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

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**2000 No. 2691****PENSIONS****The Pension Sharing (Consequential and Miscellaneous Amendments) Regulations 2000**

*Made* - - - - - *30th September 2000*

*Laid before Parliament* *4th October 2000*

*Coming into force* - - *1st December 2000*

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 68B, 68D(a), 101D(4)(b), 101F(6)(b), 101I, 101L(1)(b), 181(1)(c) and 182(2) and (3) of the Pension Schemes Act 1993(d), sections 73(7) and 124(1) of the Pensions Act 1995(e) and sections 23(1)(a) and (d), 30(1) and (2), 35(2)(b), 45(1), 83(4) and (6) and 84(2) of, and paragraphs 1(3)(c), 5(b) and 7(1)(b) and (2)(b) of Schedule 5 to, the Welfare Reform and Pensions Act 1999, and of all other powers enabling him in that behalf, having consulted such persons as he considered appropriate(f), hereby makes the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Pension Sharing (Consequential and Miscellaneous Amendments) Regulations 2000 and shall come into force on 1st December 2000.

(2) In these Regulations, regulation 6 (in so far as the definitions referred to in that regulation apply to regulation 3 of the Register of Occupational and Personal Pension Schemes Regulations 1997(g)) shall extend to Northern Ireland.

**Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987**

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987(h) shall be amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2)—

(a) in the definition of “member”, after “scheme” insert “and includes a pension credit member”;

(b) after the definition of “member” insert the following definition—

““pension credit member” has the meaning given by section 124(1) of the Pensions Act 1995(i);”;

(c) after the definition of “pensionable age” insert the following definition—

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(a) Sections 68B and 68D are inserted by section 36 of the Welfare Reform and Pensions Act 1999 (c. 30).

(b) Sections 101D, 101F, 101I and 101L are inserted by section 37 of the Welfare Reform and Pensions Act 1999.

(c) Section 181 is cited because of the meaning there given to “prescribed” and “regulations”.

(d) 1993 c. 48.

(e) 1995 c. 26. Section 124(1) is cited because of the meaning there given to “regulations”.

(f) See section 83(11) of the Welfare Reform and Pensions Act 1999.

(g) S.I. 1997/371, as amended by S.I. 1997/1405, 3038 and 1998/600.

(h) S.I. 1987/1110; relevant amending instruments are S.I. 1988/474, 1992/1531 and 1996/776.

(i) The definition of “pension credit member” is inserted by paragraph 61(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999.

““safeguarded rights” means those rights referred to in section 68A of the Act(a);”.

- (3) In regulation 5 (information to be made available to individuals)—
  - (a) in paragraph (3) after “rights” insert “or no safeguarded rights”;
  - (b) in paragraph (4)—
    - (i) after “rights” where that word first appears, insert “or safeguarded rights”;
    - (ii) in sub-paragraph (b) after “rights” insert “or safeguarded rights”.
- (4) In Schedule 1 (basic information about the scheme)—
  - (a) in paragraph 12 after “rights” insert “or safeguarded rights”;
  - (b) in paragraph 13 after “rights” insert “or safeguarded rights”.
- (5) In Schedule 2 (information to be made available to individuals)—
  - (a) in paragraph 4 after “rights” where that word last appears insert “or safeguarded rights”;
  - (b) in paragraph 11 after “rights” insert “or safeguarded rights”.

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

3.—(1) The Occupational Pension Schemes (Winding Up) Regulations 1996(b) shall be amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and interpretation), for paragraph (4) substitute the following paragraph—

“(4) In these Regulations—

“the MFR Regulations” means the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996(c);

“pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999;

“transfer credits” has the meaning given by regulation 1(2) of the Pension Sharing (Pension Credit Benefit) Regulations 2000(d) (citation, commencement and interpretation).”.

