

1987 No. 1116

PENSIONS

**The Personal and Occupational Pension Schemes
(Modification of Enactments) Regulations 1987**

<i>Made - - - -</i>	<i>25th June 1987</i>
<i>Laid before Parliament</i>	<i>6th July 1987</i>
<i>Coming into force</i>	
<i>Regulation 5 and Schedule 6</i>	<i>6th April 1988</i>
<i>Remainder</i>	<i>27th July 1987</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 17(1) and 84(1) of the Social Security Act 1986(a), and of all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 and shall come into force on 27th July 1987, except regulation 5 and Schedule 6, which shall come into force on 6th April 1988.

(2) In these Regulations, “personal pension scheme” has the same meaning as in the Social Security Act 1986.

Provisions of the Social Security Act 1973 relating to occupational pension schemes to apply, subject to modifications, to personal pension schemes

2. Subsections (1), (1A), (3) (except paragraphs (a), (b), (d), (dd) and (e)), (4), (5) (except paragraph (c)) and (6) to (10) of section 64 of the Social Security Act 1973(b) (modification and winding-up of schemes by order of the Occupational Pensions Board) shall have effect in relation to personal pension schemes subject to the modifications described in Schedule 1.

Provisions of the Social Security Pensions Act 1975 relating to occupational pension schemes to apply, subject to modifications, to personal pension schemes

3.—(1) Section 32(2) of the Social Security Pensions Act 1975(c) (an occupational pension scheme can be contracted-out if specified requirements are satisfied) shall have effect in relation to personal pension schemes as if it provided that, subject to the provisions of section 2 of the Social Security Act 1986 and regulations made thereunder,

(a) 1986 c.50. See definitions of “prescribed” and “regulations” in section 84(1).

(b) 1973 c.38. Section 64 is amended by the Social Security Pensions Act 1975 (c.60), sections 56(5) and 65(1) and Schedule 4, paragraph 25, and by the Social Security Act 1986, sections 12(11) and 86(1) and Schedule 10, paragraph 3.

(c) 1975 c.60. Section 32(2) is amended by the Social Security Act 1986, sections 6 and 86(1), Schedule 2, paragraph 5 and Schedule 10, paragraph 16.

a personal pension scheme can be an appropriate scheme (for the purposes of the Social Security Act 1986) only if the rules of the scheme applying to protected rights are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of appropriate schemes and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Occupational Pensions Board as a condition of being an appropriate scheme, either generally or in relation to a particular scheme.

(2) Subsections (1), (2), (2A) and (5) of section 49 of the Social Security Pensions Act 1975(a) (supervision by the Occupational Pensions Board of occupational pension schemes which have ceased to be contracted-out) shall have effect in relation to personal pension schemes subject to the modifications described in Schedule 2.

(3) Section 50 of the Social Security Pensions Act 1975(b) (alteration of rules of contracted-out schemes) shall have effect in relation to personal pension schemes subject to the modifications specified in paragraphs (4) to (6) of this regulation.

(4) Subsection (1) shall be so modified as to provide that, where an appropriate scheme certificate has been issued, no alteration of the rules of the relevant appropriate scheme shall be made so as to affect any of the matters dealt with in Schedule 1 to the Social Security Act 1986, or so as to cause the scheme to cease to take one, and thereafter to take another, of the forms specified in paragraphs (a) to (c) of regulation 2 of the Personal Pension Schemes (Appropriate Schemes) Regulations 1987(c), unless it is an alteration to which subsection (1) does not apply or the following conditions are satisfied, namely—

(a) the Board have given their consent to the alteration; and

(b) (except in so far as the Board in their discretion dispense with satisfaction of this condition) notice of intention to apply for that consent was given in accordance with the requirements specified in paragraph (7) of this regulation, and that, subject to subsection (2), an alteration to which subsection (1) applies but which does not satisfy those conditions shall be void.

(5) Subsection (1A) shall have effect as if paragraph (a) were omitted.

(6) Subsection (3) shall be so modified as to provide that section 50 shall continue in force in relation to a scheme after it has ceased to be appropriate so long as any person has protected rights under the scheme.

