

**2016 No. 200**

**PENSIONS**

**The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016**

*Made* - - - - *24th February 2016*

*Laid before Parliament* *1st March 2016*

*Coming into force in accordance with article 1*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 53 and 54(5) and (6) of the Pensions Act 2014(a).

**PART 1**

**General**

**Citation and commencement**

**1.**—(1) This Order may be cited as the Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016.

(2) This Part, and Part 2, come into force on 6th April 2016.

(3) Part 3 comes into force on 6th April 2017.

(4) Part 4 comes into force on 6th April 2019.

(5) Part 5 comes into force on 6th April 2021.

**PART 2**

**Amendments coming into force on 6th April 2016**

**Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991**

**2.**—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(b) are amended as follows.

(2) In regulation 12 (transfer of member's accrued rights without consent)—

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(a) 2014 c.19.  
(b) S.I. 1991/167.

- (a) for paragraph (2)(b)(ii)(a) substitute—
  - “(ii) the employers are companies or partnerships bearing a relationship to each other in one of the ways described in paragraph (2A).”; and
- (b) after paragraph (2) insert—
  - “(2A) The relationships between the employers referred to in paragraph (2)(b)(ii) are—
    - (a) the employers are members of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006(b) (meaning of “subsidiary” etc.);
    - (b) the employers are—
      - (i) an employer who is the principal employer for the purposes of the scheme in accordance with the scheme rules, or who is the employer who has power to act on behalf of all employers in the scheme in relation to the scheme rules; and
      - (ii) an employer subject to the rules of the scheme; or
    - (c) the employers are partnerships having at least half of their partners in common.”.
- (3) In regulation 24 (schemes funded by level annual premiums), after paragraph (3)(c) insert—
  - “(3A) For the purposes of paragraph (3)(a), any alteration of the scheme which arises solely from the abolition of contracting-out for salary related schemes under the Pensions Act 2014(d) does not constitute a material alteration.”.

### **Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996**

**3.** In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(e), in the definition of “section 9(2B) rights”(f)—

- (a) in paragraph (a), for “contracted-out by virtue of section 9(2B) of the 1993 Act” substitute “that was a salary-related contracted-out scheme(g)”;
- (b) in paragraph (b), in the introductory words—
  - (i) after “has been made” insert “(other than a payment made in accordance with regulation 10 (transfers payments to occupational and personal pension schemes in respect of section 9(2B) rights) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996(h)”; and
  - (ii) after “such a scheme,” insert “whether before or after the second abolition date(i),”; and
- (c) in paragraph (b)(i), for “contracted-out by virtue of section 9(2B) of that Act” substitute “that was a salary-related contracted-out scheme”.

### **Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996**

**4.—(1)** The Contracting-out (Transfer and Transfer Payment) Regulations 1996(j) are amended as follows.

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- (a) Paragraph (2) was substituted by S.I. 1992/1531, and sub-paragraph (2)(b) was amended by S.I. 1996/2131 and S.I. 2013/459.
  - (b) 2006 c.46.
  - (c) Paragraph (3) was amended by S.I. 1996/2131.
  - (d) See section 24(1) of, and Schedule 13 to, the Pensions Act 2014 (“the 2014 Act”).
  - (e) S.I. 1996/1172.
  - (f) This definition was substituted by S.I. 1997/786 and amended by S.I. 1999/3198, S.I. 2011/1246 and S.I. 2015/1677.
  - (g) See section 7B of the Pension Schemes Act 1993 (c.48) (“the 1993 Act”) inserted by paragraph 6 of Schedule 13 to the 2014 Act for the definition of “salary related contracted-out scheme”.
  - (h) S.I. 1996/1462. Regulation 10 was substituted by S.I. 2011/1245 and is amended by article 4(7) of this instrument.
  - (i) See section 7A of the 1993 Act inserted by paragraph 6 of Schedule 13 to the 2014 Act for the definition of “second abolition date”.
  - (j) S.I. 1996/1462.