(3) In regulation 3 (modification of section 73(3) of the Pensions Act 1995), for paragraph (5) substitute—

“(5) for paragraphs (c) and (d) of section 73(3) there shall be substituted—

“(c) any liability—

(i) for equivalent pension benefits (within the meaning of section 57(1) of the National Insurance Act 1965), guaranteed minimum pensions, protected rights, section 9(2B) rights (within the meaning of regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996(e)), or safeguarded rights (within the meaning of section 68A(1) of the Pension Schemes Act 1993) (but excluding increases to pensions), or

(ii) in respect of members with less than two years pensionable service who are not entitled to accrued rights under the scheme, for the return of contributions,

(d) any liability for increases to pensions referred to in paragraphs (aa) and (b),

(e) any liability for increases to pensions referred to in paragraph (c),

(f) so far as not included in paragraph (c) or (e), any liability for—

(i) pensions or other benefits which have accrued to or in respect of any members of the scheme (including increases to pensions), or

(ii) future pensions, or other future benefits, attributable (directly or indirectly) to pension credits (including increases to pensions).”.

(4) In regulation 8 (requirements to be satisfied by transferee schemes, annuities, etc.), for paragraphs (1) to (3) substitute—

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(a) Section 68A is inserted by section 36 of the Welfare Reform and Pensions Act 1999.

(b) S.I. 1996/3126, to which there are amendments not relevant to these Regulations.

(c) S.I. 1996/1536 to which there are amendments not relevant to these Regulations.

(d) S.I. 2000/1054.

(e) S.I. 1996/1462.

“(1) For the purpose of section 74(3)(a) (discharge of liability to or in respect of a member by the acquisition of transfer credits under another occupational pension scheme), the requirements to be satisfied by the other occupational pension scheme are the same as those which would apply by virtue of—

- (a) section 95(2)(a) of the Pension Schemes Act 1993 (ways of taking right to cash equivalent) if—
  - (i) the member were entitled to a cash equivalent under Chapter IV of Part IV of that Act in respect of the rights liability in respect of which is being discharged, and
  - (ii) he required his cash equivalent to be used to acquire transfer credits allowed under the rules of the scheme; or
- (b) section 101F(2)(a) of that Act (power to give transfer notice).

(2) For the purpose of section 74(3)(b) (discharge of liability to or in respect of a member by the acquisition of rights under a personal pension scheme), the requirements to be satisfied by the personal pension scheme are the same as those which would apply by virtue of—

- (a) section 95(2)(b) of the Pension Schemes Act 1993 if the member were so entitled and he required his cash equivalent to be used to acquire rights allowed under the rules of the scheme; or
- (b) section 101F(2)(a) of that Act.

(3) For the purpose of section 74(3)(c) (discharge of liability to or in respect of a member by the purchase of one or more annuities) the requirements to be satisfied by the annuities are the same as those which would apply by virtue of—

- (a) section 95(2)(c) of the Pension Schemes Act 1993 if the member were so entitled and he required his cash equivalent to be used to purchase annuities from such insurance companies as are mentioned in that section; or
- (b) section 101F(2)(b) of that Act, other than the requirement that an insurance company must be chosen by the member.”.

#### **Amendment of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996**

4.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 shall be amended in accordance with this regulation.

(2) In regulation 2 (interpretation), in paragraph (1) after the definition of “minimum funding valuation” insert the following definitions—

““normal benefit age” has the meaning given by section 101B of the Pension Schemes Act 1993(a);

“pension credit benefit” has the meaning given by section 101B of the Pension Schemes Act 1993;

“pension credit benefit member”, in relation to an occupational pension scheme, means a person who has become entitled, by virtue of having pension credit rights which have come into payment, to the present payment of pension or other benefits;

“pension credit member” has the meaning given by section 124(1) of the Pensions Act 1995;

“pension credit rights” has the meaning given by section 124(1) of the Pensions Act 1995(b);”.

