
STATUTORY INSTRUMENTS

1997 No. 784

**The Occupational Pension Schemes
(Discharge of Liability) Regulations 1997**

PART III

**DISCHARGE OF LIABILITY TO PROVIDE
PENSIONS UNDER A RELEVANT SCHEME**

Prohibition and restriction of the discharge of liability to provide pensions under a relevant scheme

8. The trustees of a relevant scheme are prohibited or restricted from discharging any liability to provide pensions under a relevant scheme except—

- (a) in the circumstances and on the conditions prescribed in this Part; or
- (b) where the requirements imposed by the Occupational Pension Schemes (Winding Up) Regulations 1996(1) or Part V of the Occupational Pension Schemes (Contracting-out) Regulations 1996(2) apply.

Circumstances in which liability to provide pensions under a relevant scheme may be discharged

9.—(1) The trustees of a relevant scheme may discharge any liability to provide pensions under a relevant scheme where the circumstances specified either in paragraph (2) or (3) apply.

(2) The member or, if the member has died, his widow or her widower, or if there is no such widow or widower, any person who may be entitled to payment of the pension under the scheme, consents in writing to the discharge of liability and the transaction to discharge the liability—

- (a) is to be carried out not earlier than the time when the member's pensionable service terminates; and
- (b) satisfies all the conditions specified in regulation 11.

(3) The member's employment is to cease to be contracted-out under section 9(2B) of the 1993 Act and the transaction to discharge liability satisfies all the conditions specified in regulation 11.

Meaning of “transaction”

10. For the purposes of regulation 9 “transaction” means—

- (a) the taking out of a policy of insurance or a number of such policies;
- (b) the entry into an annuity contract or a number of such contracts; or

(1) S.I.1996/3126.

(2) S.I. 1996/1172.

- (c) the transfer of pensions and accrued rights to such a policy or policies or such a contract or contracts.

Conditions on which liability to provide pensions under a relevant scheme may be discharged

11.—(1) The conditions referred to in regulation 9(2)(b) and (3) which must be satisfied are specified in paragraphs (2) and (3).

(2) The policy of insurance or annuity contract must be taken out or entered into with an insurance company such as is described in section 19(4)(a) of the 1993 Act.

(3) The policy of insurance or annuity contract contains provision to the effect that, or is endorsed so as to provide that—

- (a) except in the circumstances specified in paragraph (4), where a pension or annuity is in payment at the date of the beneficiary's death at least 50 per cent. of the annual rate attributable to pensions and accrued rights under the relevant scheme which was in payment at the date of death shall be payable to the beneficiary's widow or widower;
- (b) except in the circumstances referred to in paragraph (4)(b) and (c), where a pension or annuity is not in payment at the date of the beneficiary's death at least 50 per cent of the accumulated value of the policy of insurance or annuity contract at the date of death attributable to pension and accrued rights under the relevant scheme shall be applied so as to provide a pension or annuity for the beneficiary's widow or widower;
- (c) payments to a beneficiary's widow or widower under the policy or contract which derive from a pension or accrued rights under the relevant scheme shall be subject to the same rate of an annual increase and restrictions which would have applied as a consequence of section 5 (annual increase in rate of pension) and section 52 (restriction on increase where member is under 55) of the 1995 Act had the discharge of liability not taken place;
- (d) the benefits secured under the policy or contract shall become payable with the beneficiary's consent, and the beneficiary—
 - (i) has attained the age of 50 and is under the age of 75, or
 - (ii) is suffering from an incapacity or serious ill-health prior to normal pension age;
- (e) any rights of a beneficiary to a payment under the policy or contract which derive from a pension or accrued rights under the relevant scheme shall be treated as if—
 - (i) section 51 and section 52 of the 1995 Act and regulations made under those sections, and
 - (ii) section 12C(1) of the 1993 Act and regulations made under that section, were applicable to them.

(4) The circumstances referred to in paragraph (3)(a) are—

- (a) the beneficiary marries after having received benefits under the policy or contract;
- (b) the widow or widower of the beneficiary remarries or lives together as husband and wife with another person to whom he or she is not married after having received benefits under the policy or contract;
- (c) the widow or widower of the beneficiary is living together as husband and wife with another person to whom he or she is not married at the time of the member's death.

(5) For the purposes of paragraph (3)(d) "incapacity" and "serious ill-health" have the same meaning as in regulation 4(4).

(6) For the purposes of paragraph (3)(e) the provisions in the 1993 Act and the 1995 Act shall be construed as if—

- (a) the policy of insurance or annuity contract is a relevant scheme;
- (b) the insurance company is the trustee of the relevant scheme;
- (c) the beneficiary is the member of the relevant scheme; and
- (d) the terms of the policy or contract are the rules of the relevant scheme.