultations/salary-related-pension-schemes-abolition-of-contracting-out-consequential-amendments)

The report will summarise the responses and the action that we will take as a result of them.

# Chapter 1 – Background to the abolition of defined benefit contracting-out

## Context

1. A salary-related occupational pension scheme can “contract-out” of the additional State Pension (otherwise known as State Earnings Related Pension (SERPs) or State Second Pension (S2P)), if it meets certain statutory criteria (set out in Part 3 of the Pension Schemes Act 1993). Members and employers of such a scheme pay a reduced rate of National Insurance contributions (NICs) which is known as the National Insurance rebate.

2. Members are not generally eligible for the additional State Pension (the earnings related element on top of the basic State Pension) because they will receive an occupational pension from their employer which will replace the additional State Pension.

3. Following an extensive programme of consultation, the Government published a White Paper in January 2013, *The single-tier pension: a simple foundation for saving (Cm 8528)*<sup>2</sup>, which provided a detailed plan to significantly reform the State Pension so that it would provide a more effective foundation for private pension saving. The plan, which included replacing the current two-tiered system of basic and additional State Pension with a single-tier pension, was supported by Parliament and the framework for changes was set out in the Pensions Act 2014.

4. As a consequence of the Government’s State Pension reforms, contracting-out of the additional State Pension will cease as there will be no additional State Pension from which to contract-out. This will have a range of implications for employers, employees and schemes. These were outlined in the previous consultation and Impact Assessment published in May 2014 (Occupational Pension Schemes - abolition of defined benefit Contracting-out: consultation on draft Regulations<sup>3</sup>).

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<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/181229/single-tier-pension.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181229/single-tier-pension.pdf)

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/309004/occupational-pension-schemes-contracting-out-abolition-consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/309004/occupational-pension-schemes-contracting-out-abolition-consultation.pdf)

# Chapter 2: Commentary on the draft Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments) Order 2016

## Introduction

5. The Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015 (S.I. 2015/1677) set out the main requirements which schemes that were formerly contracted-out before abolition of contracting-out for salary related schemes took place must follow post abolition. The 2016 Order provides for further consequential amendments to other secondary legislation to take account of the abolition of contracting-out.

## Commentary on the regulations

6. The 2016 Order is separated into six parts. Part 1 provides details of citation and the dates the various parts of the regulations come into force. Parts 2 to 6 detail:

- **Part 2** - Amendments coming into force immediately before 6 April 2016
- **Part 3** - Amendments coming into force on 6 April 2016
- **Part 4** - Amendments coming into force on 6 April 2017
- **Part 5** - Revocations coming into force on 6 April 2019
- **Part 6** – Amendments coming into force on 6 April 2021

### **Part 2 – Amendments coming into force immediately before 6 April 2016**

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

7. Article 2 amends the definition of “section 9(2B) rights” provided by regulation 2 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (“the 2015 No.2 Regulations”) to clarify its meaning. This same definition will be used throughout secondary legislation relating to schemes that were contracted-out, after the second abolition date.

8. As this article amends the 2015 No 2 Regulations which come into force on 6 April 2016, the amendment will come into force immediately before that date.



### **Part 3 – Amendments coming into force on 6 April 2016**

9. These regulations come into force on 6 April 2016 as a consequence of contracting-out ending on 5 April 2016. The changes reflect the fact that contracting-out will no longer exist on 6 April 2016.

#### Article 3 – Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991

10. Article 3 provides for amendments to the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I 1991/167). Article 3(2) amends regulation 12 to replace the description of employers currently provided by regulation 64(2) of the Occupational Pension Schemes (Contracting-out) Regulations 1996 (SI 1996/1172) (“the 1996 Regulations”). With abolition, the 1996 Regulations will be revoked and replaced by the 2015 (No.2) Regulations. The new definition however follows the same lines as originally provided for in regulation 64(2).

11. Article 3(3) amends regulation 24 to clarify that a scheme ceasing to contract-out on abolition does not constitute a “material alteration” of the scheme for the purposes of that regulation.

#### Article 4 - Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

12. Article 4 makes, for the most part, some minor consequential amendments to these regulations and omits certain provisions relating to transfers and transfer payments of pension rights between schemes which are both contracted-out.

13. The effect of these changes will ensure that following the abolition of contracting-out, where a transfer takes place between two formerly contracted-out salary-related schemes, the contracted-out rights which are being transferred must be protected.

14. Regulations 5 and 10 of these regulations will continue to allow transfers of Guaranteed Minimum Pensions (GMPs) and section 9(2B) rights respectively from former salary-related contracted-out schemes to schemes that were never contracted-out, provided that the member accepts that the benefits provided by the receiving scheme may be in a different form and amount to those which would have been payable by the transferring scheme; and that the receiving scheme is not compelled to provide a survivor benefit following the transfer.

#### Article 5 - Saving of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

15. Article 5 provides that some of the changes made by article 4 do not have effect in relation to transfers which occurred before the second abolition date (the date on which contracting-out for salary-related schemes is abolished).

