STATUTORY INSTRUMENTS

2016 No. 289

PENSIONS

The Pension Sharing (Miscellaneous Amendments) Regulations 2016

Made - - - -	*3rd March 2016*
Laid before Parliament	*7th March 2016*
Coming into force - -	*6th April 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 101C(2), 101H(3), 101J(6)(a), 101L(1), 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(**1**), sections 23(1)(a), (b)(i), (c) and (d) and (3), 26(1), 27(2), 30(1), 41(1), (2) and (7) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999(**2**), section 145(1) of the Pensions Act 2008(**3**) and sections 48(2), (3)(a) and (4), 83 and 86 of the Pension Schemes Act 2015(**4**).

Before making these Regulations, in accordance with sections 185(1) of the Pension Schemes Act 1993(**5**) and 83(11) of the Welfare Reform and Pensions Act 1999, the Secretary of State consulted such persons as the Secretary of State considered appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the Pension Sharing (Miscellaneous Amendments) Regulations 2016.

(2) These Regulations come into force on 6th April 2016.

(**1**) 1993 c.48. Part IVA (sections 101A to 101Q) was inserted by the Welfare Reform and Pensions Act 1999 (c.30) ("the 1999 Act"), section 37. 101J(6)(a) was amended by the Pensions Act 2004 (c.35) ("the 2004 Act") section 319(1) and Schedule 12, paragraphs 9 and 15(b). Section 181(1) is cited for the meaning it gives to "prescribe" and "regulations". Section 183 was amended by the Pensions Act 1995 (c.26), sections 151, 173 and 177 and Schedule 5, paragraph 79, Schedule 6, paragraph 15(a) and Schedule 7, Parts III and IV.

(**2**) 1999 c.30. Section 23(1)(a) and (b) was amended by the Civil Partnership Act 2004 (c.33), section 261(1) and (4) and Schedule 27, paragraph 157 and Schedule 30. Sections 26(1) and 41(7) are cited for the meanings they give to "prescribed".

(**3**) 2008 c.30.

(**4**) 2015 c.8.

(**5**) Section 185(1) was amended by the Pensions Act 1995 (c.26), sections 122, 151 and 177 and Schedule 3, paragraph 46, Schedule 5, paragraph 80(a), (d) and (f) and Schedule 7, Part 1.

Amendments to the Pensions on Divorce etc. (Provision of Information) Regulations 2000

2.—(1) The Pensions on Divorce etc. (Provision of Information) Regulations 2000(**6**) are amended as follows.

(2) In regulation 1(2) (interpretation)(**7**)—

(a) after the definition of "pensionable service", insert—

""pensioner member" has the meaning given by section 124(1) of the 1995 Act(**8**);";

(b) in the definition of ""the party with pension rights" and "the other party"" for "Matrimonial Causes Act 1997;" substitute "Matrimonial Causes Act 1973(**9**);".

(3) In regulation 2(4) (basic information about pensions and divorce or dissolution of a civil partnership)(**10**), after "which is not specified in" substitute—

"Schedules 2 to 5 (basic information; information to be given on request; summary funding statements; statements of benefits: non money purchase benefits) and Schedule 6 (statements of benefits: money purchase benefits and cash balance benefits) or 7 (information to be given by schemes that relates to accessing benefits) (whichever is relevant) to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(**11**), in a case where those Regulations apply.".

(4) In regulation 3 (information about pensions and divorce and dissolution of a civil partnership: valuation of pension benefits)(**12**)—

(a) in paragraph (1)—

(i) for sub-paragraph (a) substitute—

"(a) paragraphs (3) and (4), if the person with pension rights is an active member, a deferred member or a pensioner member of an occupational pension scheme;";

(ii) omit sub-paragraph (b);

(iii) for paragraph (ii) of sub-paragraph (d) substitute—

"(ii) the rights of the person with pension rights are contained in an insurance policy or annuity contract other than a retirement annuity contract;";

(b) for paragraphs (3) and (4) substitute—

"(3) Where a person with pension rights is an active member, a deferred member or a pensioner member of an occupational pension scheme, the value of those rights in relation to a category of benefits referred to in section 93(6) of the 1993 Act (category of benefits)(**13**) must be calculated and verified in accordance with regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations (calculation and verification of cash equivalent)(**14**), as if—

(a) in the case of benefits other than money purchase benefits, the member has made an application for a statement of entitlement under section 93A of

(**6**) S.I. 2000/1048.
(**7**) There are amendments to regulation 1(2) that are not relevant to these Regulations.
(**8**) The definition of "pensioner member" was amended by the Child Support, Pensions and Social Security Act 2000 (c.19), section 56 and Schedule 5, Part 1, paragraph 8(3) and S.I. 2006/745.
(**9**) 1973 c.18.
(**10**) Regulation 2 was amended by S.I. 2005/2877.
(**11**) S.I. 2013/2734.
(**12**) Regulation 3 was amended by S.I. 2005/2877 and 2008/1050.
(**13**) Section 93(6) was inserted by the Pension Schemes Act 2015 (c.8) ("the 2015 Act"), section 67 and Schedule 4, paragraphs 3 and 8.
(**14**) Regulations 7 to 7E were amended by S.I. 2008/1050, 2008/2450, 2014/1711 and 2015/498.

the 1993 Act (right to statement of entitlement: benefits other than money purchase)(**15**) on the date that the request for the valuation was received; or

(b) in the case of money purchase benefits, the member has made an application under section 95 of the 1993 Act (ways of taking right to cash equivalent)(**16**) to take the cash equivalent of those benefits on the date that the request for the valuation was received.