- (2) In regulation 1(2) (interpretation)—
- (a) in the definition of “connected employer transfer” and “connected employer transfer payment”(a)—
    - (i) after sub-paragraph (b)(ii), omit the words from “and, in this definition” to the end of that paragraph; and
    - (ii) before the words “salary-related contracted-out scheme”, in each case where they occur, insert “scheme that was a”;
  - (b) in the definition of “overseas scheme”(b)—
    - (i) before “salary-related contracted-out scheme” insert “scheme that was a”; and
    - (ii) omit the words “nor one in respect of which section 53 of the 1993 Act applies by virtue of section 52(1) of that Act”;
  - (c) in the definition of “the principal appointed day”, for “7(2B)” substitute “181(1)”;
  - (d) omit the definition of “salary-related contracted-out scheme”(c); and
  - (e) for the definition of “section 9(2B) rights”(d), substitute—
 

““section 9(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015(e);”.
- (3) In regulation 3 (transfers of guaranteed minimum pensions to salary-related contracted-out schemes)—
- (a) in the heading, before “salary-related” insert “schemes that were”;
  - (b) in the opening words, before “salary-related” insert “scheme that was a”; and
  - (c) in paragraph (c), omit the words from the beginning to “the receiving scheme.”.
- (4) In regulation 5 (transfer payments in respect of guaranteed minimum pensions to occupational and personal pension schemes)(f), in the opening words, omit “a salary-related contracted-out scheme.”.
- (5) In regulation 7(1) (transfers of liability in respect of section 9(2B) rights – general)(g), in sub-paragraphs (a) and (b)—
- (a) after “from a” insert “scheme that was a”; and
  - (b) omit “(or a scheme which was formerly a salary-related contracted-out scheme)”.
- (6) In regulation 8 (transfer payments to salary-related contracted-out schemes in respect of section 9(2B) rights)—
- (a) in the heading, before “salary-related” insert “schemes that were”;
  - (b) in the opening words, for “salary-related contracted-out scheme” substitute “scheme that was a salary-related contracted-out scheme which was contracted-out by virtue of section 9(2B) of the 1993 Act”; and
  - (c) in paragraph (c)(h), for the words from “which is contracted-out” to the end of that paragraph substitute “which was contracted-out in relation to the receiving scheme on or after the principal appointed day.”.
- (7) In regulation 10 (transfer payments to occupational and personal pension schemes in respect of section 9(2B) rights)(i), in the opening words, omit “a salary-related contracted-out scheme.”.

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- (a) These definitions were substituted by S.I. 2013/459.
  - (b) This definition was substituted by S.I. 2007/814 and amended by S.I. 2007/3014.
  - (c) A scheme that was a contracted-out scheme is now defined in the 1993 Act. *See* sections 7B and 181(1), inserted by the 2014 Act.
  - (d) This definition was substituted by S.I. 1997/786 and amended by S.I. 1999/3198 and S.I. 2011/1246.
  - (e) S.I. 2015/1677 as amended by article 28 of this instrument.
  - (f) Regulation 5 was substituted by S.I. 2011/1245.
  - (g) Regulation 7(1) was amended by S.I. 1997/786.
  - (h) Regulation 8(c) was amended by S.I. 1997/786.
  - (i) Regulation 10 was substituted by 2011/1245.

(8) In regulation 12 (modifications of Part III of the 1993 Act on transfers of and transfer payments in respect of guaranteed minimum pensions from occupational pension schemes)—

- (a) in the opening words, before “salary-related contracted-out scheme” insert “scheme that was a”;
- (b) subject to article 5(1), omit paragraph (a); and
- (c) subject to article 5(1), in paragraph (b), for “any other” substitute “a”.

(9) In regulation 13 (modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts)—

- (a) in the opening words, before “salary-related contracted-out scheme” insert “scheme that was a”;
- (b) subject to article 5(2), omit paragraph (a); and
- (c) subject to article 5(2), in paragraph (b)(a) omit the words from the beginning to “to the receiving scheme.”.

(10) Omit regulation 13A (modification of section 12C of the 1993 Act where transfer payments are made to salary-related contracted-out schemes)(b).

(11) In Schedule 1 (further conditions for transfers of guaranteed minimum pensions)—

- (a) for the heading to Part I substitute “Further Conditions for Transfer to a Scheme that was a Salary-related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions”;
- (b) in paragraph 2, omit sub-paragraph (a) and the “but” immediately following it; and
- (c) for the heading to Part II substitute “Further Conditions for Transfer from an Appropriate Policy to a Scheme that was a Salary-related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions”.

(12) In Schedule 2 (modifications of Part III of the 1993 Act)—

- (a) in paragraphs 1 and 6(c) in the definition of “guaranteed minimum pension”, for “by an occupational pension scheme” substitute “by a scheme that was a salary-related contracted-out scheme”;
- (b) in paragraphs 3 and 7, for “is contracted-out” substitute “was contracted-out”;
- (c) subject to article 5(1), omit paragraph 3; and
- (d) subject to article 5(2), omit paragraph 7.