(3) In regulation 3 (determination, valuation and verification of assets and liabilities: general)—

- (a) in sub-paragraph (c)(i) of paragraph (2) after “pensioner members” insert “or pension credit benefit members”;
- (b) in sub-paragraph (c)(ii) of that paragraph—
  - (i) for “and deferred members” substitute “, deferred members and pension credit members”; and

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(a) Section 101B is inserted by section 37 of the Welfare Reform and Pensions Act 1999.

(b) 1995 c. 26. The definition of “pension credit member” is inserted by paragraph 61(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999.

- (ii) after “accrued rights” insert “and any pension credit rights”;
- (c) in paragraph (3) after “accrued rights” insert “and any pension credit rights”.
- (4) In regulation 7 (determination and valuation of liabilities)—
  - (a) in paragraph (3) after “pensioner members” insert “, or who are pension credit benefit members,”;
  - (b) in paragraph (4) after “pensioner members” at each place where those words appear, insert “or pension credit benefit members”;
  - (c) in paragraph (5)(b) after “pensioner members” insert “or pension credit benefit members”;
  - (d) in paragraph (7) after “pensioner members” insert “, or who are not pension credit benefit members,”;
  - (e) in paragraph (8)—
    - (i) after “deferred members” where those words first appear, insert “or pension credit members”;
    - (ii) before “on the relevant date” insert “, or who are pension credit members,”;
  - (f) for paragraphs (9) and (10) substitute—

“(9) For the purposes of this regulation, a scheme is only to be taken to have a gilts-matching policy for liabilities in respect of pensioner members, pension credit benefit members, deferred members or pension credit members at any time if the last statement in respect of the scheme under section 35 before that time states that the trustees’ policy is to meet all liabilities in respect of pensioner members, pension credit benefit members or, as the case may be, deferred members or pension credit members from investments in gilt-edged securities.

(10) In this regulation “the switch-over period”, in relation to a member, means the period of 10 years ending with the age at which the member—

- (a) will first become entitled under the provisions of the scheme to receive a full pension on retirement of an amount determined without a reduction to take account of its payment before a later age (but disregarding any entitlement to pension on retirement in the event of illness, incapacity or redundancy); or
- (b) will reach normal benefit age.”.

(5) In regulation 8 (further provisions as to valuation: methodology, assumptions etc.), in paragraph (2)(a)(i) after “pensioner members” insert “or who are pension credit benefit members”.

#### **Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996**

5.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996(a) shall be amended in accordance with this regulation.

- (2) In regulation 1 (citation, commencement and interpretation), in paragraph (2)—
  - (a) in the definition of “excluded person”, after “member” insert “or pension credit member”;
  - (b) after the definition of “money purchase scheme” insert the following definition—
    - ““normal benefit age” has the meaning given by section 101B of the 1993 Act;”;
    - and
  - (c) after the definition of “normal pension age” insert the following definitions—
    - ““pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999;
    - “pension credit member” has the meaning given by section 124(1) of the 1995 Act;”.
- (3) In regulation 5 (information to be made available to individuals)—
  - (a) in paragraph (4) for “or deferred member” substitute “member, deferred member or pension credit member”;
  - (b) in paragraph (5) for “paragraphs 5 and 6” substitute “paragraphs 5, 6 and 6AA”;

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(a) S.I. 1996/1655 as amended by S.I. 1997/786, 1997/3038 and 1999/3198.

(c) after paragraph (6) insert the following paragraph—

“(6A) Where a scheme is, or has been, a money purchase scheme, the information mentioned in paragraph 7 of Schedule 2 shall be sent, as of course, to each pension credit member—

- (a) in a case where the trustees or managers of the scheme know of no reason to suppose that the pension credit member will not give effect to his rights on the date on which he attains normal benefit age, at least 6 months before he attains that age;
- (b) in any other case—
  - (i) if the date of the agreement in respect of which the pension credit member is to give effect to his rights (“the date of agreement”) is more than 6 months before the agreed date for giving effect to his rights (“the agreed date”), at least 6 months before the agreed date, and
  - (ii) if the date of agreement is not more than 6 months before the agreed date, within 7 days of the date of agreement and in any event before the agreed date.”;

