

## 1997 No. 946

### PENSIONS

#### The Occupational Pension Schemes (Age-related Payments) Regulations 1997

*Made* - - - - - 18th March 1997

*Laid before Parliament* 20th March 1997

*Coming into force in accordance with regulation 1(2)*

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 42A(3), 113(1) and (3), 168(1) and (4) and 181(1) of the Pension Schemes Act 1993(a) and of all other powers enabling him in that behalf after agreement with the Occupational Pensions Board that proposals within these Regulations need not be referred to it, hereby makes the following Regulations:

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Age-related Payments) Regulations 1997.

(2) These Regulations shall come into force as follows—

- (a) regulations 1 to 4, 8 in so far as it relates to regulation 2, and 9, in so far as it relates to regulations 3 and 4, on 21st March 1997, and
- (b) otherwise, on 6th April 1997.

(3) In these Regulations —

“the 1993 Act” means the Pension Schemes Act 1993;

“age-related payment” means a payment to be made by the Secretary of State in accordance with section 42A(3) of the 1993 Act;

“the principal appointed day” means 6th April 1997;

“prospective member” has the same meaning as in the Occupational Pension Schemes (Disclosure of Information) Regulations 1996(b);

“relevant scheme”, “salary-related part” and “money purchase part” have the same meanings as in the Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996(c);

“scheme” means an occupational pension scheme; and

“section 9(2)” and “section 9(3)” means those sections of the 1993 Act(d).

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(a) 1993 c.48; section 42A is inserted by 137(5) of the Pensions Act 1995 (1995 c.26); a new section 168 is substituted by section 155 of the Pensions Act 1995 from 6th April 1997; section 181(1) is cited for the meaning it gives to “prescribe”.

(b) S.I. 1996 No. 1655.

(c) S.I. 1996 No. 1977.

(d) Section 9 of the 1993 Act is amended from 6th April 1997 by the Pensions Act 1995 section 136, and Schedule 5, paragraph 24.

**Age-related payments not to be paid after age-related moves made before the principal appointed day****2. If—**

- (a) there are in relation to the employer two or more schemes, one of which is contracted-out under section 9(2) and one of which is contracted-out under section 9(3), and
  - (b) before the principal appointed day an earner moves from a scheme contracted-out under section 9(2) to a scheme contracted-out under section 9(3), and
  - (c) the age of the earner is the only or main reason for the move,
- any age-related payment which would otherwise be payable shall not be paid in respect of that earner.

**Age-related payments not to be paid if scheme rules require age-related moves: admission to the scheme before the principal appointed day****3. If—**

- (a) there are in relation to the employer two or more schemes, and
- (b) members are required by reference to their age to move from a scheme contracted-out under section 9(2) to a scheme contracted-out under section 9(3),

any age-related payment which would otherwise be payable shall not be paid in respect of any earner who on admission to one of the schemes of that employer enters a scheme contracted-out under section 9(3) before the principal appointed day.

**Age-related payments not to be paid if an earner's age allows his admission only to a money purchase scheme: admission to the scheme before the principal appointed day**

**4. ▶(1)** Subject to paragraph (2), if ◀ because of his age an earner who is not already a member of any schemes established by his employer may be admitted only to a scheme contracted-out under section 9(3), any age-related payment which would otherwise be payable shall not be paid in respect of that earner on his admission before the principal appointed day to a scheme established by that employer.

▶(2) Paragraph (1) shall not apply if—

- (a) the rules of the schemes established by the employer allow an earner to be admitted to a scheme contracted-out under section 9(2), or the salary-related part of a relevant scheme, only when the earner has reached a specified age, and
- (b) on his admission to a scheme established by the employer, the earner has not reached that age. ◀

**Age-related payments not to be paid after age-related moves on or after the principal appointed day****5. If—**

- (a) (i) a scheme is a relevant scheme, and  
(ii) an earner moves from the salary-related part of that scheme to the money purchase part; or
- (b) (i) there are in relation to the employer two or more relevant schemes, and  
(ii) an earner moves from the salary-related part of one of those relevant schemes to the money purchase part of another of those relevant schemes; or
- (c) (i) there are in relation to the employer two or more schemes, one of which is contracted-out under section 9(2) and one of which is contracted-out under section 9(3); or
- (d) (i) there are in relation to the employer two or more schemes, one of which is contracted-out under section 9(2) and one of which is a relevant scheme, and  
(ii) an earner moves from a scheme which is contracted-out under section 9(2) to the money purchase part of a relevant scheme,

and in any such case the move occurs on or after the principal appointed day, and the age of the earner is the only or main reason for the move, an age-related payment shall not be paid in respect of that earner for the tax year in which the move occurs and any subsequent tax year.

Words substituted and sub-para (2) inserted in reg. 4 by reg. 13(2) of S.I. 1997/3038 as from 12.1.98.

**Age-related payments not to be paid if scheme rules require age-related moves: admission to the scheme on or after the principal appointed day**

6.—(1) If the rules of a relevant scheme require members to move from the salary-related part to the money purchase part by reference to their age, any age-related payment which would otherwise be payable shall not be paid in respect of any earner who enters the money purchase part on his admission to the scheme on or after the principal appointed day.