(7) The requirements referred to in paragraph (4)(b) are—

(a) that the notice shall be given in writing to—

(i) any member of the scheme who has protected rights under it, and

(ii) any earner who, jointly with the trustees or managers of the scheme, has given in relation to the scheme a notice under section 1(9) of the Social Security Act 1986 which has not been cancelled,
by sending it to his last known address;

(b) that it shall specify the name of the scheme;

(c) that it shall specify the date on which it is desired that the alteration should have effect, being a date which is at least 3 months later than the date on which the notice is given; and

(d) that it shall specify the purport of the intended alteration and give an explanation of the effect on the persons to whom the notice is given.

(8) Sections 56A and 56L of the Social Security Pensions Act 1975(d) shall have effect in relation to personal pension schemes subject to the modifications specified in Schedule 3.

(9) Section 57 of the Social Security Pensions Act 1975 (disclosure of information by the Occupational Pensions Board), except in its application to Northern Ireland, shall have effect in relation to personal pension schemes as if the reference in it to an occupational pension scheme were a reference to a personal pension scheme.

(a) Section 49 is amended by the Social Security Act 1986, sections 6 and 86, Schedule 2, paragraph 9, Schedule 10, paragraph 24, and Schedule 11.

(b) Section 50 is amended by the Social Security Act 1986 (c.50), sections 6 and 86, Schedule 2, paragraph 10, and Schedule 10, paragraph 25.

(c) S.I. 1987/1109.

(d) Sections 56A and 56L were inserted by the Social Security Act 1985 (c.53), section 3 and Schedule 2.

(10) Schedule 1A to the Social Security Pensions Act 1975(a) shall have effect in relation to personal pension schemes subject to the modifications specified in Schedule 4.

(11) Paragraph 6 of Schedule 2 to the Social Security Pensions Act 1975 shall have effect in relation to personal pension schemes subject to the modifications specified in Schedule 5.

Modification of provisions of the Social Security Act 1973 in consequence of Part I of the Social Security Act 1986

4.—(1) In consequence of Part I of the Social Security Act 1986, the provisions of the Social Security Act 1973(b) specified in paragraphs (2) and (3) of this regulation shall have effect subject to the modifications specified in those paragraphs.

(2) Section 64(3)(c) shall have effect as if, after “another scheme”, there were inserted “(whether another occupational pension scheme or a personal pension scheme)”.

(3) Paragraph 6 of Schedule 16 shall have effect as if there were added, after paragraph (1)(b)—

“or

(c) a transfer payment in respect of his rights under a personal pension scheme has been made to the scheme.”.

Modification of provisions of the Social Security Pensions Act 1975 in consequence of Part I of the Social Security Act 1986

5.—(1) In consequence of Part I of the Social Security Act 1986 the provisions of the Social Security Pensions Act 1975(c) specified in paragraphs (2) to (4) of this regulation shall have effect subject to the modifications mentioned in those paragraphs.

(2) Section 49(1) shall have effect as if, after “person” in paragraph (b)(ii) and at the end of the subsection, there were inserted “(not being a person in respect of whom a premium is not payable by virtue of regulation 18(2A) of the Occupational Pension Schemes (Contracting-out) Regulations 1984)”(d).

(3) Schedule 1A shall have effect subject to the modifications described in Schedule 6.

(4) Schedule 2 to the Social Security Pensions Act 1975 shall have effect as if, in paragraph 6(4)(a), after “rights to receive such pensions”, there were inserted “or, in the case of a contracted-out protected rights premium, for the purpose of extinguishing protected rights and reducing any guaranteed minimum pension to which a person is treated as entitled.”.

Signed by authority of the Secretary of State for Social Services.

25th June 1987

Nicholas Scott
Minister of State,
Department of Health and Social Security

(a) 1975 c.60. Schedule 1A was inserted by the Social Security Act 1985 (c.53), section 2 and Schedule 1.

(b) 1973 c.38.

(c) Sub-paragraph (4) was inserted into paragraph 6 of Schedule 2 by the Social Security Act 1980 (c.30), section 3(12).

(d) Paragraph (2A) was inserted into regulation 18 by the Occupational Pension Schemes (Contracted-out Protected Rights Premiums) Regulations 1987 (S.I. 1987/1103), reg. 4(3).

MODIFICATIONS SUBJECT TO WHICH SECTION 64 OF THE SOCIAL SECURITY ACT 1973 IS TO HAVE EFFECT IN RELATION TO PERSONAL PENSION SCHEMES

1. In subsection (1), the substitution, for "an occupational pension scheme", of "a personal pension scheme".
2. In subsection (3)(c), the insertion, after "another scheme", of "(whether another personal pension scheme or an occupational pension scheme)".
3. In subsection (7), the omission of "of service".