(4) Where the person with pension rights is continuing to accrue rights to benefits in the category of benefits to be valued, paragraph (3) applies as if the person had ceased to accrue rights in that category of benefits on the date that the request for the valuation was received.";

(c) in paragraph (5), for "section 94(1)(b) of the 1993 Act" substitute "section 94 of the 1993 Act (right to cash equivalent)(**17**)";

(d) in paragraph (6), for "Chapter IV of Part IV of the 1993 Act by section 93(1)(b) of that Act (scope of Chapter IV)" substitute "Chapter 1 of Part 4ZA of the 1993 Act by section 93(5)(b) of that Act (scope of Chapter 1)(**18**)";

(e) for paragraphs (8) and (10) substitute—

"(8) When calculating and verifying a cash equivalent, regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations are to be read as if—

(a) in regulation 7—

(i) in paragraph (1)(a), the words "and then making any reductions in accordance with regulation 7D" do not appear;

(ii) in paragraph (1)(b), the words "regulation 7E" are replaced with "regulation 7E(1) to (3)";

(iii) in paragraphs (2) and (4), the word "trustees" is replaced with "person responsible for the pension arrangement";

(iv) in paragraph (3), the words "trustees are" are replaced with "person responsible for the pension arrangement is";

(v) in paragraph (5), the words "trustees of the scheme in question have" are replaced with "person responsible for the pension arrangement has";

(b) in regulations 7A and 7B, in each place where it appears, the word "trustees" is replaced with "person responsible for the pension arrangement";

(c) in regulation 7C—

(i) in paragraph (3), in both places where it appears, the word "trustees" is replaced with "person responsible for the pension arrangement";

(ii) in paragraph (4)(b)(iv), the words "trustees determine" are replaced with "person responsible for the pension arrangement determines";

(d) in regulation 7E—

(i) in paragraph (1), the words "trustees have" are replaced with "person responsible for the pension arrangement has";

(ii) in paragraph (2), the word "trustees" is replaced with "person responsible for the pension arrangement".".

(**15**) Section 93A was substituted by the 2015 Act, section 67 and Schedule 4, paragraphs 3 and 8.
(**16**) Section 95 was amended by the 2015 Act, sections 67 and 68(1) to (5) and (8), and Schedule 4, paragraphs 3 and 9.
(**17**) Section 94 was amended by the 2015 Act, section 67 and Schedule 4, paragraphs 3 and 8.
(**18**) Chapter 1 of Part 4ZA, including section 93, was amended by the 2015 Act, section 67 and Schedule 4, paragraphs 2 and 8 to 14.

(5) In regulation 4(2) (provision of information in response to a notification that a pension sharing order or provision may be made)(**19**)—

(a) at the end of sub-paragraph (b)(i), omit "and";

(b) at the end of sub-paragraph (b)(ii), insert—

"and

(iii) whether the member's rights to benefit are to be or are likely to be reduced in accordance with sections 73 to 74 of the 1995 Act (winding up provisions)(**20**);";

(c) in sub-paragraph (c), after the words "(reductions in initial cash equivalents)" insert "if the member were to transfer the cash equivalent of those rights out of the scheme".

Amendments to the Pensions on Divorce etc. (Charging) Regulations 2000

3.—(1) The Pensions on Divorce etc. (Charging) Regulations 2000(**21**) are amended as follows.

(2) In regulation 2(4)(a) (general requirements as to charges)(**22**)—

(a) in paragraph (i), for "(salary related schemes: right to statement of entitlement, and right to cash equivalent)" substitute "(right to statement of entitlement: benefits other than money purchase and right to cash equivalent)";

(b) for paragraph (iii) substitute—

"(iii) regulation 17 (statements of benefits: money purchase benefits) or any of the provisions of Part 6 (statements of benefits; lifestyling and accessing benefits) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(**23**);".

(3) In regulation 3(2) (charges recoverable in respect of the provision of basic information)—

(a) for sub-paragraph (d) substitute—

"(d) any costs incurred by the trustees or managers of an occupational or personal pension scheme in connection with the provision of information under regulation 6 (basic scheme information) or 7 (basic scheme information to be given by certain schemes) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, that the trustees or managers provide to the member free of charge under those Regulations;";

(b) for paragraph (iii) of sub-paragraph (e) substitute—

"(iii) regulation 17 or any of the provisions of Part 6 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013; or".