### **Saving of the Contracting-out (Transfer and Transfer Payment) Regulations 1996**

5.—(1) Regulation 12(a) and (b) of, and paragraph 3 of Schedule 2 to, the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (“the Transfer Regulations”) continue to have effect as if the amendments made by article 4(8)(b) and (c), and (12)(c) of this Order had not been made, in relation to a transfer of accrued rights to guaranteed minimum pensions of an earner who was in employment which was contracted-out by reference to the receiving scheme, where that transfer occurred before the second abolition date.

(2) Regulation 13(a) and (b) of, and paragraph 7 of Schedule 2 to, the Transfer Regulations continue to have effect as if the amendments made by article 4(9)(b) and (c) and (12)(d) of this Order had not been made, in relation to a transfer of accrued rights to guaranteed minimum pensions from an appropriate policy where the earner was in employment which was contracted-out by reference to the receiving scheme and the transfer occurred before the second abolition date.

(3) For the purposes of this article—

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- (a) Regulation 13(b) was amended by S.I. 1997/1786.
  - (b) Regulation 13A was inserted by S.I. 1997/786 and amended by S.I. 2011/1246.
  - (c) Paragraphs 1 and 6 were substituted by S.I. 1997/786.

“accrued rights” has the meaning given in section 20(6) (transfer of accrued rights) of the Pension Schemes Act 1993 (“the 1993 Act”)(a);

“appropriate policy” means a policy of insurance or an annuity contract as described in section 19(4) (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts) of the 1993 Act(b);

“employment which was contracted-out” is to be construed in accordance with section 8(1) (meaning of “contracted-out employment etc.) of the 1993 Act(c);

“guaranteed minimum pension” has the meaning given in section 8(2) of the 1993 Act(d);

“the second abolition date” has the meaning given in section 181(1) (general interpretation) of the 1993 Act(e).

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

**6.** In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Indexation) Regulations 1996(f)—

(a) omit the definition of “abolition date”;

(b) after the definition of “appointed day” insert—

““the first abolition date” has the meaning given in section 181(1) of the Pension Schemes Act 1993(g);”;

(c) in the definition of “protected rights”, before “abolition date” insert “first”; and

(d) for the definition of “section 9(2B) rights” substitute—

““section 9(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015;”.

### **Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996**

**7.** In regulation 13(a) (extension of time for payment of cash equivalents) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(h), for sub-paragraph (ii) substitute—

“(ii) the scheme has ceased to be a contracted-out scheme in the 12 month period ending on the date of the application (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act 2014 or otherwise);”.

### **Amendment of the Social Security (Contracting-out and Qualifying Earnings Factor) Regulations 1996**

**8.** In regulation 2(2) (modification of the application of section 44(5) of the Contributions and Benefits Act) of the Social Security (Contracting-out and Qualifying Earnings Factor) Regulations 1996(i)—

(a) for “a tax week is” substitute “a tax week was”; and

(b) in both places where it occurs, after “sections 41” insert “(as it had effect before the second abolition date)”.

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(a) 1993 c.48. Section 20(6) was amended by S.I. 2005/2050.

(b) Section 19(4) was amended by S.I. 2001/3649 and S.I.2007/3014.

(c) Section 8(1) was substituted by paragraph 7(1) of Schedule 13 to the 2014 Act.

(d) Section 8(2) was amended by paragraph 7(4) of Schedule 13 to the 2014 Act.

(e) The definition of “second abolition date” is inserted into section 181(1) by paragraph 43(2) of the 2014 Act.

(f) S.I. 1996/1679. The definitions of “abolition date” and “protected rights” were inserted by S.I. 2011/1246. The definition of “section 9(2B) rights” was inserted by S.I. 2005/704 and amended by S.I. 2011/1246.

(g) The definition of “the first abolition date” is inserted by paragraph 43(2) of Schedule 13 to the 2014 Act.

(h) S.I. 1996/1847.

(i) S.I. 1996/2477.

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

**9.**—(1) The Occupational Pension Schemes (Winding Up) Regulations 1996(a) are amended as follows.

(2) In regulation 8 (requirements to be satisfied by transferee schemes, annuities etc.)—

- (a) in paragraph (5), before “contracted-out scheme” insert “scheme that was a”; and
- (b) for paragraph (7)(a)(b), substitute—

“(a) regulation 18 or 25 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (payment of a lump sum instead of a pension);”.

(3) In regulation 10(3) (disapplication of section 38) in the definition of “relevant lump sum retirement benefits scheme”, in paragraph (b), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”.