Amendments to other sets of regulations coming into force on 6 April 2016 (Articles 6-27)

16. Articles 6 to 27 make some minor consequential amendments to the following legislation as a result of the ending of contracting-out:

- The Occupational Pension Schemes (Indexation) Regulations 1996
- The Occupational Pension Schemes (Transfer Values) Regulations 1996
- The Social Security (Contracting-out and Qualifying Earnings Factor) Regulations 1996
- The Occupational Pension Schemes (Winding Up) Regulations 1996
- The Occupational Pension Schemes (Deficiency on winding up etc) Regulations
- The Pensions Act 1995 (Commencement No 10) Order 1997
- The Occupational Pension Schemes (Discharge of Liability) Regulations 1997
- The Occupational Pension Schemes (Contracting-out)(Amount Required for Restoring State Scheme Rights and Miscellaneous) Regulations 1998
- The Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998
- The Social Security and Child Support (Decisions and Appeals) Regulations 1999
- The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000
- The Pension Sharing (Pension Credit Benefit) Regulations 2000
- The Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Provisions) Regulations 2000
- The Additional Pension and Social Security Pensions (Home Responsibilities)(Amendment) Regulations 2001
- The Pension Protection (Entry Rules) Regulations 2005
- The Transfer of Employment (Pension Protection) Regulations 2005
- The Occupational Pension Schemes (Employer Debt) Regulations 2005
- The Occupational Pension Schemes (Winding Up etc.) Regulations 2005
- The Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005
- The Financial Assistance Scheme Regulations 2005
- The Occupational Pension Schemes (Cross Border Activities) Regulations 2005
- The Employers' Duties (Registration and Compliance) Regulations 2010

17. The changes are mostly minor and technical. For example, references to contracting-out are made in the past tense and refer to schemes that were contracted-out before abolition. The revised definition of "section 9(2B) rights" provided for in the 2015 (No. 2) Regulations is substituted into regulations that require such a definition.

18. Some definitions are omitted or amended as a result of amendments made to the Pension Schemes Act 1993 by Schedule 13 to the Pensions Act 2014.

19. Articles 7, 16(3) and 17(3) ensure that the circumstances where time limits for applications made under the regulations to which these articles relate may be extended where the scheme has ceased to contract-out in the preceding 12 months.

20. Article 21 amends the Transfer of Employment (Pension Protection) Regulations 2005 (SI 2005/649) so that the requirement that a scheme to which a member is being transferred, under “Transfer of Undertakings Protection of Employment” (TUPE) arrangements, is no longer required to meet the contracting-out requirements.

21. Article 26 changes the requirements that a European pensions institution must meet if it wishes to operate cross-border with an employer based in the UK (as a result of changes to contracting-out legislation).

22. Article 27 amends the Employers’ Duties (Registration and Compliance) Regulations 2010 (SI 2010/5) so that the requirement that the contracting-out certificate (which was evidence that the scheme met the relevant quality standards in relation to automatic enrolment before abolition of contracting-out took place) must be kept for 6 years after abolition takes place.

#### **Part 4 – Amendments coming into force on 6 April 2017**

23. These amendments come into force a year after the second abolition date and remove any references to contracting-out that will be redundant from that date. For example, in the Occupational Pension Schemes (Implementation and Discharge of Liability) Regulations 2000 (SI 2000/1053), in the list of requirements about which the Regulator must be satisfied in relation to an application for an extension to discharge a pension credit liability, the transitional rules that applied from 6 April 2016 will cease to apply. From 6 April 2017 consideration as to whether time limits may be extended for these schemes will be linked to whether schemes have agreed their GMP and post 97 contracted-out liabilities with HMRC, if such liabilities are in dispute.

24. Articles 28 to 32 make some minor consequential amendments to the following legislation as a result of the ending of contracting-out:

- The Occupational Pension Schemes (Transfer Values) Regulations 1996
- The Occupational Pension Schemes (Discharge of Liability) Regulations 1997
- The Occupational Pension Schemes (Implementation and Discharge of Liability) Regulations 2000
- The Pension Sharing (Pension Credit Benefit) Regulations 2000
- The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013

25. Again these changes are, for the most part, minor and technical – removing references to schemes that ceased to contract out at the second abolition date. However, you should be aware of the following:

26. A change to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (SI 2013/2734). These regulations contain provisions

governing the disclosure of information in relation to occupational and personal pensions. Amendments are needed to the regulations to reflect the end of contracting-out. Regulation 6 and Schedule 2 of the regulations require basic scheme information to be given by schemes to members. Paragraph 12 provides that, where appropriate, schemes should inform members 'which relevant employment is, and which is not, contracted-out employment'. We propose to revoke paragraph 12 from 6 April 2017 as schemes will by then have notified members of any changes to contracted-out employment under the scheme as a result of the abolition of contracting-out in accordance with regulation 8 of those Regulations (material change to basic scheme information).

## **Part 5 – Revocations coming into force on 6<sup>th</sup> April 2019**

Article 33 - Revocation of the Occupational Pension Schemes (Modification of the Pension Schemes Act 1993) Regulations 1998 (SI 1988/1466) and the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998 (SI 1998/1846)

27. These regulations operate so as to validate with retrospective effect any alteration of a scheme's rules made before 6 April 1997 which would otherwise be void under section 37 of the Pension Schemes Act 1993 (following the changes made to that section by the Pensions Act 1995). The revocation of these rules in April 2019 will allow schemes three years in which to apply to HMRC for approval of any such outstanding alteration of rule change approvals they require following the abolition of contracting-out. Three years is deemed to be a sufficient time to make such applications.