(4) For sub-paragraph (f) of regulation 9(2) (charges in respect of pension sharing activity – method of recovery) substitute—

"(f) deduction from the amount of a transfer value which is calculated in accordance with regulation 24 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (manner of calculation and verification of cash equivalents)(**24**).".

(**19**) Regulation 4 was amended by S.I. 2000/2691 and 2008/1050.
(**20**) Sections 73 to 73B were substituted by the 2004 Act, section 270(1). Section 73 was amended by the 2015 Act, section 67 and Schedule 4, paragraphs 28 and 30. Section 73A was amended by the 2015 Act, section 58(1). Section 73B was amended by the 2015 Act, sections 58(2) and 67 and Schedule 4, paragraphs 28 and 31. Section 74 was amended by the 1999 Act, section 84(1) and Schedule 12, paragraphs 43 and 56; the 2004 Act, sections 270(2) and 320 and Schedule 13 and S.I. 2001/3649.
(**21**) S.I. 2000/1049.
(**22**) There are amendments to regulation 2 that are not relevant to these Regulations.
(**23**) Part 6 was amended by S.I. 2015/482.
(**24**) S.I. 2000/1054. Regulation 24 was substituted by S.I. 2008/1050.

Amendments to the Pension Sharing (Valuation) Regulations 2000

4.—(1) The Pension Sharing (Valuation) Regulations 2000(**25**) are amended as follows.

(2) In regulation 1(2) (interpretation), omit the definition of "initial cash equivalent"(**26**).

(3) In regulation 2(1) (rights under a pension arrangement which are not shareable)(**27**)—

(a) in sub-paragraph (b)—

(i) for paragraph (iv) substitute—

"(iv) dependants', nominees' or successors' income withdrawal within the meaning of, as the case may be, paragraph 21 (dependants' income withdrawal), 27D (nominees' income withdrawal) or 27J (successors' income withdrawal) of Schedule 28 to the Finance Act 2004(**28**),";

(ii) after "surviving civil partner", insert ", nominee, successor";

(iii) omit "and" at the end;

(b) after sub-paragraph (b), insert—

"(ba) any rights relating to sums and assets held for the purposes of—

(i) a dependant's drawdown pension fund or flexi-access drawdown fund within the meaning of, as the case may be, paragraph 22 (dependant's drawdown pension fund) or 22A (dependant's flexi-access drawdown fund) of Schedule 28 to the Finance Act 2004(**29**);

(ii) a nominee's or successor's flexi-access drawdown fund within the meaning of, as the case may be, paragraph 27E (nominee's flexi-access drawdown fund) or 27K (successor's flexi-access drawdown fund) of Schedule 28 to the Finance Act 2004(**30**);";

(c) after the words "pensionable service" in sub-paragraph (c), insert—

"; and

(d) any rights in respect of a cash transfer sum or contribution refund that the member would be entitled to under section 101AB of the 1993 Act (right to cash transfer sum and contribution refund)(**31**) if pensionable service were to be terminated.".

(4) For regulation 4 (manner of calculation and verification of cash equivalents: occupational pension schemes)(**32**) substitute—

(**25**) S.I. 2000/1052.
(**26**) The definition of "initial cash equivalent" was inserted by S.I. 2008/1050.
(**27**) Regulation 2 was amended by S.I. 2005/2877, 2006/744 and 2011/1245.
(**28**) 2004 c.12. Paragraph 21 was substituted by the Finance Act 2011 (c.11) ("the 2011 Act"), section 65 and Schedule 16, Part 1, paragraphs 12 and 15 and was amended by the Taxation of Pensions Act 2014 (c.30) ("the 2014 Act"), section 1 and Schedule 1, Part 1, paragraphs 5 and 20. Paragraphs 27D and 27J were inserted by the 2014 Act, section 3 and Schedule 2, Part 1, paragraph 3(1).
(**29**) Paragraph 22 was amended by the Finance Act 2005 (c.7), section 101 and Schedule 10, paragraphs 1 and 21; the 2011 Act, section 65 and Schedule 16, Part 1, paragraph 16 and the 2014 Act, section 1 and Schedule 1, Part 1, paragraphs 5 and 21. Paragraph 22A was inserted by the 2014 Act, section 1 and Schedule 1, Part 1, paragraph 4(1).
(**30**) Paragraphs 27E and 27K were inserted by the 2014 Act, section 3 and Schedule 2, Part 1, paragraph 3(1). Paragraph 27E was amended by the 2011 Act, section 34 and Schedule 4, Part 1, paragraphs 1 and 13(1), (4) and (5). Paragraph 27K was amended by the Finance Act 2015 (c.11), section 34 and Schedule 4, Part 1, paragraphs 1 and 13(1) and (6).
(**31**) Section 101AB was inserted by the 2004 Act, section 264.
(**32**) Regulation 4 was substituted by S.I. 2008/1050.