### **Amendment of the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996**

**10.** In regulation 10(2) (disapplication of section 75) (interpretation) of the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996(c)—

- (a) in the definition of “relevant lump sum retirement benefits scheme”, in paragraph (b), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”;
- (b) after the definition of “approved scheme” insert—

““contracted-out” is to be construed in accordance with section 7B(2) (meaning of “contracted-out scheme” etc.) of the Pension Schemes Act 1993(d);”;
- (c) after the definition of “relevant statutory scheme” insert—

““the second abolition date” has the meaning given in section 181(1) (general interpretation) of the Pension Schemes Act 1993;”.

### **Amendment of the Pensions Act 1995 (Commencement No. 10) Order 1997**

**11.** In article 4 (termination of contracted-out or appropriate scheme status and state scheme premiums) of the Pensions Act 1995 (Commencement No. 10) Order 1997(e), omit paragraph (1).

### **Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997**

**12.**—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations 1997(f) are amended as follows.

(2) In regulation 1(2) (interpretation) in the definition of “relevant scheme”, for “section 12C” substitute “section 37A(g)”.

(3) In regulation 8(b) (prohibition and restriction of the discharge of liability to provide pensions under a relevant scheme), for the words from “or Part V” until the end of that paragraph substitute “, regulations 45 or 46 (as they had effect at the time of approval of arrangements for the scheme ceasing to be contracted-out) of the Occupational Pension Schemes (Contracting-out) Regulations

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(a) S.I. 1996/3126.

(b) Paragraphs (6) to (10) were inserted by S.I. 2005/706. Paragraph (7) was amended by S.I. 2009/615.

(c) S.I. 1996/3128.

(d) Section 7B was inserted by paragraph 6 of Schedule 13 to the 2014 Act.

(e) S.I. 1997/664 (C.23).

(f) S.I. 1997/784.

(g) Section 37A is inserted by paragraph 25 of Schedule 13 to the 2014 Act.

1996(a), or regulations 6, 17 or 20 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 apply”.

(4) In regulation 9(3) (circumstances in which liability to provide pensions under a relevant scheme may be discharged), for “is to cease” substitute “has ceased”.

(5) In regulation 11(3)(e)(ii) (conditions on which liability to provide pensions under a relevant scheme may be discharged), for “section 12C(1)” substitute “section 37A(1)”.

### **Amendment of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998**

**13.**—(1) The Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998(b) are amended as follows.

(2) In regulation 1(2) (interpretation) in the definition of “section 9(2B) rights”, for “regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations 1996” substitute “regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015”.

(3) In regulation 2 (determination of the amount required for restoring State scheme rights), for “contracted-out occupational pension scheme which is being wound up” substitute “scheme which was a contracted-out occupational pension scheme and which started to wind up before the second abolition date”.

(4) In regulation 3(3) (method of calculation where no election to pay a contributions equivalent premium may be made)(c), in sub-paragraphs (a) and (b), for “the scheme being such a scheme” substitute “the scheme having been such a scheme”.

### **Amendment of the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998**

**14.**—(1) The Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998(d) are amended as follows.

(2) In regulation 1(2) (interpretation), omit the definition of “contracted-out scheme”.

(3) In regulation 2 (validation of rule alterations made before 6th April 1997)(e)—

(a) in paragraph (1)(a), for “contracted-out scheme” substitute “scheme, which was at the time of the alteration a contracted-out scheme,” and

(b) in paragraph (2), for “a contracted-out” substitute “such a”.

### **Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999**

**15.** For the heading immediately before paragraph 6 of Schedule 2 to the Social Security and Child Support (Decisions and Appeals) Regulations 1999(f) substitute “Schemes that were Contracted-out Pension Schemes”.

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(a) S.I. 1996/1172. Regulations 45 and 46 were amended by S.I. 1997/819, section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), S.I. 2005/2050, S.I. 2011/1245, S.I. 2011/1246 and S.I. 2015/1677.

(b) S.I. 1998/1397.

(c) Regulation 3(3) was inserted by S.I. 2005/891 and amended by S.I. 2005/3164.

(d) S.I. 1998/1846.

(e) Regulation 2 was amended by section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(f) S.I. 1999/991.

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

**16.**—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(a) are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “base rate” insert—

““contracted-out” is to be construed in accordance with section 7B(2) (meaning of “contracted-out scheme” etc.) of the 1993 Act;” and

(b) for the definition of “section 9(2B) rights” substitute—

““section 9(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015;”.