## **Part 6 – Amendments coming into force on 6 April 2021**

28. The extension of time limits for the regulations mentioned under this part will cease to have effect from April 2021. We expect that by April 2021 schemes will have reconciled their records and will no longer require provision which allows them to extend applications where contracted-out liabilities are in dispute.

### **Consultation Question 1**

**Q1** Do you agree that:

- a) the amendments in the 2016 Order are necessary as a consequence of contracting-out ending on 5 April 2016?
- b) they protect members' accrued rights?
- c) they ensure schemes are able, post abolition, to carry out their administrative functions?

### **Consultation Question 2**

**Q2** In addition to the amendments to the legislation set out in this consultation, is there any further legislation that you consider should be revoked, amended or saved as a consequence of the ending of contracting-out?

# Chapter 3: Next Steps

29. We welcome your detailed comments on the draft Order by 16 November 2015. If you send your comments after this date, we cannot guarantee that they will be included for consideration.

30. The outcome of this consultation will be published on the Gov.UK website.

Annex A:

Draft Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments) Order 2016

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STATUTORY INSTRUMENTS

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**2016 No.**

**PENSIONS**

**The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments) Order 2016**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force in accordance with article 1(2)*

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

**PART 1**

**General**

**Citation and commencement**

**1.**—(1) This Order may be cited as the Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments) Order 2016.

(2) This Order comes into force—

- (a) for the purposes of this Part and Part 2, immediately before 6th April 2016;
- (b) for the purposes of Part 3, on 6th April 2016;
- (c) for the purposes of Part 4, on 6th April 2017;
- (d) for the purposes of Part 5, on 6th April 2019; and
- (e) for the purposes of Part 6, on 6th April 2021.

**PART 2**

Amendments coming into force immediately before 6th April 2016

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

**2.** In regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015(b), in the definition of “section 9(2B) rights”—

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(a) 2014 c.19.  
(b) S.I. 2015/1677.

- (a) in paragraph (a), for “contracted-out by virtue of section 9(2B) of the 1993 Act” substitute “that was a salary related contracted-out scheme<sup>(a)</sup>”; and
- (b) in paragraph (b)—
  - (i) in the introductory words, after “such a scheme,” insert “whether before or after the second abolition date<sup>(b)</sup>”; and
  - (ii) in sub-paragraph (i), for “contracted-out by virtue of section 9(2B) of the 1993 Act” substitute “that was a salary related contracted-out scheme”.

## PART 3

Amendments coming into force on 6th April 2016

### **Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991**

**3.**—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991<sup>(c)</sup> are amended as follows.

(2) In regulation 12 (transfer of member’s accrued rights without consent)—

(a) for paragraph (2)(b)(ii)<sup>(d)</sup> substitute—

“(ii) the employers are companies or partnerships bearing a relationship to each other in one of the ways described in paragraph (2A).”;

(b) after paragraph (2) insert—

“(2A) The relationships between the employers referred to in paragraph (2) are—

(a) the employers are members of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006<sup>(e)</sup> (meaning of “subsidiary” etc.);

(b) the employers are—

(i) an employer who is the principal employer for the purposes of the scheme in accordance with the scheme rules, or who is the employer who has power to act on behalf of all employers in the scheme in relation to the scheme rules; and

(ii) an employer subject to the rules of the scheme; or

(c) the employers are partnerships having at least half of their partners in common.”

(3) In regulation 24 (schemes funded by level annual premiums), after paragraph (3)<sup>(f)</sup> insert—

“(3A) For the purposes of paragraph (3)(a), any alteration of the scheme which arises solely from the abolition of contracting-out for salary related schemes under the Pensions Act 2014 does not constitute a material alteration.”.

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

**4.**—(1) The Contracting-out (Transfer and Transfer Payment) Regulations 1996<sup>(g)</sup> are amended as follows.

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- (a) See section 7B of the Pension Schemes Act 1993 (c.48) (“the 1993 Act”) inserted by paragraph 6 of Schedule 13 to the Pensions Act 2014 (“the 2014 Act”) for the definition of “salary related contracted-out scheme”.
  - (b) See section 7A of the 1993 Act inserted by paragraph 6 of Schedule 13 to the 2014 Act for the definition of “the second abolition date”.
  - (c) S.I. 1991/167.
  - (d) Paragraph (2)(b)(ii) was amended by S.I. 1996/2131.
  - (e) 2006 c.46.
  - (f) Paragraph (3) was amended by S.I. 1996/2131.
  - (g) S.I. 1996/1462.