SCHEDULE 2

MODIFICATIONS SUBJECT TO WHICH SECTION 49 OF THE SOCIAL SECURITY PENSIONS ACT 1975 IS TO HAVE EFFECT IN RELATION TO PERSONAL PENSION SCHEMES

1. In subsection (1)-
 - (a) the substitution, for "occupational pension scheme, other than a public service scheme", of "personal pension scheme";
 - (b) the substitution, for "a contracted-out scheme", of "an appropriate scheme";
 - (c) the substitution, for paragraph (b) (both before and after the coming into force of paragraph 9(a) of Schedule 2 to the Social Security Act 1986), of the following paragraph-

"(b) there has not been a payment of a premium under section 5 of the Social Security Act 1986 in respect of each person (not being a person in respect of whom a premium is not payable by virtue of regulation 3 of the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations 1987) who has protected rights under it or is entitled to any benefit giving effect to protected rights under it"; and
 - (d) the insertion, at the end, of "(not being a person in respect of whom a premium is not payable by virtue of regulation 3 of the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations 1987"(a).
2. In subsection (2), the substitution, for paragraphs (a) (both before and after the coming into force of paragraph 9(b) of Schedule 2 to the Social Security Act 1986) and (b) and the words following them, of "the matters in respect of which, for the purposes of determining whether a personal pension scheme should be or continue to be an appropriate scheme, they are required to be satisfied under paragraph 10 of Schedule 1 to the Social Security Act 1986".
3. In subsection (2A), the substitution, for the words from "subsection (1C)" to "subsection (3) of that section", of "subsection (2) of section 5 of the Social Security Act 1986 which has not been cancelled under subsection (3) of that section".
4. In subsection (5) (both before and after the coming into force of paragraph 9(c) of Schedule 2 to the Social Security Act 1986), the substitution, for the words from "sections" to "above", of "Schedule 1 to the Social Security Act 1986".

(a) S.I. 1987/1111.

SCHEDULE 3

Regulation 3(8)

MODIFICATIONS SUBJECT TO WHICH SECTIONS 56A AND 56L OF THE SOCIAL SECURITY PENSIONS ACT 1975 ARE TO HAVE EFFECT IN RELATION TO PERSONAL PENSION SCHEMES

1. In section 56A
 - (a) the substitution, for the references to an occupational pension scheme and occupational pension schemes, of references to a personal pension scheme and personal pension schemes respectively;
 - (b) the omission of the references to prospective members;
 - (c) the omission of subsections (2)(d), (4) and (9);
 - (d) the omission, from subsection (7), of "(other than a public service pension scheme)"; and
 - (e) the substitution, for paragraphs (a) and (b) of subsection (8), of the following paragraphs—
 - "(a) the trustees or managers of the scheme;
 - (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
 - (c) any member of the scheme."
2. In section 56L(1), the substitution, for the reference to a scheme, of a reference to a personal pension scheme.

SCHEDULE 4

Regulation 3(10)

MODIFICATIONS SUBJECT TO WHICH SCHEDULE 1A TO THE SOCIAL SECURITY PENSIONS ACT 1975 IS TO HAVE EFFECT IN RELATION TO PERSONAL PENSION SCHEMES

1. In paragraph 1—
 - (a) the substitution, for sub-paragraph (1), of the following sub-paragraph—

"(1) This Part of this Schedule applies to any member of a personal pension scheme (other than a member of such a scheme which is comprised in an annuity contract made before 4th January 1988) in respect of whom contributions (which expression includes, where applicable, minimum contributions within the meaning of Part I of the Social Security Act 1986) to the scheme have ceased to be paid and who has accrued rights to benefit under the scheme."; and
 - (b) the omission of sub-paragraphs (2) to (4).
2. The omission of paragraphs 2 to 4.
3. In paragraph 5—
 - (a) in sub-paragraph (3), the omission of "if the revaluation condition is satisfied,"; and
 - (b) the substitution, for sub-paragraph (4), of the following sub-paragraph—

"(4) The trustees and managers of a personal pension scheme may, when providing a pension or other retirement benefit under sub-paragraph (3) above, deduct a sum which does not exceed—

 - (a) the actual administrative expenses of doing so, or, if it is less,
 - (b) the amount of the administrative expenses which would have been incurred in providing a money purchase benefit for the same member if contributions had not ceased to be paid to the scheme in respect of him."
4. The omission of paragraph 6.
5. In paragraph 7
 - (a) in sub-paragraph (1), the omission of "Subject to sub-paragraph (2) below,"; and
 - (b) the omission of sub-paragraphs (2) to (4).
6. The omission of paragraphs 8 to 10.

