
STATUTORY INSTRUMENTS

2012 No. 692

PENSIONS

The Pensions (Institute and Faculty of Actuaries and Consultation by Employers – Amendment) Regulations 2012

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| <i>Made</i> | - - - - | <i>3rd March 2012</i> |
| <i>Laid before Parliament</i> | | <i>8th March 2012</i> |
| <i>Coming into force</i> | - - | <i>6th April 2012</i> |

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

- sections 19(4)(c), 73(4)(b), 97(1), 101AF(1), 101D(4)(b), 181(1) and 182(2) and (3) of, and paragraph 5(3C)(c) of Schedule 2 to, the Pension Schemes Act 1993(1),
- section 177(2) of, and paragraph 5(3C)(c) and (4A) of Schedule 1 to, the Pension Schemes (Northern Ireland) Act 1993(2) and now vested in the Secretary of State(3),
- sections 37(3)(a), 47(5)(b), 67C(7)(a)(ii), 75(5), 124(1) and 174(2) and (3) of the Pensions Act 1995(4), and
- sections 23(10), 143(11)(a)(ii)(a), 156(6), 179(2), 259(1) and (2), 260(1), 315(2), (4) and (5) and 318(1) of, and paragraph 22(4)(a) of Schedule 5 to, the Pensions Act 2004(5).

In accordance with section 185(1) of the Pension Schemes Act 1993(6), section 120(1) of the Pensions Act 1995 and section 317(1) of the Pensions Act 2004, the Secretary of State has consulted such persons as the Secretary of State considers appropriate before making these Regulations.

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- (1) 1993 c.48. Section 101AF was inserted by section 264 of the Pensions Act 2004 (c.35). Section 101D was inserted by section 37 of the Welfare Reform and Pensions Act 1999 (c.30). Paragraph 5(3C) of Schedule 2 is inserted by section 141(2)(b) of the Pensions Act 1995 (c.26), and amended by section 1(1) of, and paragraph 62(1) and (4)(c) of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2). Section 181(1) is cited for the meaning it gives to “prescribed” and “regulations”.
- (2) 1993 c.49. Paragraph 5(3C) of Schedule 1 was inserted by Article 138(2)(b) of S.I. 1995/3213 (N.I. 22) and amended by paragraph 77(5)(c) of Schedule 1 to S.I. 1999/671. Paragraph 5(4A) was added by paragraph 77(5)(d) of Schedule 1 to S.I. 1999/671 and is cited for the meaning it gives to “prescribed” and “regulations”.
- (3) See paragraph 5(4A) of Schedule 1 to the Pension Schemes (Northern Ireland) Act 1993.
- (4) 1995 c.26. Section 37(3)(a) was substituted by section 250 of, section 67C was inserted by section 262 of, and section 75(5) was amended by section 271(1) and (3) of, the Pensions Act 2004. Section 124(1) is cited for the meaning it gives to “prescribed” and “regulations”.
- (5) 2004 c.35. Section 259 is modified by S.I. 2006/16 for certain cases. Section 318(1) is cited for the meaning it gives to “prescribed” and “regulations”.
- (6) Section 185(1) was amended by paragraph 46 of Schedule 3 and paragraph 80(a) of Schedule 5 to the Pensions Act 1995.

Citation and commencement

1.—(1) These Regulations may be cited as the Pensions (Institute and Faculty of Actuaries and Consultation by Employers – Amendment) Regulations 2012.

(2) They come into force on 6th April 2012.

Amendments to the consultation by employer requirements

2.—(1) The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006(7) are amended as follows.

(2) For regulation 6(4) (consultation not required before decisions to make listed changes affecting schemes), substitute—

- “(4) The first case is where the active or prospective members of the scheme to whom—
- (a) a listed change mentioned in regulation 8(1)(h) relates were notified before 6th April 2012 of the proposal to make that change, or
 - (b) any other listed change relates were notified before 6th April 2006 of the proposal to make that change.”.

(3) In regulation 8(1) (listed changes for occupational pension schemes), after sub-paragraph (g) insert—

- “(h) to change the rate at which—
- (i) pensions in payment under the scheme are increased, or
 - (ii) pensions or other benefits payable under the scheme are revalued,
- but only where that change would be, or would be likely to be, less generous to members or members of a particular description.”.

Amendments to refer to the Institute and Faculty of Actuaries

3. In regulation 12(5)(b) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (transfer of member’s accrued rights without consent)(8), for “Institute of Actuaries, a Fellow of the Faculty of Actuaries,” substitute “Institute and Faculty of Actuaries(9)”.

4. In regulation 4(1)(b) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (qualifications and experience or approval required for appointment as the auditor or actuary)(10), for paragraphs (i) and (ii) substitute—

“(i) Fellowship of the Institute and Faculty of Actuaries; or”.

5. In the definition of “actuary” in regulation 1(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (interpretation)(11), for sub-paragraphs (i) and (ii) of paragraph (b) substitute—

“(i) a Fellow of the Institute and Faculty of Actuaries; or”.

6. In the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996(12) in—

- (a) regulation 2(6) (interpretation), and

(7) [S.I. 2006/349](#).

(8) [S.I. 1991/167](#). Regulation 12(5) was substituted by [S.I. 1999/2543](#).

(9) The Institute and Faculty of Actuaries can be contacted at Staple Inn Hall, High Holborn, London WC1V 7QJ and at www.actuaries.org.uk.

