STATUTORY INSTRUMENTS

2016 No. 252

PENSIONS

The Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016

Made - - - -	*24th February 2016*
Laid before Parliament	*2nd March 2016*
Coming into force - -	*6th April 2016*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 53(1) and (2), 54(5) and (6) and 56(8) of the Pensions Act 2014(**1**), makes the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016.

(2) This Order comes into force on 6th April 2016.

Interpretation

2. In this Order—

"the 1992 Act" means the Social Security Contributions and Benefits Act 1992(**2**);

"the 1993 Act" means the Pension Schemes Act 1993(**3**);

"the 2004 Act" means the Pensions Act 2004(**4**);

"contracted-out employment" has the meaning given by section 8 (meaning of "contracted-out employment", "guaranteed minimum pension" and "minimum payment")(**5**) of the 1993 Act;

(**1**) 2014 c.19.
(**2**) 1992 c.4.
(**3**) 1993 c.48.
(**4**) 2004 c.35.
(**5**) Section 8 was amended by paragraph 23 of Schedule 5 and part 7 of Schedule 7 to the Pensions Act 1995 (c.26), paragraph 34(a) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), paragraph 1 of Schedule 1 to S.I. 2005/2050, paragraphs 1, 2, 3, 7(1) and (4), 46 and 47 of Schedule 4 and part 7 of Schedule 7 to the Pensions Act 2007 (c.22) (with the savings detailed in part 3 of Schedule 4 of that Act), paragraphs 7 and 8 of Schedule 1 to the National Insurance Contributions Act 2008 (c.16), paragraphs 18 and 19 of Schedule 4 to the Marriage (Same Sex Couples) Act 2013

"contracted-out occupational pension scheme" is a scheme which satisfied the requirements in section 7B (meaning of "contracted-out scheme" and "appropriate scheme", etc.)(**6**) of the 1993 Act;

"guaranteed minimum pension" has the meaning given by section 8 of the 1993 Act;

"normal pension age" has the meaning given by section 180 (normal pension age) of the 1993 Act;

"pensionable age" has the meaning given by section 181 (general interpretation)(**7**) of the 1993 Act;

"relevant person" means—

(a) in a case where a transfer has been made in relation to the scheme under section 161 of the 2004 Act (effect of Board assuming responsibility for a scheme), the Board of the Pension Protection Fund (as defined in that Act); and

(b) in all other cases, the trustees or managers of the scheme; and

"the second abolition date" has the meaning given by section 7A(**8**) of the 1993 Act.

Payment of contributions equivalent premium in respect of earners in formerly contracted-out schemes

3.—(1) Where a scheme ceases to be a contracted-out occupational pension scheme on the second abolition date, the relevant person may, upon the occurrence of a relevant event, elect to pay a premium in respect of a relevant member and must do so if paragraph (6) applies.

(2) A premium paid under paragraph (1) is to be known as a "contributions equivalent premium".

(3) A "relevant member" is a member who—

(a) was serving in contracted-out employment by reference to the scheme immediately prior to the second abolition date; and

(b) at the date of the relevant event, has served for less than two years in that employment.

(4) A "relevant event" is an event which—

(a) occurs before the member attains the scheme's normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age; and

(b) is of a description listed in paragraph (5).

(5) For the purposes of paragraph (4), a relevant event occurs when—

(a) the member's service in the employment ceases otherwise than on the member's death;

(b) the member ceases to be a member of the scheme otherwise than on the member's death;

(c) the member's service in the employment ceases on the member's death and the member dies leaving a widow, widower or surviving civil partner; or

(d) the scheme begins to be wound up.

(6) This paragraph applies if—

(a) at the date of the relevant event, the member has no accrued right to any benefit under the scheme; and

(b) none of paragraphs (7), (8) or (9) applies.

(c.30) (and paragraph 11 of Schedule 5 to S.I. 2014/3229 in relation to Scotland) and paragraphs 1, 2 and 7 of Schedule 13 to the Pensions Act 2014.

(**6**) Section 7B was inserted by paragraphs 1 and 6 of Schedule 13 to the Pensions Act 2014.