7. In paragraph 11—
- (a) the substitution, for sub-paragraph (1), of the following sub-paragraph—
“(1) This Part of this Schedule applies to any member of a personal pension scheme (other than a member of such a scheme which is comprised in an annuity contract made before 4th January 1988) who has accrued rights to benefits under that scheme.”;
 - (b) the omission of sub-paragraph (2); and
 - (c) in sub-paragraph (3), the substitution, for “an occupational pension scheme”, of “a personal pension scheme”.
8. In paragraph 12—
- (a) the substitution, for sub-paragraph (1), of the following sub-paragraph—
“(1) Subject to the following provisions of this Schedule, a member acquires a right to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the rules of the scheme.”;
 - (b) in sub-paragraph (2)—
 - (i) the omission of the definition of the expression “the applicable rules”, and
 - (ii) the substitution, for the definition of the expression “the relevant date”, of the following definition—
“ ‘the relevant date’ means the date of the relevant application;”;
 and
 - (c) the omission of sub-paragraphs (2A), (2B) and (3).
9. In paragraph 13—
- (a) in sub-paragraph (2)(a), the substitution, for “another scheme”, of “an occupational pension scheme, or for acquiring rights allowed under the rules of another personal pension scheme”, and the insertion, after “whose trustees or managers” and after “which”, of “, in either case,”;
 - (b) the omission of sub-paragraph (2)(b);
 - (c) in sub-paragraph (5), the substitution, for paragraphs (a) and (b), of the following paragraphs—
“(a) the trustees or managers of an occupational pension scheme which is not a contracted-out scheme, or of a personal pension scheme which is not an appropriate scheme, are able or willing to accept a transfer payment only in respect of a member’s rights other than his protected rights within the meaning given by Schedule 1 to the Social Security Act 1986; and
(b) the member has not required the trustees or managers of the scheme from which he is being transferred to use that portion of his cash equivalent that represents protected rights within the meaning given by Schedule 1 to the Social Security Act 1986 in either of the ways specified in sub-paragraph (2) above.”;
- and
- (d) in sub-paragraph (6), the substitution, for “his and his widow’s guaranteed minimum pensions”, of “his protected rights within the meaning given by Schedule 1 to the Social Security Act 1986”.
10. In paragraph 14—
- (a) in sub-paragraph (3)(a)(ii), the substitution, for “to provide guaranteed minimum pensions”, of “to make provision for protected rights”; and
 - (b) the omission of sub-paragraph (4)(a)(i).
11. The substitution, for paragraph 15, of the following paragraph—
“15.—(1) Where, on or before the relevant date, the whole, or any part, of a member’s benefits have become payable under the scheme, the right which he acquires under paragraph 12(1) above is only to the cash equivalent of any of the benefits mentioned in that paragraph which have not become payable.
(2) A member loses the right to any cash equivalent under this Part of this Schedule if the scheme is wound up.”.
12. In paragraph 16—
- (a) in sub-paragraph (2), the substitution, for “to provide such guaranteed minimum pensions”, of “to make provision for such protected rights”;
 - (b) the omission of sub-paragraph (3)(b);
 - (c) the omission of sub-paragraph (4);

- (d) the substitution, for sub-paragraph (5)(a)(ii), of the following—
 - “(ii) the scheme is ceasing to be an appropriate personal pension scheme within the meaning of Part I of the Social Security Act 1986,”; and
- (e) in sub-paragraph (5)(b), the insertion, after “section 49 above”, of “, as modified by regulation 3(2) of, and Schedule 2 to, the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987,”.

13. In paragraph 17, the substitution, for “13(2)(a), (b) or (c)” of “13(2)(a) or (c)”.

14. In paragraph 19, the insertion, after “purposes of”, of “Part II of”.

15. In paragraph 21—

- (a) the substitution, for “occupational pension scheme”, of “personal pension scheme”; and
- (b) the omission of sub-paragraph (b).