(3) In regulation 3(a) (circumstances in which an application for an extension of the implementation period may be made), for sub-paragraph (ii) substitute—

“(ii) the scheme has ceased to be a contracted-out scheme in the 12 month period ending on the date of the application (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act 2014 or otherwise);”.

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

**17.**—(1) The Pension Sharing (Pension Credit Benefit) Regulations 2000(b) are amended as follows.

(2) In regulation 1(2) (interpretation), omit the definition of “salary related contracted-out scheme”.

(3) In regulation 26(a) (extension of time limits for payment of cash equivalents), for sub-paragraph (ii) substitute—

“(ii) the scheme has ceased to be a contracted-out scheme in the 12 month period ending on the date of the application (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act 2014 or otherwise);”.

### **Amendment of the Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Provisions) Regulations 2000**

**18.** In regulation 2(2) (modification of the application of section 44(5A) of the 1992 Act) of the Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Provisions) Regulations 2000(c)—

(a) in both places where it occurs, for “is reduced” substitute “was reduced”;

(b) after “section 41” insert “(as it then had effect)”; and

(c) after “sections 41” insert “(as it then had effect)”.

### **Amendment of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001**

**19.**—(1) The Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001(d) are amended as follows.

(2) In regulation 1(2) (interpretation)—

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(a) S.I. 2000/1053.

(b) S.I. 2000/1054.

(c) S.I. 2000/2736.

(d) S.I. 2001/1323.



- (a) for the definition of “contributions equivalent premium” substitute—  
““contributions equivalent premium” has the meaning given in section 181(1) (general interpretation) of the Pension Schemes Act 1993(a);”;
- (b) after the definition of “the Administration Act” insert—  
““appropriate personal pension scheme” means an appropriate scheme within the meaning of section 7B(6) (meaning of “contracted-out scheme” etc.) of the Pension Schemes Act 1993;”;
- (c) after the definition of “contributions equivalent premium” insert—  
““money purchase contracted-out scheme” has the meaning given in section 7B(5) of the Pension Schemes Act 1993;”;
- (d) after the definition of “non-contracted-out employment” insert—  
““salary related contracted-out scheme” has the meaning given in section 7B(4) of the Pension Schemes Act 1993;”.

(3) In regulation 2(a) (calculation of additional pension where contributions equivalent premium paid or treated as paid), after “regulations made thereunder” insert “(as they then had effect)”.

### **Amendment of the Pension Protection Fund (Entry Rules) Regulations 2005**

**20.** In regulation 2 (schemes which are not eligible schemes) of the Pension Protection Fund (Entry Rules) Regulations 2005(b)—

- (a) in paragraph (1)(g)(ii), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and
- (b) in paragraph (8)(c)—
  - (i) before the definition of “PPF Ombudsman” insert—  
““contracted-out” is to be construed in accordance with section 7B(2) (meaning of “contracted-out scheme” etc.) of the Pension Schemes Act 1993;”;
  - (ii) after the definition of “PPF Ombudsman” insert—  
““the second abolition date” has the meaning given in section 181(1) (general interpretation) of the Pension Schemes Act 1993;”.

### **Amendment of the Transfer of Employment (Pension Protection) Regulations 2005**

**21.** In regulation 2(1) (requirements where the transferee’s pension scheme is not a money purchase scheme) of the Transfer of Employment (Pension Protection) Regulations 2005(d), for “258(2)(c)(ii)” substitute “258(2)(c)”.

### **Amendment of the Occupational Pension Schemes (Employer Debt) Regulations 2005**

**22.** In regulation 4 (schemes to which section 75 of the 1995 Act does not apply) of the Occupational Pension Schemes (Employer Debt) Regulations 2005(e)—

- (a) in paragraph (1)(f)(ii), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and
- (b) at the end insert—  
“(3) In this regulation—

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(a) The definition of “contributions equivalent premium” is amended by paragraph 43(6) of Schedule 13 to the 2014 Act.  
(b) S.I. 2005/590.  
(c) Paragraph (8) was substituted by S.I. 2010/196.  
(d) S.I. 2005/649. Regulation 2 was amended by S.I. 2014/540.  
(e) S.I. 2005/678.

“contracted-out” is to be construed in accordance with section 7B(2) (meaning of “contracted-out scheme” etc.) of the Pension Schemes Act 1993; and  
“the second abolition date” has the meaning given in section 181(1) (general interpretation) of the Pension Schemes Act 1993.”.