(**7**) The definition of "pensionable age" in section 181 was substituted by paragraph 17 of Schedule 4 to the Pensions Act 1995.

(**8**) Section 7A was inserted by paragraphs 1 and 6 of Schedule 13 to the Pensions Act 2014.

(7) This paragraph applies where—

(a) the member's service in the employment ceases on the member's death; and

(b) the member leaves a surviving spouse or civil partner who is not entitled to any of the following benefits—

(i) a widowed mother's allowance under section 37 of the 1992 Act (widowed mother's allowance: deaths before 9 April 2001)(**9**);

(ii) a widow's pension under section 38 of the 1992 Act (widow's pension: deaths before 9 April 2001)(**10**);

(iii) a widowed parent's allowance under section 39A of the 1992 Act (widowed parent's allowance)(**11**);

(iv) a bereavement allowance under section 39B of the 1992 Act (bereavement allowance where no dependent children)(**12**); or

(v) a bereavement support payment under section 30 of the Pensions Act 2014 (bereavement support payment).

(8) This paragraph applies where the member is a woman who has made, or is treated as having made, an election under regulations made under section 19(4)(**13**) of the 1992 Act (general power to regulate liability for contributions), which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.

(9) This paragraph applies where, on the termination of pensionable service, the member elects to acquire a right to a cash transfer sum in accordance with section 101AB(1)(a)(**14**) of the 1993 Act (right to cash transfer sum and contribution refund).

Supplementary provision about contributions equivalent premiums paid under article 3

4.—(1) A contributions equivalent premium payable under article 3 shall be paid by the relevant person to the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") on or before whichever is the later of—

(a) the day which falls 6 months after—

(i) the date the assessment period (construed in accordance with section 132 of the 2004 Act (assessment periods)) ended, where the relevant person is the Board of the Pension Protection Fund; or

(ii) the day on which the relevant event occurred, in all other cases; and

(**9**) Section 37 was amended by paragraph 18(1) and (2) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 (c.33), paragraphs 1 and 2 of Schedule 1 to the Child Benefit Act 2005 (c.6), section 50 of, and Schedule 8 to, the Welfare Reform Act 2007 (c.5) and paragraphs 2 and 10 of Schedule 16 to the Pensions Act 2014. Amendments were also made by paragraph 22(1) and (3) of Schedule 1 to S.I. 2014/560 in relation to England and Wales and by paragraph 2(1) and (3) of Schedule 4 to S.I. 2014/3229 in relation to Scotland.

(**10**) Section 38 was amended by paragraph 19(1) and (2) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004, paragraph 40 of Schedule 1 to the Pensions Act 2007 and paragraphs 2 and 11 of Schedule 16 to the Pensions Act 2014. Amendments were also made by paragraph 22(1) and (4) of Schedule 1 to S.I. 2014/560 in relation to England and Wales and by paragraph 2(1) and (4) of Schedule 4 to S.I. 2014/3229 in relation to Scotland.

(**11**) Section 39A was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 (c.30) and amended by paragraph 20(1) to (6) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004, paragraphs 1 and 3 of Schedule 1 to the Child Benefit Act 2005, section 51 of the Welfare Reform Act 2007 and paragraphs 2 and 12 of Schedule 16 to the Pensions Act 2014. Amendments were also made by paragraph 22(1) and (5) of Schedule 1 to S.I. 2014/560 in relation to England and Wales and by paragraph 2(1) and (5) of Schedule 4 to S.I. 2014/3229 in relation to Scotland.

(**12**) Section 39B was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 and amended by paragraph 21(1) to (5) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004. Amendments were also made by paragraph 22(1) and (6) of Schedule 1 to S.I. 2014/560 in relation to England and Wales and by paragraphs 2(1) and (6) of Schedule 4 to S.I. 2014/3229 in relation to Scotland.

(**13**) Section 19(4) was amended by paragraphs 1 and 5(1) and (4) of Schedule 1 to the National Insurance Contributions Act 2002 (c.19).

(**14**) Section 101AB was inserted by section 264 of the 2004 Act.