- (2) In regulation 1(2) (interpretation)—
- (a) in the definition of “connected employer transfer” and “connected employer transfer payment”(a)—
    - (i) in the full out words after sub-paragraph (ii), omit the words from “and, in this definition” to the end of that paragraph; and
    - (ii) before “salary-related contracted-out scheme”, in each of the remaining places where it occurs, insert “scheme that was a”;
  - (b) in the definition of “overseas scheme”(b)—
    - (i) before “salary-related contracted-out scheme” insert “scheme that was a”; and
    - (ii) for “section 52(1)” substitute “section 52”;
  - (c) in the definition of “the principal appointed day”, for “section 7(2B)” substitute “section 181(1)”;
  - (d) omit the definition of “salary-related contracted-out scheme”(c); and
  - (e) for the definition of “section 9(2B) rights”(d), substitute—
 

““section 9(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pensions Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015;”.
- (3) In regulation 3 (transfers of guaranteed minimum pensions to salary-related contracted-out schemes)—
- (a) in the heading, before “salary-related” insert “schemes that were”;
  - (b) in the opening words, before “salary-related” insert “scheme that was a”; and
  - (c) in paragraph (c), omit the words from the beginning to “the receiving scheme.”.
- (4) In regulation 5 (transfer of payments in respect of guaranteed minimum pensions to occupational and personal pension schemes)(e), in the opening words, before “salary-related” insert “scheme that was a”.
- (5) In regulation 7(1) (transfers of liability in respect of section 9(2B) rights – general)(f), in sub-paragraphs (a) and (b)—
- (a) after “from a” insert “scheme that was a”; and
  - (b) omit “(or a scheme which was formerly a salary-related contracted-out scheme)”.
- (6) In regulation 8 (transfer payments to salary-related contracted-out schemes in respect of section 9(2B) rights)—
- (a) in the heading, before “salary-related” insert “schemes that were”;
  - (b) in the opening words, for “salary-related contracted-out scheme” substitute “scheme that was a salary-related contracted-out scheme which was contracted-out by virtue of section 9(2B) of the 1993 Act”; and
  - (c) in paragraph (c)(g), for the words from “which is contracted-out” to the end of that paragraph substitute “which was contracted-out in relation to the receiving scheme on or after the principal appointed day.”.
- (7) In regulation 10 (transfer payments to occupational and personal pension schemes in respect of section 9(2B) rights)(h), in the opening words, before “salary-related” insert “scheme that was a”.

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(a) This definition was substituted by S.I. 2013/459.  
 (b) This definition was substituted by S.I. 2007/814 and amended by S.I. 2007/3014.  
 (c) This is now defined in the 1993 Act. *See* sections 181(1) and 7B, inserted by paragraph 6 of the 2014 Act.  
 (d) This definition was substituted by S.I. 1997/786 and amended by S.I. 1999/3198 and 2011/1246.  
 (e) Regulation 5 was substituted by S.I. 2011/1245.  
 (f) Regulation 7(1) was amended by S.I. 1997/786.  
 (g) Regulation 8(c) was amended by S.I. 1997/786.  
 (h) Regulation 10 was substituted by 2011/1245.

(8) In regulation 12 (modifications of Part III of the 1993 Act on transfers of and transfer payments in respect of guaranteed minimum pensions from occupational pension schemes)—

- (a) in the opening words, before “salary-related contracted-out scheme” insert “scheme that was a”;
- (b) subject to article 5(1), omit paragraph (a); and
- (c) subject to article 5(1), in paragraph (b), for “any other” substitute “a”.

(9) In regulation 13 (modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts)—

- (a) in the opening words, before “salary-related contracted-out scheme” insert “scheme that was a”;
- (b) subject to article 5(2), omit paragraph (a).

(10) Omit regulation 13A (modification of section 12C of the 1993 Act where transfer payments are made to salary-related contracted-out schemes)(a).

(11) In Schedule 1 (further conditions for transfers of guaranteed minimum pensions)—

- (a) for the heading to Part I substitute “Further Conditions for Transfer to a Scheme that was a Salary-related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions”;
- (b) in paragraph 2, omit sub-paragraph (a), and the “but” immediately following it; and
- (c) for the heading to Part II substitute “Further Conditions for Transfer from an Appropriate Policy to a Scheme that was a Salary-related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions”.

(12) In Schedule 2 (modifications of Part III of the 1993 Act)—

- (a) in paragraphs 1 and 6(b) in the definition of “guaranteed minimum pension”, for “by an occupational pension scheme” substitute “by a scheme that was a salary-related contracted-out scheme”;
- (b) in paragraphs 3 and 7, for “is contracted-out” substitute “was contracted-out”;
- (c) subject to article 5(1), omit paragraph 3; and
- (d) subject to article 5(2), omit paragraph 7.

### **Saving of the Contracting-out (Transfer and Transfer Payment) Regulations 1996**

5.—(1) Regulation 12(a) and (b) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (“the Transfer Regulations”) and paragraph 3 of Schedule 2 to those Regulations continue to have effect as if the amendments made in article 4(8)(b) and (c), and (12)(c) of this Order had not been made, in relation to transfers of accrued rights to guaranteed minimum pensions of earners who were in employment which was contracted-out by reference to the receiving scheme, where those transfers occurred before the second abolition date.

(2) Regulation 13(a) of the Transfer Regulations and paragraph 7 of Schedule 2 to those Regulations continue to have effect as if the amendments made by article 4(9)(b) and (12)(d) of this Order had not been made, in relation to transfers of accrued rights to guaranteed minimum pensions from an appropriate policy where the earner was in employment which was contracted-out by reference to the receiving scheme and the transfer occurred before the second abolition date.