#### **Amendment of the Occupational Pension Schemes (Winding up etc.) Regulations 2005**

**23.** In regulation 3 (schemes to which section 73 of the 1995 Act does not apply) of the Occupational Pension Schemes (Winding up etc.) Regulations 2005**(a)**—

(a) in paragraph (1)(f)(ii), for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and

(b) at the end insert—

“(3) In this regulation—

“contracted-out” is to be construed in accordance with section 7B(2) (meaning of “contracted-out scheme” etc.) of the Pension Schemes Act 1993; and

“the second abolition date” has the meaning given in section 181(1) (general interpretation) of the Pension Schemes Act 1993.”.

#### **Amendment of the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005**

**24.** In regulation 3 (prescribed schemes) of the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005**(b)**—

(a) that regulation becomes paragraph (1) of regulation 3;

(b) in sub-paragraph (g)(ii) of that paragraph, for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”; and

(c) after paragraph (1) insert—

“(2) In this regulation—

“contracted-out” is to be construed in accordance with section 7B(2) (meaning of “contracted-out scheme” etc.) of the Pension Schemes Act 1993; and

“the second abolition date” has the meaning given in section 181(1) (general interpretation) of the Pension Schemes Act 1993.”.

#### **Amendment of the Financial Assistance Scheme Regulations 2005**

**25.** In regulation 10 (other schemes which are not qualifying pension schemes) of the Financial Assistance Scheme Regulations 2005**(c)**—

(a) that regulation becomes paragraph (1) of regulation 10;

(b) in sub-paragraph (g)(ii) of that paragraph, for “is not contracted-out in accordance with section 9 of the 1993 Act” substitute “was not contracted-out at any time before the second abolition date”; and

(c) after paragraph (1) insert—

“(2) In this regulation—

“contracted-out” is to be construed in accordance with section 7B(2) (meaning of “contracted-out scheme” etc.) of the 1993 Act; and

“the second abolition date” has the meaning given in section 181(1) (general interpretation) of the 1993 Act.”.

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(a) S.I. 2005/706.  
(b) S.I. 2005/931.  
(c) S.I. 2005/1986.

### **Amendment of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005**

**26.** In paragraph 5 of Schedule 2 (relevant legal requirements for the purposes of section 293 of the Pensions Act 2004(a)) to the Occupational Pension Schemes (Cross-border Activities) Regulations 2005(b), in table 4—

- (a) omit row 1;
- (b) in row 2—
  - (i) in column 1, for “Sections 12A to 12D” substitute “Section 12E”; and
  - (ii) in column 2, for “Requirements for certification of occupational pension schemes” substitute “Former salary related contracted-out schemes to comply with guaranteed minimum pension requirements”; and
- (c) in row 7, in column 1, for “Sections 50 and 51” substitute “Section 51”.

### **Amendment of the Employers’ Duties (Registration and Compliance) Regulations 2010**

**27.**—(1) The Employers’ Duties (Registration and Compliance) Regulations 2010(c) are amended as follows.

- (2) In regulation 6(1) (records: employers), omit sub-paragraph (c).
- (3) In regulation 8 (period of preservation of records), after paragraph (2) insert—

“(3) Where a certificate issued in respect of a jobholder under section 7(1) of the Pension Schemes Act 1993 was required to be kept under regulation 6(1)(c) (as it had effect before 6th April 2016), that certificate must be preserved until 5th April 2022.”.

### **Amendment of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015**

**28.** In regulation 2(1) (interpretation) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015(d), in the definition of “section 9(2B) rights”—

- (a) for “contracted-out by virtue of section 9(2B) of the 1993 Act” in both places where it occurs, substitute “that was a salary related contracted-out scheme”; and
- (b) in paragraph (b), in the introductory words—
  - (i) after “has been made” insert “(other than a payment made in accordance with regulation 10 (transfers payments to occupational and personal pension schemes in respect of section 9(2B) rights) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996)”; and
  - (ii) after “such a scheme,” insert “whether before or after the second abolition date.”.

## **PART 3**

Amendments coming into force on 6th April 2017

### **Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996**

**29.** In regulation 13 of the Occupational Pension Schemes (Transfer Values) Regulations 1996(e)—

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(a) 2004 c.35.  
(b) S.I. 2005/3381. Paragraph 5 was amended by S.I. 2009/598.  
(c) S.I. 2010/5.  
(d) S.I. 2015/1677.  
(e) Regulation 13 is amended by S.I. 2005/686 and S.I. 2015/498.