(2) If—

- (a) in relation to an employer there are two or more schemes, and
- (b) members are required by reference to their age, to move
  - (i) from either
    - the salary-related part of a relevant scheme, or
    - a scheme contracted-out under section 9(2),
  - (ii) to either
    - the money purchase part of a relevant scheme, or
    - a scheme contracted-out under section 9(3),

an age-related payment shall not be paid in respect of any earner who on admission to one of the schemes of that employer enters a scheme contracted-out under section 9(3) or the money purchase part of a relevant scheme on or after the principal appointed day.

**Age-related payments not to be paid if an earner's age allows his admission only to a money purchase scheme or a money purchase part: admission to the scheme on or after the principal appointed day**

7. ▶(1) Subject to paragraph (2), if ◀ because of his age an earner who is not already a member of any schemes established by his employer may be admitted only to a scheme contracted-out under section 9(3) or to the money purchase part of a relevant scheme, any age-related payment which would otherwise be payable shall not be paid in respect of that earner on his admission on or after the principal appointed day to a scheme established by that employer.

Words substituted and sub-para. (2) inserted in reg. 7 by reg. 13(2) of S.I. 1997/3038 as from 12.1.98.

▶(2) Paragraph (1) shall not apply if -

- (a) the rules of the schemes established by the employer allow an earner to be admitted to a scheme contracted-out under section 9(2), or the salary-related part of a relevant scheme, only when the earner has reached a specified age, and
- (b) on his admission to a scheme established by the employer, the earner has not reached that age.◀

**Disclosure to earners that the age-related payment will not be paid after an age-related move**

8. If an earner is to move in circumstances under which, in accordance with regulation 2 or 5 of these Regulations, an age-related payment will not become payable, the trustees or managers of the scheme concerned, or as the case may be the scheme the move is from, shall before or within two months of the move notify the earner in writing—

- (a) that the move is to take place,
- (b) the date of or the proposed date of the move,
- (c) that the move is by reason of his age,
- (d) that the age-related payment will not be paid after the move, and
- (e) that because the age-related payment will not be paid, the earner's benefits under the scheme may not be as much as they would otherwise have been.

**Disclosure to prospective members that the age-related payment will not be paid on admission to a money purchase scheme or money purchase part**

9.—(1) If admission to a scheme might, under regulations 3, 4, 6 or 7 of these Regulations, result in an age-related payment not being paid, the trustees or managers shall as of course, where practicable, give every prospective member the information set out in paragraph (2) of this regulation and where it has not been practicable to do so, such information shall be given to a person within 2 months of his admission to the scheme.

(2) The information referred to above is—

- (a) the circumstances in which the age-related payment may not be paid in respect of him if he is admitted to the scheme,
- (b) that if the age-related payment is not paid, his benefits under the scheme may not be as much as they would otherwise have been.

**Penalties**

**10.** If any person fails, without reasonable excuse, to comply with any requirement imposed under regulations 8 or 9 in respect of regulations 5, 6 or 7 of these Regulations, the Occupational Pensions Regulatory Authority<sup>(a)</sup> may require that person to pay within 28 days a penalty which shall—

- (a) in the case of an individual, not exceed £1,000, and
- (b) in any other case, not exceed £10,000.

Signed by authority of the Secretary of State for Social Security

18th March 1997

*MacKay of Ardbrecknish*  
Minister of State,  
Department of Social Security

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(a) See section 1 of the Pensions Act 1995.

**EXPLANATORY NOTE**

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

These Regulations specify further circumstances in which age-related payments are not to be paid (in addition to those contained in regulations 37 of the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172)) and require the trustees or managers of an occupational pension scheme to provide affected members with certain relevant information.

Regulation 1 deals with citation, commencement and interpretation.

Regulation 2 provides that the age-related payment shall not be paid after an age-related move to a money purchase scheme before 6th April 1997.

Regulation 3 provides that the age-related payment shall not be paid in respect of an entrant to a money purchase scheme before 6th April 1997 if the employer has more than one scheme and the rules of the schemes require an age-related move to a money purchase scheme.

Regulation 4 provides that the age-related payment shall not be paid in respect of an entrant to a scheme before 6th April 1997 if he is allowed because of his age only to join a money purchase scheme.

Regulation 5 provides that the age-related payment shall not be paid after an age-related move to a money purchase scheme or money purchase part of a hybrid scheme (as defined in section 149 of the Pensions Act 1995) on or after 6th April 1997.

Regulation 6 provides that the age-related payment shall not be paid in respect of any new entrant to a hybrid scheme on or after 6th April 1997 if the rules of the scheme require an age-related move to the money purchase part. Nor is the age-related payment to be paid in respect of any new entrant to a money purchase scheme on or after 6th April 1997 if the employer has more than one scheme and the rules of the schemes require an age-related move to a money purchase scheme.

Regulation 7 provides that the age-related payment shall not be paid in respect of a new entrant to a scheme on or after 6th April 1997 if he is allowed because of his age only to join a money purchase scheme or the money purchase part of a hybrid scheme.

If, under regulations 2 or 5 a move would result in the age-related payment not being paid, regulation 8 requires trustees or managers to notify an earner who is to be moved of the consequences of that move.

If, under regulation 3, 4, 6 or 7 joining a scheme would result in the age-related payment not being paid, regulation 9 requires the trustees or managers to notify prospective members of that fact and of its consequences.

Regulation 10 provides for the imposition of penalties by the Occupational Pensions Regulatory Authority if certain of the disclosure requirements imposed by regulations 8 and 9 are not complied with.

These regulations do not impose any new costs on business.