(3) For the purposes of this article—

- (a) words and phrases which are defined in the Transfer Regulations have the same meanings as in those Regulations; and
- (b) “the second abolition date” has the same meaning as in the Pension Schemes Act 1993.

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(a) Regulation 13A was inserted by S.I. 1997/786 and amended by S.I. 2011/1246.

(b) Paragraphs 1 and 6 were substituted by S.I. 1997/786, and amended by S.I. 2014/107.

### **Amendment of the Occupational Pension Schemes (Indexation) Regulation 1996**

**6.** In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Indexation) Regulation 1996(**a**)—

- (a) omit the definition of “abolition date”;
- (b) in the appropriate place insert—  
““the first abolition date” has the meaning given in section 181(1) of the Pension Schemes Act 1993(**b**);”;
- (c) in the definition of “protected rights”, before “abolition date” insert “first”; and
- (d) for the definition of “section 9(2B) rights” substitute—  
““section 9(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015;”.

### **Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996**

**7.** In regulation 13(a) (extension of time for payment of cash equivalents) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(**c**), for sub-paragraph (ii) substitute—

“(ii) the scheme has ceased to contract-out in the previous 12 month period (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act 2014 or otherwise)”.

### **Amendment of the Social Security (Contracting-out and Qualifying Earnings Factor) Regulations 1996**

**8.** In regulation 2(2) (modification of section 44(5) of the Contributions and Benefits Act) of the Social Security (Contracting-out and Qualifying Earnings Factor) Regulations 1996(**d**)—

- (a) for “a tax week is” substitute “a tax week was”; and
- (b) in both places where it occurs, after “sections 41” insert “(as it had effect before the second abolition date)”.

### **Amendment of the Occupational Pension Schemes (Winding Up) Regulations 1996**

**9.**—(1) The Occupational Pension Schemes (Winding Up) Regulations 1996(**e**) are amended as follows.

(2) In regulation 8 (requirements to be satisfied by transferee schemes, annuities etc.)—

- (a) in paragraph (5), before “contracted-out scheme” insert “scheme that was a”; and
- (b) for paragraph (7)(a)(**f**), substitute—  
“(a) regulation 18 or 25 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015 (payment of a lump sum instead of a pension);”.

(3) In regulation 10(3) (disapplication of section 38) in the definition of “relevant lump sum retirement benefits scheme”, in paragraph (b), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”.

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(a) S.I. 1996/1679. The definition of “abolition date” was inserted by S.I. 2011/1246. The definition of “section 9(2B) rights” was inserted by S.I. 2005/704 and amended by S.I. 2011/1246.

(b) The definition of “the first abolition date” is inserted by paragraph 43(2) of Schedule 13 to the 2014 Act.

(c) S.I. 1996/1847.

(d) S.I. 1996/2477.

(e) S.I. 1996/3126.

(f) Paragraphs (6) to (10) were inserted by S.I. 2005/706. Paragraph (7) was amended by S.I. 2009/615.

## **Amendment of the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996**

**10.** In regulation 10(2) (disapplication of section 75)(interpretation) of the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996(**a**)—

- (a) in the definition of “relevant lump sum retirement benefits scheme”, in paragraph (b), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and
- (b) in the appropriate places insert—
  - ““contracted-out” is to be construed in accordance with section 7B(2) of the Pension Schemes Act 1993(**b**);”
  - ““the second abolition date” has the meaning given in section 181(1) of the Pension Schemes Act 1993(**c**);”.

## **Amendment of the Pensions Act 1995 (Commencement No. 10) Order 1997**

**11.** In article 4 (termination of contracted-out or appropriate scheme status and state scheme premiums) of the Pensions Act 1995 (Commencement No. 10) Order 1997(**d**), omit paragraph (1).

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

**12.—**(1) The Occupational Pension Schemes (Discharge of Liability) Regulations 1997(**e**) are amended as follows.

(2) In regulation 1(2) (interpretation) in the definition of “relevant scheme”, for “section 12C” substitute “section 37A”(**f**).

(3) In regulation 8(b) (prohibition and restriction of the discharge of liability to provide pensions under a relevant scheme), for the words from “or Part V” until the end of that paragraph substitute “, regulations 45 or 46 (as they had effect at the time of approval of arrangements for the scheme ceasing to be contracted-out) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(**g**), or regulations 6, 17 or 20 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015 apply”.

(4) In regulation 11(3)(e)(ii) (conditions on which liability to provide pensions under a relevant scheme may be discharged), for “section 12C(1)” substitute “section 37A(1)”.

## **Amendment of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998**

**13.—**(1) The Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998(**h**) are amended as follows.

(2) In regulation 1(2) (interpretation) in the definition of “section 9(2B) rights”, for “regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations 1996” substitute “regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015”.

(3) In regulation 2 (determination of the amount required for restoring State scheme rights), for “contracted-out occupational pension scheme which is being wound up” substitute “scheme which

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(a) S.I. 1996/3128.

(b) Section 7B was inserted by paragraph 6 of Schedule 13 to the 2014 Act.

(c) The definition of “the second abolition date” was inserted by paragraph 43(2) of Schedule 13 to the 2014 Act.

(d) S.I. 1997/664 (C.23).

(e) S.I. 1997/784.