(d) after paragraph (7) insert the following paragraph—

“(7A) Where a scheme which has been a money purchase contracted-out scheme ceases to be such a scheme, the trustees of the scheme shall inform each pension credit member as soon as practicable, and in any event not more than one month after the date on which it ceased to be such a scheme, that the scheme has so ceased, and furnish the pension credit member, as soon as practicable and in any event not more than 4 months after the date on which it ceased to be such a scheme, with—

- (a) the information mentioned in paragraphs 6AA, 8A and 9 of Schedule 2, and
- (b) except where the scheme is able to meet in full its liabilities to the pension credit member, the information mentioned in paragraph 10 of Schedule 2.”; and
- (e) in paragraph (10) in sub-paragraphs (a), (b) and (d) after “members” for “and” substitute “, every person entitled to a pension credit and all”.

(4) In Schedule 2 (information to be made available to individuals)—

(a) in paragraph 4—

(i) after sub-paragraph (b) insert the following sub-paragraph—

“(c) a pension credit member, the amounts of his own benefits and of any survivors’ benefits payable from normal benefit age or death.”;

(ii) for “And in either case” substitute “In the case of an active member or a deferred member”; and

(iii) at the end of that paragraph insert the following—

“In the case of a pension credit member, the information must include:

- the method or formula for calculating the member’s own benefits and any survivors’ benefits; and
- details of how any deduction from benefits is calculated.”;

(b) after paragraph 6 insert the following paragraph—

“**6AA.** (a) The value of—

(i) the pension credit member’s safeguarded rights under the scheme as at a specified date; and

(ii) the pension credit member’s accrued rights (other than his safeguarded rights) under the scheme at the same or another specified date.

(b) Where the cash equivalent (calculated, as at the date specified for the the purposes of sub-paragraph (a) in accordance with section 101I of the 1993 Act (calculation of cash equivalents) and regulation 24 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (manner of calculation and verification of cash equivalents)) in respect of the transfer of any of the pension credit member’s rights mentioned in sub-paragraph (a) would be different from the values to be specified under that sub-paragraph, that cash equivalent.”;

(c) after paragraph 8 insert the following paragraph—

“**8A.** The date on which the scheme ceased to be a money purchase contracted-out scheme.”;

(d) in paragraph 9 after “rights” insert “or safeguarded rights, as the case may be”;

- (e) in paragraph 10 after “protected rights” in each place where those words appear, insert “or safeguarded rights”;
  - (f) in paragraphs 13 and 14 for “of the 1993 Act” substitute “or Chapter II of Part IVA of the 1993 Act(a).
- (5) In Schedule 3 (information to be included in annual report), in paragraph 7(a)—
- (a) after “Part IV” insert “or Chapter II of Part IVA”; and
  - (b) for “of the 1993 Act” where those words last appear, substitute “or section 101I of the 1993 Act, as the case may be,”.

#### **Amendment of the Register of Occupational and Personal Pension Schemes Regulations 1997**

6.—(1) The Register of Occupational and Personal Pension Schemes Regulations 1997 shall be amended in accordance with this regulation.

- (2) In regulation 1(4) (citation, extent, commencement and interpretation)—
- (a) in the definition of “member”—
    - (i) in sub-paragraph (a)(ii) delete “or”;
    - (ii) at the end of sub-paragraph (a)(iii) insert “or
    - (iv) has pension credit rights under the scheme;”; and
    - (iii) in sub-paragraph (b) after “scheme” where it last appears insert “including a member who has pension credit rights under the scheme”; and
    - (iv) has pension credit rights under the scheme;”; and
  - (b) after the definition of “open scheme”, insert the following definition—
 

““pension credit rights” has the meaning given by section 101B of the 1993 Act;”.

#### **Amendment of the Occupational and Personal Pension Schemes (Levy) Regulations 1997**

7.—(1) The Occupational and Personal Pension Schemes (Levy) Regulations 1997(b) shall be amended in accordance with this regulation.

