

**1997 No. 664 (C.23)****PENSIONS****The Pensions Act 1995 (Commencement No. 10)  
Order 1997***Made* - - - -*6th March 1997*

The Secretary of State for Social Security, in exercise of the powers conferred on him by section 180(1) and (4) of the Pensions Act 1995(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

*Citation, interpretation and appointed days***Citation and interpretation**

**1.**—(1) This Order may be cited as the Pensions Act 1995 (Commencement No. 10) Order 1997.

(2) In this Order—

“the 1993 Act” means the Pension Schemes Act 1993(b);

“the 1995 Act” means the Pensions Act 1995;

“the Authority” means the Occupational Pensions Regulatory Authority(c); and

“the Board” means the Occupational Pensions Board(d).

**Appointed days**

**2.**—(1) For the purposes of making regulations relating to the compensation provisions(e) the day appointed for the coming into force of section 81(7) of the 1995 Act is the day on which this Order is made.

(2) The day appointed for the coming into force of the provisions specified in Part I of the Schedule to this Order, insofar as they are not already in force, is 1st April 1997.

(3) The day appointed for the coming into force of the provisions specified in Part II of the Schedule to this Order, insofar as they are not already in force, is 6th April 1997.

*Transitional adaptations, modifications and savings***Revaluation of earnings factors: early leavers**

**3.** Section 16(3) of the 1993 Act (revaluation of earnings factors: early leavers) shall continue to have effect as if this Order had not come into force in relation to an earner whose service in contracted-out employment in relation to the scheme in question has terminated before the principal appointed day(a).

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(a) 1995 c.26.

(b) 1993 c.48.

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

(d) See section 2 of the Pension Schemes Act 1993.

(e) See section 81(3) of the Pensions Act 1995.

**Termination of contracted-out or appropriate scheme status and state scheme premiums**

4.—(1) Any function of the Board under section 50 of the 1993 Act (powers of Board to approve arrangements for scheme ceasing to be certified) which fell to be exercised before the principal appointed day but has not been exercised may be exercised by the Secretary for State and, for the purposes of determining the date on which any state scheme premium has become payable, any certificate issued under subsection (2) of that section shall be taken to have had effect from the date specified by the Secretary of State.

(2) Sections 55 to 68, 170(1) and 171(1) of the 1993 Act (state scheme premiums) shall continue to have effect as if this Order had not come into force in relation to any state scheme premium which has been paid before the principal appointed day or is payable immediately before that day, and nothing in this Order shall affect the operation of any other provision of the 1993 Act or any provision of any other Act in relation to any such premium.

(3) Any function of the Board in relation to state scheme premiums under the provisions referred to in paragraph (2) falling to be exercised after the principal appointed day shall be exercised by the Secretary of State.

**Transfer Values—extensions granted by the Board**

5. Section 99 of the 1993 Act (trustees' duties after exercise of option under section 95) shall have effect in relation to any extension granted or refused by the Board under subsection (4) of that section before the principal appointed day as though it had been granted or refused by the Authority.

**Payments to employers**

6. For the purposes of—

- (a) any payment to the employer out of funds held for the purposes of a scheme where an application to modify the scheme rules for the purposes of making that payment has been made in accordance with the Occupational Pension Schemes (Modification) Regulations 1990(b) before the principal appointed day; or
- (b) any distribution of excess assets to the employer in relation to a scheme which begins to be wound up before the principal appointed day,

section 108 of the 1993 Act (no payments to employers from non-complying schemes) shall continue to have effect as if this Order had not come into force.

**Actuarial statements pending the first minimum funding requirement valuation**

7. Section 114 of the 1993 Act and regulations 8 and 9 of the Occupational Pension Schemes (Disclosure of Information) Regulations 1986 shall, in so far as they relate to the actuarial statement, remain in force in respect of a scheme to which section 56 of the 1995 Act applies until such time as the trustees or managers of the scheme are required by regulation 30 of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 to obtain the first valuation.

**Preservation—determinations of the Board**

8. Where, before the principal appointed day, the Board has determined in accordance with section 134 of the 1993 Act that any provision of Chapter I of Part IV of the 1993 Act (the preservation requirements) shall not apply to a scheme, that determination shall continue to have effect as if this Order had not come into force until there is an alteration to the rules of the scheme relating to any requirement imposed by that provision.

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(a) 6th April 1997: *see* section 135 of the Pensions Act 1995 and the Pensions Act 1995 (Commencement No. 3) Order 1996, S.I. 1996/778 (C.13).

