

2012 No. 542

PENSIONS

**The Occupational Pension Schemes (Contracting-out
and Modification of Schemes) (Amendment)
Regulations 2012**

Made - - - - - *25th February 2012*

Laid before Parliament *29th February 2012*

Coming into force - *6th April 2012*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 12A(4), 16(3), 181(1) and 182(3) of the Pension Schemes Act 1993(a) and sections 68(2)(e), 124(1) and 174(3) of the Pensions Act 1995(b), makes the following Regulations.

The Secretary of State has consulted such persons as the Secretary of State considers appropriate in accordance with section 185(1)(c) of the Pension Schemes Act 1993 and section 120(1) of the Pensions Act 1995.

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Contracting-out and Modification of Schemes) (Amendment) Regulations 2012.

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

[Regulation 2 amends regulation 62(2) and Schedule 3 of S.I. 1996/1172.]

[Regulation 3 inserts regulation 7A into S.I. 2006/759.]

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

25th February 2012

Steve Webb
Minister of State,
Department for Work and Pensions

(a) 1993 c. 48. Section 12A was inserted by section 136(5) of the Pensions Act 1995 (c. 26). Section 16(3) was amended by section 151 of, and paragraph 28(a) of Schedule 5 to, the Pensions Act 1995. Section 181(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(b) 1995 c. 26. Section 124(1) is cited for the meaning it gives to “prescribed” and “regulations”.

(c) Section 185(1) was amended by sections 122, 151 and 177 of, and paragraph 46 of Schedule 3 to, and paragraphs 80(a), (d) and (f) of Schedule 5 to, and Schedule 7 to, the Pensions Act 1995.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) (“the Contracting-out Regulations”) and the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 (S.I. 2006/759) (“the Modification of Schemes Regulations”).

Regulation 2(2) amends regulation 62 of the Contracting-out Regulations to provide for a new fixed rate percentage to be used for the revaluation of a person’s guaranteed minimum pension (if the scheme provides for revaluation by that method in accordance with section 16(2) of the Pension Schemes Act 1993 (c. 48)), if they leave contracted-out employment on or after 6th April 2012.

Regulation 2(3) corrects an error in a previous amendment to the Contracting-out Regulations (made by S.I. 2011/1294), and clarifies that it is the trustees or managers of the scheme to whom the actuary and the employer must provide the specified information under paragraph 4(a) and (b) of Schedule 3 to those Regulations.

Regulation 3 inserts a new regulation 7A into the Modification of Schemes Regulations. The new regulation provides a power for trustees to modify their scheme rules for the purposes of amending or removing rules which make special provision for the protected rights of members, where those rules are no longer required, or where the rules no longer reflect a statutory provision, as a result of the coming into force of the listed statutory provisions which implement the abolition of contracting-out on a defined contribution basis and the abolition of protected rights. The power can be used to make limited retrospective changes. The provision makes clear that the removal of rules relating to protected rights does not affect the member’s underlying entitlement to money purchase benefits under the scheme.

Regulation 2 amends an existing regulatory regime and has no new impact on the private sector and civil society organisations. Publication of an impact assessment is not necessary for such legislation.

Regulation 3 of this instrument enables more schemes to benefit from the abolition of the special provisions in relation to protected rights. An assessment of the impact of regulation 3 was included in the impact assessment published alongside the statutory instruments which implement the abolition of contracting-out on a defined contribution basis and the abolition of protected rights (S.I. 2011/1245, 2011/1246, 2011/1724 and 2011/1730). A copy of that impact assessment is available in the libraries of both Houses of Parliament and is annexed to the Explanatory Memorandum which is available alongside this instrument on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA, or from the DWP website: <http://www.dwp.gov.uk/resourcecentre/ria.asp>.