- (2) In regulation 1(2) (citation, commencement and interpretation)—
- (a) in the definition of “member”—
    - (i) in sub-paragraph (a)(ii) delete “or”;
    - (ii) at the end of sub-paragraph (a)(iii) insert “or
    - (iv) has pension credit rights under the scheme;”; and
    - (iii) in sub-paragraph (b) after “scheme” where it last appears insert “, including a member who has pension credit rights under the scheme”; and
  - (b) after the definition of “member” insert the following definition—
 

““pension credit rights” has the meaning given by section 101B of the 1993 Act;”.

#### **Amendment of the Pensions on Divorce etc. (Provision of Information) Regulations 2000**

8.—(1) The Pensions on Divorce etc. (Provision of Information) Regulations 2000(c) shall be amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2) delete the definition of “relevant date”.

(3) In regulation 4 (provision of information in response to a notification that a pension sharing order or provision may be made), in paragraph (2) delete sub-paragraph (j).

(4) In regulation 6 (provision of information after the death of the person entitled to the pension credit before liability in respect of the pension credit has been discharged), for paragraph (1) substitute the following paragraph—

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(a) Chapter II of Part IVA is inserted by section 37 of the Welfare Reform and Pensions Act 1999.  
 (b) S.I. 1997/666, to which there are amendments not relevant to these Regulations.  
 (c) S.I. 2000/1048.

“(1) Where the person entitled to the pension credit dies before the person responsible for the pension arrangement has discharged his liability in respect of the pension credit, the person responsible for the pension arrangement shall, within 21 days of the date of receipt of the notification of the death of the person entitled to the pension credit, notify in writing any person whom the person responsible for the pension arrangement considers should be notified of the matters specified in paragraph (2).”.

#### **Amendment of the Pensions on Divorce etc. (Charging) Regulations 2000**

9.—(1) The Pensions on Divorce etc. (Charging) Regulations 2000(a) shall be amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “implementation period” insert the following definition—

““normal pension age” has the meaning given by section 180 of the Pension Schemes Act 1993;”.

(3) In regulation 2 (general requirements as to charges), for paragraph (8) substitute the following paragraph—

“(8) The information specified in regulation 2(2) and (3) of the Provision of Information Regulations shall be provided to the member or his spouse without charge unless—

- (a) the person responsible for the pension arrangement has furnished the information to the member, his spouse or the court within a period of 12 months immediately prior to the date of the request or the court order for the provision of that information;
- (b) the member has reached normal pension age on or before the date of the request or the court order for the provision of the information;
- (c) the request or the court order for the provision of the information is made within 12 months prior to the member reaching normal pension age; or
- (d) the circumstances referred to in regulation 3(2)(b)(i) apply.”.

#### **Amendment of the Pension Sharing (Valuation) Regulations 2000**

10.—(1) The Pension Sharing (Valuation) Regulations 2000(b) shall be amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2) after the definition of “transfer credits”, insert the following definition—

““transfer day” has the meaning given by section 29(8) of the 1999 Act;”.

(3) In regulation 4 (occupational pension schemes: manner of calculation and verification of cash equivalents)—

(a) after paragraph (2) insert the following paragraphs—

“(2A) Where the person with pension rights is a deferred member of an occupational pension scheme on the transfer day, the value of the benefits which he has accrued under that scheme shall be taken to be—

- (a) in the case of an occupational pension scheme other than a salary related scheme, the cash equivalent to which he acquired a right under section 94(1)(a) of the 1993 Act(c) (right to cash equivalent) on the termination of his pensionable service, calculated on the assumption that he has made an application under section 95(1) of that Act(d) (ways of taking right to cash equivalent); or
- (b) in the case of a salary related occupational pension scheme, the guaranteed cash equivalent to which he would have acquired a right under section 94(1)(aa) of the 1993 Act(e) if he had made an application under section 95(1) of that Act.

(a) S.I. 2000/1049.