16. In paragraph 22

- (a) in sub-paragraph (1), the substitution, for “occupational pension scheme (other than a public service pension scheme)”, of “personal pension scheme”; and
- (b) in sub-paragraph (2)(a), the substitution, for “section 41E(2)(a) to (d)”, of “section 41E(2)(a), (b) and (d)”.

SCHEDULE 5

Regulation 3(11)

MODIFICATIONS SUBJECT TO WHICH PARAGRAPH 6 OF SCHEDULE 2 TO THE SOCIAL SECURITY PENSIONS ACT 1975(a) IS TO HAVE EFFECT IN RELATION TO PERSONAL PENSION SCHEMES

1. In sub-paragraph (3)(bb), the substitution, for “Part III of this Act”, of “Part I of the Social Security Act 1986”.
2. In sub-paragraph (3)(c), the omission of the words after “another premium”.
3. In sub-paragraph (4)(a), the substitution, for “extinguishing accrued rights to guaranteed minimum pensions and rights to receive such pensions a state scheme premium”, of “extinguishing protected rights and reducing any guaranteed minimum pension to which a person is treated as entitled, a personal pension protected rights premium”.

SCHEDULE 6

Regulation 5(3)

OTHER MODIFICATIONS OF SCHEDULE 1A TO THE SOCIAL SECURITY PENSIONS ACT 1975 IN CONSEQUENCE OF PART I OF THE SOCIAL SECURITY ACT 1986

1. In paragraph 13(2)(a), the substitution, for “another scheme”, of “another occupational pension scheme, or for acquiring rights allowed under the rules of a personal pension scheme”, and the insertion, after “whose trustees or managers” and after “which”, of “, in either case,”;
2. In paragraph 13(2)(b), the insertion, at the beginning, of “except in respect of the cash equivalent of his protected rights, if any, under a scheme which is, or was formerly, a money purchase contracted-out scheme”;
3. In paragraph 13(5), the substitution, for paragraphs (a) and (b), of the following paragraphs—
 - “(a) the trustees or managers of an occupational pension scheme which is not a contracted-out scheme, or of a personal pension scheme which is not an appropriate scheme, are

(a) 1975 c.60. Sub-paragraphs (3)(bb) and (4) were inserted into paragraph 6 of Schedule 2 by the Social Security Act 1980 (c.30), section 3(12).

- able or willing to accept a transfer payment only in respect of a member's rights other than his accrued rights to guaranteed minimum pensions or his protected rights; and
- (b) the member has not required the trustees or managers of the scheme from which he is being transferred to use that portion of his cash equivalent that represents guaranteed minimum pensions or protected rights in any of the ways specified in sub-paragraph (2) above."
4. In paragraph 13(6), the addition, at the end, of "or his protected rights".
5. In paragraph 14(3)(a)(ii), the insertion, after "guaranteed minimum pensions", of "or give effect to protected rights".
6. In paragraph 16(2), the substitution, for "such case as is" and "such guaranteed minimum pensions" of "such cases as are" and "such guaranteed minimum pensions or give effect to such protected rights" respectively.
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are all made under the Social Security Act 1986 before the end of a period of 12 months from the commencement of the relevant sections of that Act. Consequently, by virtue of section 61(5) of that Act, the provisions of section 61(2) and (3) of the Social Security Pensions Act 1975 (as amended by section 86(1) of, and paragraph 94 of Schedule 10 to, the Social Security Act 1986), which require reference to the Occupational Pensions Board of, and a report by the Board on, proposals to make regulations for certain purposes of both Acts, do not apply to them.

Section 17(1) of the Social Security Act 1986 gives power to make regulations providing that provisions of the Social Security Act 1973 and the Social Security Acts 1975 to 1986 which relate to occupational pension schemes—

- (a) shall have effect in relation to personal pension schemes subject to prescribed modifications;
- (b) shall have effect subject to such other modifications as the Secretary of State may consider necessary or expedient in consequence of Part I of the Social Security Act 1986.

These Regulations make certain provisions of the Social Security Act 1973 and the Social Security Pensions Act 1975 apply to personal pension schemes, subject to specified modifications, and make other modifications of those Acts in consequence of Part I of the Social Security Act 1986.

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