(f) Section 37A is inserted by paragraph 25 of Schedule 13 to the 2014 Act.

(g) S.I. 1996/1172. Regulations 45 and 46 are amended by S.I. 1997/819, section 1(2) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), S.I. 2005/2050, S.I. 2011/1245 and S.I. 2011/1246.

(h) S.I. 1998/1397.

was a contracted-out occupational pension scheme and which started to wind up before the second abolition date”.

(4) In regulation 3(3) (method of calculation where no election to pay a contributions equivalent premium may be made)(a), in sub-paragraphs (a) and (b), for “the scheme being such a scheme” substitute “the scheme having been such a scheme”.

#### **Amendment of the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998**

**14.**—(1) The Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998(b) are amended as follows.

(2) In regulation 1(2) (interpretation), omit the definition of “contracted-out scheme”.

(3) In regulation 2 (validation of rule alterations made before 6th April 1997)(c)—

(a) in paragraph (1)(a), for “contracted-out scheme” substitute “scheme, which was at the time of the alteration, a contracted-out scheme,” and

(b) in paragraph (2), for “a contracted-out” substitute “such a”.

#### **Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999**

**15.** For the heading immediately before paragraph 6 of Schedule 2 to the Social Security and Child Support (Decisions and Appeals) Regulations 1999(d) substitute “Schemes that were Contracted-out Pension Schemes”.

#### **Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000**

**16.**—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(e) are amended as follows.

(2) In regulation 1(2) (interpretation), for the definition of “section 9(2B) rights” substitute—

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

(3) In regulation 3(a) (circumstances in which an application for an extension of the implementation period may be made), for sub-paragraph (ii) substitute—

“(ii) the scheme has ceased to contract-out in the 12 month period ending on the date of the application (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act 2014 or otherwise);”.

#### **Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000**

**17.**—(1) The Pension Sharing (Pension Credit Benefit) Regulations 2000(f) are amended as follows.

(2) In regulation 1(2) (interpretation), omit the definition of “salary related contracted-out scheme”.

(3) In regulation 26(a) (extension of time limits for payment of cash equivalents), for sub-paragraph (ii) substitute—

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(a) Regulation 3(3) was inserted by S.I. 2005/891 and amended by S.I. 2005/3164.

(b) S.I. 1998/1846.

(c) Regulation 2 was amended by section 1(2) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(d) S.I. 1999/991.

(e) S.I. 2000/1053.

(f) S.I. 2000/1054.

- “(ii) the scheme has ceased to contract-out in the 12 month period ending on the date of the application (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act 2014 or otherwise);”.

**Amendment of the Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Provisions) Regulations 2000**

**18.** In regulation 2(2) (modification of the application of section 44(5A) of the 1992 Act) of the Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Provisions) Regulations 2000(**a**)—

- (a) in both places where it occurs, for “is reduced” substitute “was reduced”;
- (b) after “section 41” insert “(as it then had effect)”; and
- (c) after “sections 41” insert “(as it then had effect)”.

**Amendment of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001**

**19.**—(1) The Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001(**b**) are amended as follows.

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

- (a) for the definition of “contributions equivalent premium” substitute—

““contributions equivalent premium” has the meaning given in section 181(1) of the Pension Schemes Act 1993(e);”;
- (b) in the appropriate places insert—

““appropriate personal pension scheme” means an appropriate scheme within the meaning of section 7B(6) of the Pensions Schemes Act 1993;”

““money purchase contracted-out scheme” has the meaning given in section 7B(5) of the Pension Schemes Act 1993;”

““salary related contracted-out scheme” has the meaning given in section 7B(4) of the Pensions Schemes Act 1993;”.

(3) In regulation 2(a) (calculation of additional pension where contributions equivalent premium paid or treated as paid), after “regulations made thereunder” insert “(as they then had effect)”.

**Amendment of the Pension Protection Fund (Entry Rules) Regulations 2005**

**20.** In regulation 2 (schemes which are not eligible schemes) of the Pension Protection Fund (Entry Rules) Regulations 2005(**d**)—

- (a) in paragraph (1)(g)(ii), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and
- (b) in paragraph (8), in the appropriate places insert—

““contracted-out” is to be construed in accordance with section 7B(2) of the Pension Schemes Act 1993;”

““the second abolition date” has the meaning given in section 181(1) of the Pension Schemes Act 1993;”.

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(a) S.I. 2000/2736.

(b) S.I. 2001/1323.

(c) The definition of “contributions equivalent premium” is amended by paragraph 43(6) of the 2014 Act.

(d) S.I. 2005/590.

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

**21.** In regulation 2(1) (requirements where the transferee’s pension scheme is not a money purchase scheme) of the Transfer of Employment (Pension Protection) Regulation 2005(a), for “section 258(2)(c)(ii)” substitute “section 258(2)(c)”.

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

**22.** In regulation 4 (schemes to which section 75 of the 1995 Act does not apply) of the Occupational Pension Schemes (Employer Debt) Regulations 2005(b)—

- (a) in paragraph (1)(f)(ii), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and
- (b) at the end insert—
  - “(3) In this regulation—
    - “contracted-out” is to be construed in accordance with section 7B(2) of the Pension Schemes Act 1993; and
    - “the second abolition date” has the meaning given in section 181(1) of the Pension Schemes Act 1993.”.