(b) S.I. 2000/1052.

(c) Section 94(1)(a) was amended by section 154 of the Pensions Act 1995.

(d) Section 95 was amended by paragraph 3 of Schedule 6 to the Pensions Act 1995.

(e) Section 94(1)(aa) was inserted by section 154(2) of the Pensions Act 1995.

(2B) Where the person with pension rights is an active member of an occupational pension scheme on the transfer day, the value of the benefits which he has accrued under that scheme shall be calculated and verified—

(a) on the assumption that the member had made a request for an estimate of the cash equivalent that would be available to him were his pensionable service to terminate on the transfer day; and

(b) in accordance with regulation 11 of, and Schedule 1 to, the Occupational Pension Schemes (Transfer Values) Regulations 1996 (disclosure).”; and

(b) in paragraph (5) at the end insert the following words—

“, and by adopting methods consistent with the requirements of Chapter IV of Part IV of the 1993 Act (protection for early leavers—transfer values)”.

(4) In regulation 5 (occupational pension schemes: further provisions as to the calculation of cash equivalents and increases and reductions of cash equivalents), for paragraph (5) substitute the following paragraph—

“(5) The reduction referred to in paragraph (3) shall not apply to a case where liability in respect of a pension credit is to be discharged in accordance with—

(a) paragraph 1(2) of Schedule 5 to the 1999 Act (pension credits: mode of discharge—funded pension schemes); or

(b) paragraph 1(3) of that Schedule, in a case where regulation 7(2) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(a) applies.”.

(5) In regulation 6 (other relevant arrangements: manner of calculation and verification of cash equivalents)—

(a) after paragraph (1) insert the following paragraphs—

“(1A) Where the person with pension rights is a member of a personal pension scheme, or those rights are contained in a retirement annuity contract, the value of the benefits which he has accrued under that scheme or contract on the transfer day shall be taken to be the cash equivalent to which he would have acquired a right under section 94(1)(b) of the 1993 Act, if he had made an application under section 95(1) of that Act on the date on which the request for the valuation was received.

(1B) In relation to a personal pension scheme which is comprised in a retirement annuity contract made before 4th January 1988, paragraph (2) shall apply as if such a scheme were not excluded from the scope of Chapter IV of Part IV of the 1993 Act by section 93(1)(b) of that Act (scope of Chapter IV).”; and

(b) in paragraph (3) at the end insert the following words—“, and by adopting methods consistent with the requirements of Chapter IV of Part IV of the 1993 Act”.

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

**11.—**(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 shall be amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2)—

(a) delete the definition of “guaranteed minimum pension”;

(b) after the definition of “the implementation period” insert the following definition—

““the Inland Revenue” means the Commissioners of Inland Revenue;”;

(c) for the definition of “pension sharing order or provision” substitute the following definition—

“pension sharing order” means an order which is mentioned in section 28(l) of the 1999 Act;”;

(d) delete the definition of “protected rights”;

(e) in the definition of “the reference banks” for sub-paragraph (a) substitute the following sub-paragraph—

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(a) S.I. 1996/1847.



“(a) are authorised by the Financial Services Authority under the Banking Act 1987(a);”.

(3) For the regulation 6 (discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit), substitute the following regulation—

**“Discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit**

6.—(1) The person responsible for the pension arrangement shall following the death of the person entitled to the pension credit discharge his liability in respect of a pension credit in accordance with this regulation.

(2) Where the rules or provisions of a pension arrangement so provide and provided that any requirements of the Inland Revenue under Part XIV of the Income and Corporation Taxes Act 1988(b) are satisfied, the person responsible for the pension arrangement shall discharge his liability in respect of a pension credit by undertaking to—

- (a) make—
  - (i) a payment of a lump sum; or
  - (ii) payments of a pension; or
  - (iii) payments of both a lump sum and a pension, to one or more persons; or
- (b) enter into an annuity contract or take out a policy of insurance with an insurance company for the benefit of one or more persons; or
- (c) make a payment or, as the case may be, payments under sub-paragraph (a) and enter into an annuity contract or take out an insurance policy under sub-paragraph (b).