(b) S.I. 1990 No. 2021; the relevant amending instruments are S.I. 1994/1062 and S.I. 1996/2156.

**Modification of schemes**

9. Nothing in this Order shall affect the operation of sections 136 to 140 of the 1993 Act (application to modify schemes other than public service schemes) in relation to an application made to the Board before the principal appointed day, and any functions of the Board exercisable after the principal appointed day under those sections as saved by this article shall be exercised by the Authority.

**Minimum payments and minimum contributions payable before the principal appointed day**

10. Notwithstanding section 140(3) of the 1995 Act, section 48 of the 1993 Act shall remain in force in respect of minimum payments and minimum contributions paid or payable before the principal appointed day.

**Winding up**

11.—(1) Sections 73 and 74 of the 1995 Act (preferential liabilities on winding up and discharge of liabilities by insurance, etc.) do no apply to any scheme which has begun to be wound up before the principal appointed day; and for the purposes of this paragraph the time when a scheme begins to be wound up shall be determined in accordance with regulation 2 of the Occupational Pension Schemes (Winding Up) Regulations 1996(a).

(2) At the end of paragraph 31 of Schedule 5 to the 1995 Act insert the words “and for the purposes of this paragraph the time when a scheme begins to be wound up shall be determined in accordance with regulation 2 of the Occupational Pension Schemes (Winding Up) Regulations 1996”.

(3) Section 144 of the 1993 Act (which is repealed by the 1995 Act, Schedule 7, Part I) shall remain in force as regards schemes that began to wind up before 19th December 1996 and in respect of debts which arose at any applicable time before 6th April 1997.

**Schedules of payments to money purchase schemes**

12.—(1) The trustees or managers of an occupational pension scheme to which section 87 of the 1995 Act (schedules of payments to money purchase schemes) applies, shall not be obliged to secure the preparation, maintenance or revision of a payment schedule in respect of any period before the beginning of the first scheme year which begins on or after 6th April 1997.

(2) In paragraph (1) above “scheme year” has the same meaning as in the Occupational Pension Schemes (Scheme Administration) Regulations 1996(b).

**The National Insurance (Non-participation-Certificates) Regulations 1959—functions of the Board**

13. Any function of the Board under the National Insurance (Non-participation-Certificates) Regulations 1959(c) falling to be exercised on or after the principal appointed day, or which fell to be exercised before that day which has not been exercised by the Secretary of State.

**Property, rights and liabilities of the Board**

14. All property, rights and liabilities to which the Board is entitled or subject immediately before the principal appointed day shall become the property, rights and liabilities of the Secretary of State.

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

*Oliver Heald*  
Parliamentary Under-Secretary of State,  
Department of Social Security

6th March 1997

(a) S.I. 1996/3126.

(b) S.I. 1996/1715.

(c) S.I. 1959/1860; the relevant amending instruments are S.I. 1961/2176, S.I. 1963/676, S.I. 1965/40 and S.I. 1983/118.

## SCHEDULE

Article 2

## PART I

PROVISIONS OF THE 1995 ACT COMING INTO FORCE ON 1ST APRIL 1997  
INSOFAR AS THEY ARE NOT ALREADY IN FORCE

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| <i>Provisions of the 1995 Act</i>   | <i>Subject matter</i>  |
|---|--|
| section 165   | levy   |
| Schedule 3, paragraph 23 and section 122<br>insofar as it relates to that paragraph | provision of information by the Registrar of<br>Occupational and Personal Pension Schemes                  |
| Schedule 5, paragraph 20 and section 151<br>insofar as it relates to that paragraph | Occupational Pensions Regulatory Authority as<br>Registrar of Occupational and Personal Pension<br>Schemes |
| Schedule 5, paragraph 73 and section 151<br>insofar as it relates to that paragraph | minor amendments to section 174 of the 1993<br>Act   |