- (a) that regulation becomes paragraph (1) of regulation 13;
- (b) for sub-paragraph (a)(ii)(a) of that paragraph substitute—
  - “(ii) the scheme ceased to be a contracted-out scheme in the 12 month period ending on the second abolition date, and the trustees of the scheme are seeking to reach an agreement with HMRC as to the scheme’s liabilities for guaranteed minimum pensions or section 9(2B) rights of members through the scheme reconciliation service but such agreement has not yet been reached;”;
  - and
- (c) after paragraph (1) insert—
  - “(2) In this regulation, “scheme reconciliation service” means the service set up by HMRC which allows schemes to compare the scheme’s records of members who have been contracted-out, and the value of members’ guaranteed minimum pensions, with HMRC’s records of the same, with a view to removing any errors in the scheme’s or HMRC’s records.”.

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

**30.**—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 are amended as follows.

- (2) In regulation 1(2)(b), in the appropriate places insert—
  - ““guaranteed minimum pension” has the meaning given in section 8(2) (meaning of “contracted-out employment” etc.) of the 1993 Act;”;
  - ““HMRC” means the Commissioners of Her Majesty’s Revenue and Customs;”;
  - ““scheme reconciliation service” means the service set up by HMRC which allows schemes to compare the scheme’s records of members who have been contracted-out, and the value of members’ guaranteed minimum pensions, with HMRC’s records of the same, with a view to removing any errors in the scheme’s or HMRC’s records;”;
  - ““the second abolition date” has the meaning given in section 181(1) (general interpretation) of the 1993 Act;”.
- (3) In regulation 3(a), for sub-paragraph (ii)(c) substitute—
  - “(ii) the scheme ceased to be a contracted-out scheme in the 12 month period ending on the second abolition date, and the trustees or managers of the scheme are seeking to reach an agreement with HMRC as to the scheme’s liabilities for guaranteed minimum pensions or section 9(2B) rights of members through the scheme reconciliation service but such agreement has not yet been reached;”.

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

**31.** In regulation 26 (extension of time limits for payment of cash equivalents) of the Pension Sharing (Pension Credit Benefit) Regulations 2000—

- (a) that regulation becomes paragraph (1) of regulation 26;
- (b) for sub-paragraph (a)(ii)(d) of that paragraph substitute—
  - “(ii) the scheme ceased to be a contracted-out scheme in the 12 month period ending on the second abolition date, and the trustees or managers have not yet

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(a) Sub-paragraph (ii) was substituted by article 7 of this instrument.  
 (b) Regulation 1(2) was amended by S.I. 2000/2691, S.I. 2003/1727 and S.I. 2008/1050. The definition of “section 9(2B) rights” in regulation 1(2) is amended by article 16(2)(b) of this instrument.  
 (c) Sub-paragraph (ii) was substituted by article 16(3) of this instrument.  
 (d) Sub-paragraph (ii) was substituted by article 17(3) of this instrument.

reached an agreement with HMRC as to the scheme's liabilities for guaranteed minimum pensions or section 9(2B) rights;"; and

(c) after paragraph (1) insert—

“(2) In this regulation—

“scheme reconciliation service” means the service set up by HMRC which allows schemes to compare the scheme's records of members who have been contracted-out, and the value of members' guaranteed minimum pensions, with HMRC's records of the same, with a view to removing any errors in the scheme's or HMRC's records;

“section 9(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015.”

### **Amendment of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013**

**32.** In Schedule 2 (basic information) to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(a), omit paragraph 12.

## **PART 4**

Revocations coming into force on 6th April 2019

### **Revocation of the Occupational Pension Schemes (Modification of the Pension Schemes Act 1993) Regulations 1998 and the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998**

**33.** The Occupational Pension Schemes (Modification of the Pension Schemes Act 1993) Regulations 1998(b) and the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998 are revoked.

## **PART 5**

Amendments coming into force on 6th April 2021

### **Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996**

**34.** In regulation 13(1)(a) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(c), omit sub-paragraph (ii).

### **Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997**

**35.—(1)** The Occupational Pension Schemes (Discharge of Liability) Regulations 1997 are amended as follows.

(2) In regulation 9(d)—

(a) in paragraph (1), for “either in paragraph (2) or (3)” substitute “in paragraph (2)”; and

(b) omit paragraph (3).

(3) In regulation 11(1)(e), after “regulation 9(2)(b)” omit “and (3)”.

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(a) S.I. 2013/2734.

(b) S.I. 1998/1466.

(c) Regulation 13 is amended by articles 7 and 29 of this instrument.

(d) Regulation 9 is amended by article 12 of this instrument.