(3) Where paragraph (2)(b) or (c) applies, the annuity contract entered into or insurance policy taken out must satisfy the requirements of paragraph 6(2) of Schedule 5 to the 1999 Act (qualifying arrangements) and regulation 11 of these Regulations.

(4) Where the provisions of paragraph (2) do not apply, liability in respect of a pension credit shall be discharged by retaining the value of the pension credit in the pension arrangement from which that pension credit was derived.

- (5) Where—
  - (a) liability in respect of a pension credit has been discharged in accordance with paragraph (2); and
  - (b) the value of the payment or payments made, the annuity contract entered into or the insurance policy taken out, as the case may be, is less than the value of the pension credit,

the value of an amount equal to the difference between the value of the pension credit and the value of that payment or those payments, that contract or policy, as the case may be, shall be retained in the pension arrangement from which that pension credit was derived.”.

(4) In regulation 7 (discharge of liability in respect of a pension credit—funded pension schemes), in paragraph (2)—

- (a) in sub-paragraph (a) for “paragraph 1(2)(a)” substitute “paragraph 1(3)(c)”;
- (b) for sub-paragraph (b) substitute the following sub-paragraph—
  - “(b) either—
    - (i) the person entitled to the pension credit has failed to provide his consent in accordance with paragraph 1(2)(a) and (4) of that Schedule; or
    - (ii) the trustees or managers of the scheme have not discharged their liability in accordance with paragraph (1) above.”.

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(a) 1987 c. 22, as amended by the Bank of England Act 1998 (c. 11).  
(b) 1988 c. 1.

(5) In regulation 10 (calculation of the value of appropriate rights), in paragraph (4) after “arrangement” where that word last appears, insert “, and by adopting methods consistent with the requirements of Chapter IV of Part IV of the 1993 Act (protection for early leavers—transfer values)”.

(6) In regulation 12 (disqualification as a destination for pension credit—general), after paragraph (b) for “and” substitute “or”.

(7) In regulation 13 (disqualification as a destination for pension credit—contracted-out or safeguarded rights)—

(a) in sub-paragraph (b) of paragraph (1) delete the words from “(i) a contracted-out occupational pension scheme” to the end of that sub-paragraph;

(b) after that sub-paragraph insert the following sub-paragraph—

“(bb) a contracted-out occupational pension scheme to which section 149 of the 1995 Act (hybrid occupational pension schemes) applies;”.

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

**12.**—(1) The Pension Sharing (Pension Credit Benefit) Regulations 2000 shall be amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2) in the definition of “the reference banks” for sub-paragraph (a) substitute the following sub-paragraph—

“(a) are authorised by the Financial Services Authority under the Banking Act 1987;”.

(3) In regulation 10 (transfer of a person’s pension credit rights without consent)—

(a) in paragraph (3), for “paragraph (6)(a),” substitute “paragraph (6), a”;

(b) after paragraph (8) insert the following paragraph—

“(9) Where the pension credit rights which are to be transferred in accordance with this regulation are or include safeguarded rights, the pension credit rights must be transferred to either a salary related contracted-out scheme or a money purchase contracted-out scheme.”.

(4) In regulation 22 (requirements to be met by an eligible scheme), in paragraph (1)(a) for “regulation 9(3)(c)” substitute “regulation 9(5)(c)”.

(5) In regulation 24 (manner of calculation and verification of cash equivalents), in paragraph (5) after “requirements of” insert “Chapter IV of Part IV of the 1993 Act (protection for early leavers—transfer values) and”.

(6) In regulation 27 (increases and reductions of cash equivalents before a statement of entitlement has been sent to the eligible member), in paragraph (1) after “once” insert “a statement of the value of”.

#### **Amendment of the Pension Sharing (Safeguarded Rights) Regulations 2000**

**13.**—(1) The Pension Sharing (Safeguarded Rights) Regulations 2000(a) shall be amended in accordance with this regulation.