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## PART II

PROVISIONS OF THE 1995 ACT COMING INTO FORCE ON 1ST APRIL 1997  
INSOFAR AS THEY ARE NOT ALREADY IN FORCE

| <i>Provisions of the 1995 Act</i>                                 | <i>Subject matter</i>   |
|---|---|
| section 1(5)  | constitution, procedure, etc. of the Occupational Pensions Regulatory Authority |
| section 3 to 15   | supervision by the Occupational Pensions Regulatory Authority                   |
| section 16 to 21  | member-nominated trustees and directors   |
| sections 22 to 26   | independent trustees  |
| sections 27 to 31   | trustees: general   |
| sections 32 to 38   | functions of trustees   |
| sections 40 and 41  | functions of trustees or managers   |
| sections 47 and 48(1) and (3) to (6)                              | advisers  |
| section 49  | receipts, payments and records  |
| section 50  | resolution of disputes  |
| sections 51 to 54   | indexation  |
| sections 56 to 61   | minimum funding requirement   |
| sections 67 to 72   | modification of schemes   |
| sections 73 to 77   | winding up  |
| sections 78(4) and (8), 79 and 80(1) to (3) and (5)               | the Pensions Compensation Board   |
| sections 81 to 86   | the compensation provisions   |
| sections 87 to 89   | money purchase schemes  |
| sections 91(1) and (2) and (4) to (7) and 92 to 94                | assignment, forfeiture, bankruptcy, etc.  |
| sections 96 and 97  | questioning the decisions of the Authority                                      |
| sections 98 to 103  | gathering information: the Authority  |
| sections 104 to 109   | disclosure of information: the Authority  |
| sections 110 to 114   | gathering information: the Compensation Board general (Part I)                  |
| sections 115, 116(2) and (3), 117, 122, 123(1) and (2) and 125(1) | state scheme contributions and rebates  |

| <i>Provisions of the 1995 Act</i>  | <i>Subject matter</i>  |
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| section 137  | state scheme contributions and rebates   |
| sections 138, 139 and 140(1) and (3)                                     | reduction in state scheme contributions, payments of rebates and reduction in state schemes benefits |
| section 141  | premiums and return to state scheme  |
| sections 147, 149 and 150  | miscellaneous  |
| section 151  | minor and consequential amendments   |
| sections 152 to 154  | transfer values  |
| section 155  | penalties  |
| sections 157 to 160  | Pension Ombudsman  |
| section 161  | modification and winding up of schemes   |
| sections 162 to 164  | personal pensions  |
| section 173  | general minor and consequential amendments   |
| sections 177, 178 and 181  | general (Part IV)  |
| Schedule 1   | Occupational Pensions Regulatory Authority   |
| Schedule 2   | Pensions Compensation Board  |
| Schedule 3   | Amendments consequential on Part I   |
| Schedule 5 (except paragraph 38)   | Amendments relating to Part III  |
| Schedule 6   | General minor and consequential amendments   |
| Schedule 7 (except the references to sections 35 and 36 of the 1993 Act) | Repeals  |

**EXPLANATORY NOTE**

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

This Order provides for the coming into force of further provisions of the Pensions Act 1995 on the following dates—

- (a) on the day the Order is made for section 81(7) for the purposes of making regulations relating to the compensation provisions,
- (b) 1st April 1997 for provisions relating to the levy, the provision of information by the Registrar of Occupational and Personal Pension Schemes, the appointment of the Occupational Pensions Regulatory Authority as that Registrar and minor amendments to the Pensions Schemes Act 1993, and
- (c) 6th April 1997 for all the remaining provisions of the Act except sections 48(2) and (7) to (13), 95 and 145 and paragraph 38 of Schedule 5 and a corresponding reference in Schedule 7.

The Order also makes transitional adaptations, modifications and savings.

Article 4 makes savings in respect of the termination of contracted-out or appropriate schemes status and state scheme premiums.

Article 5 makes a transitional modification in relation to transfer values and extensions granted or refused by the Occupational Pensions Board.

Article 6 makes transitional savings as regards payments to employers.

Article 7 makes a transitional saving relating to the disclosure to members of actuarial statements.

Article 8 makes a transitional saving as regards determinations by the Occupational Pensions Board in relation to the preservation requirements.

Article 9 makes transitional savings and modifications as regards applications to modify schemes other than public service schemes.

Article 10 makes a transitional saving relating to minimum payments and minimum contributions paid or payable before 6th April 1997.

Article 11 makes a transitional savings and modifications as regards winding up.

Article 12 makes a transitional modification as regards schedules of payments to money purchase schemes.

Article 13 provides for the functions of the Board under the National Insurance (Non-participation-Certificates) Regulations 1959 to be exercised by the Secretary of State.

Article 14 transfers all outstanding property, rights and liabilities of the Board to the Secretary of State.

**NOTE AS TO EARLIER COMMENCEMENT ORDERS**

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

**[This note as to earlier Commencement Orders appended to this Statutory Instrument is not reproduced. A full list of Commencement dates is given at Annex 2 to the Pensions Act 1995 in Part I of this volume.]**