(e) Regulation 11 is amended by article 12 of this instrument.

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

**36.**—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 are amended as follows.

(2) In regulation 1(2), omit the definitions of “contracted-out”, “guaranteed minimum pension”, “HMRC”, and “the second abolition date”(a).

(3) In regulation 3(a), omit sub-paragraph (ii)(b).

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

**37.** In regulation 26(1)(a) of the Pension Sharing (Pension Credit Benefit) Regulations 2000, omit sub-paragraph (ii)(c).

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

24th February 2016

*Altmann*  
Minister of State,  
Department for Work and Pensions

### **EXPLANATORY NOTE**

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

This Order is made under sections 53 and 54 of the Pensions Act 2014 (c.19) (“the 2014 Act”), which provides for consequential amendments to be made in connection with provision made by that Act.

The 2014 Act creates a new state pension for people reaching pensionable age after implementation on 6th April 2016. This date is referred to in the Pension Schemes Act 1993 (c.48) (“the 1993 Act”) (as amended by the 2014 Act) as “the second abolition date”. The new pension will be paid at a single weekly rate, replacing the current state pension which has two components: a basic state pension and an additional state pension. Section 24 of the 2014 Act, and Schedule 13 to which it refers, therefore make amendments to existing primary legislation to abolish contracting-out of the additional state pension for salary related pension schemes. This Order makes consequential amendments to subordinate legislation.

In particular, references to a salary related contracted-out scheme are amended to refer to a scheme that was a salary related contracted-out scheme. This term is defined in section 7B of the 1993 Act, which was inserted by the 2014 Act. The Order also amends references to provisions of the 1993 Act which are repealed by the 2014 Act and to the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), which are revoked and replaced (subject to savings) by the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677).

Article 2(3) amends regulation 24 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167) to clarify that a salary related scheme ceasing to contract-out on the second abolition date does not constitute a “material alteration” of the scheme for the purposes of that regulation.

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- (a) These definitions are inserted by articles 16 and 30 of this instrument.  
(b) Regulation 3(a)(ii) is amended by article 30 of this instrument.  
(c) Regulation 26(a)(ii) is amended by article 17 and 31 of this instrument.

Article 3 amends the definition of “section 9(2B) rights” in the Occupational Pension Schemes (Contracting-out) Regulations 1996 and article 28 amends the same definition within the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 to ensure consistency between the two definitions and to take account of the changes to the transfer provisions made by article 4.

Article 4 omits certain provisions of the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462) relating to transfers and transfer payments of pension rights between schemes which are both contracted-out. These provisions continue to have effect under article 5 in relation to transfers which occurred before the second abolition date.

Article 14 amends the Occupational Pension Schemes (Validation of Rule Alterations) Regulations 1998 (S.I. 1998/1846) from 6th April 2016 to allow the regulations to apply to schemes that were contracted-out at the time the rule alteration was made. Article 33 then revokes those regulations from 6th April 2019, along with the Occupational Pension Schemes (Modification of the Pension Schemes Act 1993) Regulations 1998 (S.I. 1998/1466).

Article 26 amends the Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381) to amend references to contracting-out legislation in the list of legislation that a European pensions institution is required to comply with if it accepts contributions from a UK employer.

Article 27 amends the Employers’ Duties (Registration and Compliance) Regulations 2010 (S.I. 2010/5) to require that the contracting-out certificate (which was evidence that the scheme met the relevant quality standards in relation to automatic enrolment before the second abolition date) be kept for a period of 6 years after the second abolition date.

Articles 29, 30 and 31 amend respectively the Occupational Pension Schemes (Transfer Values) Regulations 1996 (S.I. 1996/1847), the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (S.I. 2000/1053) and the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054) to allow for the time for relevant payments to be paid to be extended by the Pensions Regulator where the scheme is still seeking to reach an agreement with HMRC, following the abolition of contracting-out, as to the scheme’s liabilities for guaranteed minimum pensions and section 9(2B) rights through what is known as the Scheme Reconciliation Service. These provisions are then revoked from 6th April 2021 by articles 34, 36 and 37 respectively.

Article 32 removes the requirement for schemes to provide information as to what employment is contracted-out employment under the scheme, from 6th April 2017.

An analysis of the impact of the abolition of contracting-out has been made as part of the analysis of the 2014 Act. A copy is available in the libraries of both Houses of Parliament and from the Better Regulation Unit of the Department for Work and Pensions, 2D, Caxton House, Tothill Street, London SW1H 9NA.

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