(b) the day which falls one month after the day on which the Commissioners send to the relevant person a notice certifying the amount of the contributions equivalent premium payable.

(2) Where the amount of the contributions equivalent premium does not exceed £17, the relevant person is not liable to pay it, but it is to be treated as paid for the purposes of section 48A(2)(**15**) (additional pension and other benefits) and section 60(**16**) (effect of payment of premiums on rights) of the 1993 Act.

(3) Any liability for a contributions equivalent premium is a liability to make payment out of the resources of the scheme or, where the relevant person is the Board of the Pension Protection Fund, the Pension Protection Fund as specified in section 173(1)(**17**) of the 2004 Act (pension protection fund).

(4) The Commissioners are to refund a contributions equivalent premium if—

(a) it was paid in error;

(b) they are satisfied that a transfer of the member's accrued rights will be made in accordance with regulations made under section 20(**18**) (transfer of accrued rights) or section 37A(**19**) (transfer of liabilities, etc: schemes contracted-out on or after 6 April 1997) of the 1993 Act; or

(c) the scheme is one under which a member may qualify for benefits by virtue of service either in employed earner's employment or as a self-employed earner (within the meaning of section 2 of the 1992 Act(**20**) (categories of earners)) or both, and the Commissioners are satisfied that the member in respect of whom the contributions equivalent premium was paid has completed a period of membership of the scheme as a self-employed earner which, when aggregated with service in employed earner's employment, amounts to not less than two years.

(5) Where a contributions equivalent premium is refunded under paragraph (4), the member's accrued rights under the scheme, which were extinguished by payment of the premium(**21**), are to be restored.

(6) A refund under this article is only to be made if an application is made in writing in such form as the Commissioners may reasonably require for that purpose, or by means of an electronic communication in such form as the Commissioners may approve.

(7) In paragraph (4)(a), "error" means an error which—

(a) was made at the time of payment; and

(b) relates to some present or past matter.

(**15**) Section 48A was inserted by section 140(1) of the Pensions Act 1995 and amended by section 38(1) of the Child Support, Pensions and Social Security Act 2000 (c.19), paragraphs 35 and 39 of Schedule 1 to the National Insurance Contributions Act 2002, paragraphs 1 and 23 of Schedule 4 to the Pensions Act 2007 (with the savings detailed in part 3 of that Schedule) and paragraphs 1 and 31 of Schedule 13 to the Pensions Act 2014.

(**16**) Section 60 is repealed by paragraphs 1 and 5 of Schedule 13 to the Pensions Act 2014, but saved for certain purposes (see S.I. 2015/1502 as amended by article 5 of this Order). Section 60 was amended by paragraph 54 of Schedule 5 and Part 3 of Schedule 7 to the Pensions Act 1995 and by paragraph 17 of Schedule 1 to S.I. 2005/2050.

(**17**) Section 173(1) was amended by paragraphs 2 and 4 of Schedule 10 to the Pensions Act 2008 (c.30).

(**18**) Section 20 was amended by section 56 of, and paragraph 2 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000, S.I 2005/2050, paragraphs 46 and 48 of Schedule 4 and Part 7 of Schedule 7 to the Pension Act 2007, S.I. 2011/1730, and is amended by paragraph 18 of Schedule 13 to the Pensions Act 2014.

(**19**) Section 37A was inserted by paragraphs 1 and 25 of Schedule 13 to the Pensions Act 2014.

(**20**) Section 2 was amended by paragraph 2 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999, paragraphs 1 and 2 of Schedule 11 to the Welfare Reform and Pensions Act 1999, paragraphs 169 and 171 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1), section 15 of the National Insurance Contributions Act 2014 (c.7), and section 6 of the National Insurance Contributions Act 2015 (c.5).

(**21**) Under section 60 of the Pension Schemes Act 1993 (as modified by article 2(5F) of S.I. 2015/1502, as amended by article 5 of this Order), payment of a contributions equivalent premium extinguishes the earner's (or the earner's survivor's) accrued rights to any guaranteed minimum pension or pension under the scheme attributable to the amount of the premium.