

## 2005 No. 704

### PENSIONS

#### The Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Miscellaneous Amendments) Regulations 2005

*Made* - - - - 16th March 2005  
*Laid before Parliament* 16th March 2005  
*Coming into force* - 6th April 2005

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 12C, 19, 28, 28A, 113, 168(4), 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(a), sections 51(5), 124(1), 125(2) and 174(2) and (3) of the Pensions Act 1995(b) and sections 40(1) and (3) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999(c) and of all other powers enabling him in that behalf, after consultation with such persons as he considers appropriate(d), hereby makes the following Regulations:

## PART 1

### INTRODUCTORY

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Miscellaneous Amendments) Regulations 2005.

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- (a) 1993 c. 48. Section 12C was inserted by section 136 of the Pensions Act 1995 (c. 26) and is modified by regulation 13A of the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462). Section 19 was amended by S.I. 2001/3649. Section 28 was amended by sections 142 and 146 of, and Schedules 5 and 7 to, the Pensions Act 1995, Schedules 2 and 13 to the Welfare Reform and Pensions Act 1999 (c.30) and Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c.19). Section 28A was inserted by section 143 of the Pensions Act 1995. Section 113 was amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and section 52 of the Child Support, Pensions and Social Security Act 2000. Section 168 was substituted by section 155 of the Pensions Act 1995. Section 181(1) is cited because of the meaning there given to “prescribed” and “regulations”.
- (b) 1995 c. 26. Section 51(5) is amended by section 278 of the Pensions Act 2004 (c. 35). Section 124(1) is cited because of the meaning there given to “prescribed” and “regulations”.
- (c) 1999 c. 30. Section 40 was amended by section 280 of the Pensions Act 2004.
- (d) See section 185(1) of the Pension Schemes Act 1993 (as amended by Schedule 3, Schedule 5 and Part I of Schedule 7 to the Pensions Act 1995), section 120(1) of the Pensions Act 1995 and section 83(11) of the Welfare Reform and Pensions Act 1999.

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(2) These Regulations shall come into force on 6th April 2005.

(3) In these Regulations—

“the Disclosure of Information Regulations” means the Occupational Pension Schemes (Disclosure of Information) Regulations 1996(a);

“the Indexation Regulations” means the Occupational Pension Schemes (Indexation) Regulations 1996(b); and

“the Protected Rights Regulations” means the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(c).

## PART 2

### AMENDMENTS RELATING TO INDEXATION

*Modification of section 51 of Pensions Act 1995*

#### **Removal of indexation: money purchase benefits provided under a hybrid scheme**

2.—(1) This regulation applies to any pension under a hybrid scheme which becomes a pension in payment on or after 6th April 2005.

(2) No increase under section 51 of the Pensions Act 1995(d) (annual increase in rate of pension) is required to be made of so much of any pension within paragraph (1) as is money purchase benefit.

(3) In this regulation—

“hybrid scheme” means an occupational pension scheme—

(a) which is not a money purchase scheme, but

(b) where some of the benefits that may be provided are money purchase benefits;

“money purchase benefits” and “money purchase scheme” have the meaning given by section 181(1) of the Pension Schemes Act 1993.

[Regulations 3 – 6 make various amendments to S.I. 1996/1537.]

[Regulations 7 – 11 make various amendments to S.I. 1997/784.]

[Regulations 12 – 13 make various amendment to S.I. 1997/784.]

[Regulation 14 amends regulation 2 of S.I. 1997/786.]

[Regulation 15 revoked by reg. 10(c) of S.I. 2013/459.]

[Regulation 16 makes various amendments to S.I. 2000/1054.]

[Regulations 17 – 20 make various amendments to S.I. 1996/1655.]

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

*Malcolm Wicks*  
Minister of State,

16th March 2005

Department for Work and Pensions

(a) S.I. 1996/1655; relevant amending instruments are S.I. 1997/786 and 1999/3198.

(b) S.I. 1996/1679.

(c) S.I. 1996/1537; relevant amending instruments are S.I. 1997/786, 1999/3198 and 2002/681.