(2) In regulation 5 (valuation of safeguarded rights in money purchase schemes), after “derived” insert—

“,  
are calculated”.

(3) In regulation 6 (ways of giving effect to safeguarded rights—money purchase schemes)—

(a) in paragraph (1)—

(i) after “member” insert “either”;

(ii) in sub-paragraph (a) delete “either”;

(b) in paragraph (8) for the words from “practicable,” to the end of that paragraph substitute the following words—

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(a) S.I. 2000/1055.

“practicable, of a lump sum or a pension or annuity, or both a lump sum and a pension or annuity in accordance with the provisions of regulation 6 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit).”.

(4) In regulation 7 (the pension and annuity requirements—money purchase schemes), after paragraph (6) insert the following paragraph—

“(7) In this regulation “the termination date” has the meaning given by regulation 6(10).”.

(5) In regulation 9 (ways of giving effect to safeguarded rights—salary related schemes)—

(a) for paragraph (4) substitute the following paragraph—

“(4) The circumstances specified in this paragraph are that effect may be given to safeguarded rights by the provision of—

(a) a lump sum in accordance with the provisions of regulation 3 or 4 of the Pension Credit Benefit Regulations; or

(b) a lump sum or a pension or annuity, or both a lump sum and a pension or annuity, in accordance with the provisions of regulation 6 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000.”;

(b) in paragraph (9), in the definition of “serious ill health” for “regulation 3(5)” substitute “regulation 3(4)”.

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

30th September 2000

*P. Hollis*  
Parliamentary Under-Secretary of State,  
Department of Social Security

## EXPLANATORY NOTE

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

These Regulations make amendments to the Personal Pension Schemes (Disclosure of Information) Regulations 1987, the Occupational Pension Schemes (Winding Up) Regulations 1996, the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996, the Register of Occupational and Personal Pension Schemes Regulations 1997 and the Occupational and Personal Pension Schemes (Levy) Regulations 1997 consequential upon the provision in Parts III and IV of the Welfare Reform and Pensions Act 1999 (c. 30) for the sharing of pensions following divorce or nullity of marriage (regulations 2 to 7).

The amendments made to regulation 1(4) of the Register of Occupational and Personal Pension Schemes Regulations 1997 (regulation 6) extend to Northern Ireland in so far as they apply to regulation 3 of those Regulations.

Regulation 8 amends the Pensions on Divorce etc. (Provision of Information) Regulations 2000. In particular, regulation 6 of those Regulations is amended to clarify the obligations of the person responsible for a pension arrangement when the person entitled to the pension credit dies before liability in respect of that credit is discharged.

Regulation 9 amends the Pensions on Divorce etc. (Charging) Regulations 2000. In particular, regulation 2(8) of those Regulations is amended in order to clarify when a person responsible for a pension arrangement may charge for the provision of information.

Regulation 10 amends the Pension Sharing (Valuation) Regulations 2000 in order to clarify that a cash equivalent transfer value calculated under those Regulations is to be calculated in the same way as a cash equivalent for any other purpose.

Regulation 11 amends the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000. In particular, a new regulation 6 is substituted, which clarifies how a person responsible for a pension arrangement is to deal with a pension credit when the person entitled to the pension credit dies before liability in respect of that credit is discharged.

Regulation 12 amends the Pension Sharing (Pension Credit Benefit) Regulations 2000. In particular, regulation 24 of those Regulations is amended in order to clarify that a cash equivalent transfer value calculated under that regulation is to be calculated in the same way as a cash equivalent for any other purpose.

Regulation 13 makes minor amendments to the Pension Sharing (Safeguarded Rights) Regulations 2000.

An assessment of the cost to business of the provisions of the Welfare Reform and Pensions Act 1999, including these Regulations, is detailed in the Regulatory Impact Assessment for that Act. A copy of this Assessment has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, 3rd Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

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