### **Amendment of the Occupational Pension Schemes (Winding up etc.) Regulations 2005**

**23.** In regulation 3 (schemes to which section 73 of the 1995 Act does not apply) of the Occupational Pension Schemes (Winding up etc.) Regulations 2005(c)—

- (a) in paragraph (1)(f)(ii), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and
- (b) at the end insert—
  - “(3) In this regulation—
    - “contracted-out” is to be construed in accordance with section 7B(2) of the Pension Schemes Act 1993; and
    - “the second abolition date” has the meaning given in section 181(1) of the Pension Schemes Act 1993.”.

### **Amendment of the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005**

**24.** In regulation 3 (prescribed schemes) of the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005(d)—

- (a) that regulation becomes paragraph (1) of regulation 3;
- (b) in sub-paragraph(g)(ii) of that paragraph, for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and
- (c) after paragraph (1) insert—
  - “(2) In this regulation—
    - “contracted-out” is to be construed in accordance with section 7B(2) of the Pension Schemes Act 1993; and
    - “the second abolition date” has the meaning given in section 181(1) of the Pension Schemes Act 1993.”.

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(a) S.I. 2005/649. Regulation 2 was amended by S.I. 2014/540.  
(b) S.I. 2005/678.  
(c) S.I. 2005/706.  
(d) S.I. 2005/931.

### **Amendment of the Financial Assistance Scheme Regulations 2005**

**25.** In regulation 10 (other schemes which are not qualifying pension schemes) of the Financial Assistance Scheme Regulations 2005(a)—

- (a) that regulation becomes paragraph (1) of regulation 10;
- (b) in sub-paragraph (g)(ii) of that paragraph, for “is not contracted-out in accordance with section 9 of the 1993 Act” substitute “was not contracted-out at any time before the second abolition date”; and
- (c) after paragraph (1) insert—
  - “(2) In this regulation—
  - “contracted-out” is to be construed in accordance with section 7B(2) of the 1993 Act; and
  - “the second abolition date” has the meaning given in section 181(1) of the 1993 Act.”.

### **Amendment of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005**

**26.** In paragraph 5 of Schedule 2 (relevant legal requirements for the purposes of section 293) to the Occupational Pension Schemes (Cross-border Activities) Regulations 2005(b), in table 4—

- (a) omit row 1;
- (b) in row 2—
  - (i) in column 1, for “Sections 12A to 12D” substitute “Section 12E”; and
  - (ii) in column 2, for “Requirements for certification of occupational pension schemes” substitute “Former salary related contracted-out schemes to comply with GMP requirements”; and
- (c) in row 7, in column 1, for “Sections 50 and 51” substitute “Section 51”.

### **Amendment of the Employers’ Duties (Registration and Compliance) Regulations 2010**

**27.**—(1) The Employers’ Duties (Registration and Compliance) Regulations 2010(c) are amended as follows.

- (2) In regulation 6(1) (records: employers), omit sub-paragraph (c).
- (3) In regulation 8 (period of preservation of records), after paragraph (2) insert—
  - “(3) Where a certificate issued in respect of a jobholder under section 7(1) of the Pension Schemes Act 1993 was required to be kept under regulation 6(1)(c) (as it had effect before 6th April 2016), that certificate must be preserved until 5th April 2022.”.

## **PART 4**

Amendments coming into force on 6th April 2017

### **Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996**

**28.** In regulation 13(a) (extension of time for payment of cash equivalents) of the Occupational Pension Schemes (Transfer Values) Regulations 1996, for sub-paragraph (ii)(d) substitute—

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(a) S.I. 2005/1986.  
(b) S.I. 2005/3381. Paragraph 5 was amended by S.I. 2009/598.  
(c) S.I. 2010/5.  
(d) Sub-paragraph (ii) was substituted by article 7 of this instrument.



- “(ii) the scheme ceased to be a contracted-out scheme on the second abolition date and the trustees of the scheme have not yet reached an agreement with HMRC as to the scheme’s liabilities for guaranteed minimum pensions or section 9(2B) rights;”.

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

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

(2) In regulation 9 (circumstances in which liability to provide pensions under a relevant scheme may be discharged)—

- (a) in paragraph (1), for “either in paragraph (2) or (3)” substitute “in paragraph (2)”; and
- (b) omit paragraph (3).

(3) In regulation 11(1) (conditions on which liability to provide pensions under a relevant scheme may be discharged), after “regulation 9(2)(b)” omit “and (3)”.

#### **Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000**

**30.**—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 are amended as follows.

(2) In regulation 1(2) (interpretation), in the appropriate places insert—

- ““contracted-out” is to be construed in accordance with section 7B(2) of the 1993 Act;”
- ““guaranteed minimum pension” has the meaning given in section 8(2) of the 1993 Act(a);”
- ““HMRC” means the Commissioners of Her Majesty’s Revenue and Customs;”
- ““the second abolition date” has the meaning given in section 181(1) of the 1993 Act;”

(3) In regulation 3(a) (circumstances in which an application for an extension of the implementation period may be made), for sub-paragraph (ii)(b) substitute—

- “(ii) the scheme ceased to be a contracted-out scheme on the second abolition date and the trustees or managers of the scheme have not yet reached an agreement with HMRC as to the scheme’s liabilities for guaranteed minimum pensions or section 9(2B) rights;”.

