
STATUTORY INSTRUMENTS

2005 No. 704

The Personal and Occupational Pension Schemes
(Indexation and Disclosure of Information)
(Miscellaneous Amendments) Regulations 2005

PART 2

AMENDMENTS RELATING TO INDEXATION

Occupational Pension Schemes (Indexation) Regulations 1996

Interpretation

7.—(1) Regulation 1 of the Indexation Regulations (interpretation) is amended as follows.

(2) In paragraph (2), after the definition of “pension scheme” insert—

““section 9(2B) rights” means—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a pension scheme contracted-out by virtue of section 9(2B) of the Pension Schemes Act 1993, so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day (including service of an earner who is not in employment at the time of the transfer or transfer payment);
- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—
 - (i) such rights as are referred to in sub-paragraph (a) under another pension scheme contracted-out by virtue of section 9(2B) of that Act; or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of employment on or after the principal appointed day.”.

(3) After paragraph (2) add—

“(3) For the purposes of the definition of “section 9(2B) rights” in paragraph (2) of this regulation, references to the principal appointed day are to the day designated as the principal appointed day for the purposes of Part 3 of the Pensions Act 1995 (certification of pension schemes and effects on member’s state scheme rights and duties).”.

Indexation: treatment of transfers made before 6th April 2005 from pension schemes

8.—(1) Regulation 2 of the Indexation Regulations (indexation of occupational pensions derived from the acceptance of transfer payments from pension schemes) is amended as follows.

(2) For the heading substitute “Indexation of occupational pensions derived from the acceptance of transfers from pension schemes: transfers made before 6th April 2005”.

(3) In paragraph (1), for the words “Subject to paragraph (2)” substitute “Subject to the following provisions”.

(4) After paragraph (2) add—

“(3) Paragraph (1) of this regulation shall not apply in any case where the transfer credit referred to in that paragraph is allowed by reference to a transfer which is made on or after 6th April 2005.”.

Indexation: treatment of transfers made on or after 6th April 2005 from pension schemes

9. After regulation 2 of the Indexation Regulations insert—

“Indexation of occupational pensions derived from the acceptance of transfers from pension schemes: transfers made on or after 6th April 2005

2A.—(1) This regulation applies where—

- (a) a person’s accrued rights to a pension payable under an occupational pension scheme (“scheme A”) to which section 51 of the Act applies, or any part of them, derive from the allowance by the scheme of a transfer credit in respect of rights in any pension scheme (“scheme B”) of which that person has previously been a member; and
- (b) the transfer credit is allowed by reference to a transfer which is made on or after 6th April 2005.

(2) Subsections (2) and (3) of section 51 of the Act shall apply to such part of the pension payable by scheme A as is attributable to any accrued rights deriving from the allowance of the transfer credit—

- (a) only to the extent that those accrued rights are—
 - (i) section 9(2B) rights; or
 - (ii) rights (other than section 9(2B) rights) which are allowed by reference to rights in scheme B that were subject to the indexation requirement at the time of the transfer; and
- (b) as if those accrued rights were attributable to pensionable service on or after the appointed day.”.

Indexation: treatment of payments made before 6th April 2005 from insurance policies or annuity contracts

10.—(1) Regulation 3 (indexation of occupational pensions derived from the acceptance of payments from insurance policies or annuity contracts) of the Indexation Regulations is amended as follows.

(2) For the heading substitute “Indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made before 6th April 2005”.

(3) Renumber the existing text as paragraph (1).

(4) In paragraph (1), at the beginning insert the words “Subject to paragraph (2) of this regulation”.

(5) After paragraph (1) add—

“(2) Paragraph (1) of this regulation shall not apply in any case where the payment from the policy of insurance or annuity contract referred to in that paragraph is made on or after 6th April 2005.”.

Indexation: treatment of payments made on or after 6th April 2005 from insurance policies or annuity contracts

11. After regulation 3 of the Indexation Regulations add—

“Indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made on or after 6th April 2005

4.—(1) This regulation applies where—

- (a) a person’s accrued rights to a pension payable under an occupational pension scheme (“scheme A”) to which section 51 of the Act applies, or any part of them, derive from the acceptance by the scheme of a payment from a policy of insurance or annuity contract in respect of rights in any pension scheme of which that person has previously been a member; and
- (b) the payment was made on or after 6th April 2005.

(2) Subsections (2) and (3) of section 51 of the Act shall apply to such part of the pension payable by scheme A as is attributable to any accrued rights deriving from the acceptance of the payment from the policy of insurance or annuity contract—

- (a) only to the extent that those accrued rights are—
 - (i) section 9(2B) rights; or
 - (ii) rights (other than section 9(2B) rights) which are allowed by reference to rights specified in paragraph (3) of this regulation; and
- (b) as if those accrued rights were attributable to pensionable service on or after the appointed day.

(3) The rights specified in this paragraph are rights to payment under the policy of insurance or annuity contract which—

- (a) were subject to provision contained in (or endorsed on) the policy or contract requiring an increase in the annual rate of payment; and
- (b) in any case where the policy or contract was entered into before 6th April 2005, would have been subject to such provision if the policy or contract had been entered into on or after that date.”.