(10) [S.I. 1996/1715](#).

(11) [S.I. 1996/1847](#). The definition of “actuary” was inserted by [S.I. 2008/1050](#).

(12) [S.I. 1996/3128](#).

- (b) paragraph 2 of the certificate in Schedule 1 (form of actuary's certificate), for "prepared and published by the Institute of Actuaries and the Faculty of Actuaries" substitute "published by the Institute and Faculty of Actuaries".
7. In regulation 1(2) of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (interpretation)(**13**), omit the definition of "actuary".
8. In regulation 4 of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998 (market level indicator)(**14**), for "Faculty of Actuaries and Institute of Actuaries" in both places it occurs substitute "Institute and Faculty of Actuaries".
9. In regulation 4 of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998 (market level indicator)(**15**), for "Faculty of Actuaries and Institute of Actuaries" in both places it occurs substitute "Institute and Faculty of Actuaries".
10. In regulation 10(8) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (transfer of a person's pension credit rights without consent)(**16**), for "Institute of Actuaries, a Fellow of the Faculty of Actuaries," substitute "Institute and Faculty of Actuaries".
11. In regulation 10 of the Pension Protection Fund (Valuation) Regulations 2005 (prescribed qualifications for the purposes of section 143 and section 179 of the Act)(**17**), for "the prescribed qualifications is—" to the end of the regulation substitute "the prescribed qualifications is a Fellow of the Institute and Faculty of Actuaries."
12. In regulation 2 of the Pensions Regulator (Freezing Orders and Consequential Amendments) Regulations 2005 (meaning of "the actuary")(**18**)—
- (a) for "qualifications" substitute "qualification", and
 - (b) for "are—" to the end of the regulation substitute "is Fellowship of the Institute and Faculty of Actuaries."
13. In the definition of "actuary" in regulation 1(2) of the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006 (interpretation)(**19**), for sub-paragraphs (i) and (ii) of paragraph (b) substitute—
- "(i) a Fellow of the Institute and Faculty of Actuaries; or".
14. In regulation 6 of the Pension Protection Fund (Valuation of the Assets and Liabilities of the Pension Protection Fund) Regulations 2006 (the appointed actuary)(**20**), for "prescribed qualifications to act as the appointed actuary are—" to the end of the regulation substitute "prescribed qualification to act as the appointed actuary is Fellowship of the Institute and Faculty of Actuaries."
15. In regulation 4 of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 (qualifications or experience required for a person providing an actuarial equivalence statement)(**21**), for "or experience is a—" to the end of the regulation substitute "or experience is a Fellow of the Institute and Faculty of Actuaries."

(13) [S.I. 1997/784](#).

(14) [S.I. 1998/1397](#). Relevant amendments were made to regulation 4 by [S.I. 1999/3069](#).

(15) [S.R. 1998 No. 208](#). Relevant amendments were made to regulation 4 by [S.I. 1999/3069](#).

(16) [S.I. 2000/1054](#).

(17) [S.I. 2005/672](#).

(18) [S.I. 2005/686](#).

(19) [S.I. 2006/33](#). The definition of "actuary" was inserted by [S.I. 2008/1050](#).

(20) [S.I. 2006/597](#).

(21) [S.I. 2006/759](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

16. In regulation 6(b) of the Occupational Pension Schemes (Payments to Employer) Regulations 2006 (prescribed persons for the purposes of section 37(3)(a) of the 1995 Act)**(22)**, for “of that section—” to the end of the paragraph substitute “of that section, a Fellow of the Institute and Faculty of Actuaries.”.

17. In regulation 5 of the Pension Protection Fund (Closed Schemes) Regulations 2007 (prescribed qualifications for the purposes of section 156)**(23)**, for “prescribed qualifications is—” to the end of the regulation substitute “prescribed qualifications is a Fellow of the Institute and Faculty of Actuaries.”.

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

Steve Webb
Minister of State,
Department for Work and Pensions

3rd March 2012

(22) S.I. 2006/802.
(23) S.I. 2007/865.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend 15 Statutory Instruments and one Northern Ireland Statutory Rule about occupational pension schemes, the Pension Protection Fund, the Pensions Regulator and pension sharing.

Regulation 2 amends the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349). Regulation 2(3) makes an amendment which provides that certain members of occupational pension schemes must be consulted before the rate at which their pensions are revalued or indexed (increased) can be changed. It also provides that no such consultation has to be carried out if that change is beneficial or neutral for the member. Regulation 2(2) makes a consequential amendment so that no such consultation is required if the members were notified of that change before these Regulations came into force.

Regulations 3 to 17 replace references to the Institute of Actuaries and to the Faculty of Actuaries with references to the Institute and Faculty of Actuaries, which is the new body formed by the merger of the Institute of Actuaries and the Faculty of Actuaries.

Regulation 2 has a negligible impact on the private sector and civil society organisations. An assessment of the impact of regulation 2 of these Regulations is included in the impact assessment entitled 'Impact of the move to CPI for Occupational Pensions' dated 11th February 2011. Copies of that impact assessment are available from the libraries of both Houses of Parliament, the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA and the Department's website at: <http://www.dwp.gov.uk/publications/impact-assessments>.

A full impact assessment has not been published for regulations 3 to 17 of this instrument as they have no impact on the costs of the private sector and civil society organisations.