#### **Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000**

**31.** In regulation 26(a) (extension of time limits for payment of cash equivalents) of the Pension Sharing (Pension Credit Benefit) Regulations 2000, for sub-paragraph (ii)(c) substitute—

- “(ii) the scheme ceased to be a contracted-out scheme on the second abolition date and the trustees or managers have not yet reached an agreement with HMRC as to the scheme’s liabilities for guaranteed minimum pensions or section 9(2B) rights;”.

#### **Amendment of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013**

**32.** In Schedule 2 (basic information) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(d), omit paragraph 12.

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(a) Section 8(2) is amended by paragraph 7(4) of Schedule 13 to the Pensions Act 2014.  
(b) Sub-paragraph (ii) was substituted by article 16(3) of this instrument.  
(c) Sub-paragraph (ii) was substituted by article 17(3) of this instrument.  
(d) S.I. 2013/2734.

## PART 5

Revocations coming into force on 6th April 2019

### **Revocation of the Occupational Pension Schemes (Modification of the Pension Schemes Act 1993) Regulations 1998 and the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998**

33. The Occupational Pension Schemes (Modification of the Pension Schemes Act 1993) Regulations 1998(a) and the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998 are revoked.

## PART 6

Amendments coming into force on 6th April 2021

### **Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996**

34. In regulation 13(a) of the Occupational Pension Schemes (Transfer Values) Regulations 1996, omit sub-paragraph (ii).

### **Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000**

35.—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 are amended as follows.

(2) In regulation 1(2) (interpretation), omit the definitions of “contracted-out”, “guaranteed minimum pension”, “HMRC”, and “the second abolition date”(b).

(3) In regulation 3(a) (circumstances in which an application for an extension of the implementation period may be made), omit sub-paragraph (ii).

### **Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000**

36. In regulation 26(a) (extension of time limits for payment of cash equivalents) of the Pension Sharing (Pension Credit Benefit) Regulations 2000, omit sub-paragraph (ii).

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

Date

*Name*  
Minister of State  
Department for Work and Pensions

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(a) S.I. 1998/1466.

(b) These definitions are inserted by article 30(2) of this instrument.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under sections 53 and 54 of the Pensions Act 2014 (c.19) (“the 2014 Act”), which provides for consequential amendments to be made in connection with provision made by that 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. Section 24 of the 2014 Act, and Schedule 13 to which it refers, therefore make amendments to existing primary legislation to abolish contracting-out of the additional state pension for salary related pension schemes. This Order makes consequential amendments to subordinate legislation.

In particular, references to a salary related contracted-out scheme are amended to refer to a scheme that was a salary related contracted-out scheme. This term is defined in section 7B of the 1993 Act, which was inserted by the 2014 Act. The Order also amends references to provisions of the 1993 Act which are repealed by the 2014 Act and to the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), which are revoked and replaced (subject to savings) by the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015 (S.I. 2015/1677).

Article 2 amends the definition of “section 9(2B) rights” which is contained within the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015. That definition is now used throughout contracting-out legislation.

Article 3(3) amends regulation 24 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167) to clarify that a salary related scheme ceasing to contract-out on the second abolition date does not constitute a “material alteration” of the scheme for the purposes of that regulation.

Article 4 omits certain provisions of the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462) relating to transfers and transfer payments of pension rights between schemes which are both contracted-out. These provisions continue to have effect under article 5 in relation to transfers which occurred before the second abolition date.

Article 14 amends the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998 (S.I. 1998/1846) from 6th April 2016 to allow the regulations to apply to schemes that were contracted-out at the time the rule alteration was made. Article 33 then revokes those regulations from 6th April 2019, along with the Occupational Pension Schemes (Modification of the Pension Schemes Act 1993) Regulations 1998 (S.I. 1998/1466).

Article 26 amends the Occupational Pension Schemes (Cross Border Activities) Regulations 2005 (S.I. 2005/3381) to amend references to contracting-out legislation in the list of legislation that a European pensions institution is required to comply with if it accepts contributions from a UK employer.

Article 27 amends the Employers’ Duties (Registration and Compliance) Regulations 2010 (S.I. 2010/5) to require that the contracting-out certificate (which was evidence that the scheme met the relevant quality standards in relation to automatic enrolment before the second abolition date) be kept for a period of 6 years after the second abolition date.

Articles 28, 30 and 31 amend respectively the Occupational Pension Schemes (Transfer Values) Regulations 1996 (S.I. 1996/1847), the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (S.I. 2000/1053) and the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054) to allow for the time for relevant payments to be paid to be extended by the Pensions Regulator where the scheme is still seeking to reach an agreement with HMRC, following the abolition of contracting-out, as to the scheme’s liabilities for guaranteed

minimum pensions and section 9(2B) rights. These provisions are then revoked from 6th April 2021 by articles 34, 35 and 36 respectively.

Article 32 removes the requirement for schemes to provide information as to what employment is contracted-out employment under the scheme, from 6th April 2017.

[Impact assessment reference to PA 2014]

Department for Work and Pensions  
October 2015

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