(d) Section 51 was amended by section 84(1) of, and paragraphs 43 and 51 of Part 1 of Schedule 12 to, the Welfare Reform and Pensions Act 1999, section 51(1) of the Child Support, Pensions and Social Security Act 2000 and section 278 of the Pensions Act 2004.

**EXPLANATORY NOTE**

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

These Regulations reflect amendments made in sections 278 to 280 of the Pensions Act 2004 (c. 35) to provisions that require increases in the indexation of certain pensions. They also introduce requirements under the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (S.I. 1996/1655) (“the Disclosure of Information Regulations”) for trustees of occupational pension schemes to provide information about the selection of annuities when benefits under a scheme become payable. A number of other amendments to the Disclosure of Information Regulations are made in consequence of provisions of the Pensions Act 2004.

Regulation 2 modifies section 51 of the Pensions Act 1995 (c. 26) in its application to pensions under occupational pension schemes which provide both defined benefits and money purchase benefits. The regulation excludes from the scope of the indexation requirement so much of the pension as is money purchase benefit.

Regulations 3, 4 and 6 restrict the application of certain provisions of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537) (“the Protected Rights Regulations”). The provisions affected are those requiring pensions or annuities which are derived from protected rights accruing before 6th April 1997 to be index-linked. As a result of the amendments made by these Regulations, increases in the rate of payment are only required for pensions or annuities which come into payment before 6th April 2005.

Regulation 5 amends regulation 7 of the Protected Rights Regulations so that separate actuarial tables will no longer be required in calculating payments to give effect to protected rights when payments are made under interim arrangements. From 6th April 2005, all rights held in an appropriate personal pension scheme will be treated in the same way for the purposes of calculating payments to be made under an interim arrangement.

Regulations 7 to 11 amend the Occupational Pension Schemes (Indexation) Regulations 1996 (S.I. 1996/1679) so as to restrict the application of the indexation requirements in respect of transfers made to occupational pension schemes. The changes apply in relation to rights which are allowed by a scheme to a member by reference to transfers or payments from another pension scheme, or from a policy of insurance or annuity contract, and apply only where the transfer or payment is made on or after 6th April 2005. Indexation will only be required for such part of the pension payable by the receiving scheme as is attributable to accrued rights which become section 9(2B) rights in that scheme or which are determined by reference to rights that were subject to indexation in the transferring scheme or under the policy of insurance or contract.

Regulations 12 and 13 amend the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (S.I. 1997/784). They amend the requirements applying to policies of insurance and annuity contracts for the purposes of discharging liability. The question whether indexation of payments is required for payments under those policies or contracts will depend on whether section 51 of the Pensions Act 1995 would apply to those payments if they were benefits under an occupational pension scheme.

Regulation 14 amends regulation 2 of the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786). This allows for the application of section 51 of the Pensions Act 1995 to death benefits in cases where those benefits are the only benefits provided under a hybrid occupational pension scheme which are not money purchase benefits.

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Regulations 15 and 16 amend the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054) so as to implement changes to indexation which were made in section 280 of the Pensions Act 2004. The relevant changes restrict indexation to rights to pensions which are not money purchase benefits where the pension comes into payment on or after 6th April 2005. They also reduce the overall maximum levels of indexation.

Regulations 18 and 19 amend paragraphs 7 and 11 of Schedule 2 to the Disclosure of Information Regulations. In any case where a person has the opportunity to select an annuity, trustees of occupational schemes are required to provide certain information relevant to the choice, including general information explaining the different characteristics of different kinds of annuities. The requirements apply whether benefits under the scheme are payable to members or are payable on the death of a member or beneficiary.

Regulations 17 and 20 make consequential amendments to the Disclosure of Information Regulations which result from provisions contained in the Pensions Act 2004.

An assessment of the impact on business, charities or the voluntary sector of the provisions in these Regulations was included in the Regulatory Impact Assessment that accompanies the Pensions Act 2004. A copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Regulatory Impact Unit, 3rd Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.