STATUTORY INSTRUMENTS

2016 No. 200

PENSIONS

The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016

Made - - - - 24th February 2016

Laid before Parliament 1st March 2016

Coming into force in accordance with article 1

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

PART 1

General

Citation and commencement

1.—(1) This Order may be cited as the Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016.

(2) This Part, and Part 2, come into force on 6th April 2016.

(3) Part 3 comes into force on 6th April 2017.

(4) Part 4 comes into force on 6th April 2019.

(5) Part 5 comes into force on 6th April 2021.

(**1**) 2014 c.19.

PART 2

Amendments coming into force on 6th April 2016

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(**2**) are amended as follows.

(2) In regulation 12 (transfer of member's accrued rights without consent)—

(a) for paragraph (2)(b)(ii)(**3**) substitute—

"(ii) the employers are companies or partnerships bearing a relationship to each other in one of the ways described in paragraph (2A).''; and

(b) after paragraph (2) insert—

"(2A) The relationships between the employers referred to in paragraph (2)(b)(ii) are—

(a) the employers are members of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006(**4**) (meaning of "subsidiary" etc.);

(b) the employers are—

(i) an employer who is the principal employer for the purposes of the scheme in accordance with the scheme rules, or who is the employer who has power to act on behalf of all employers in the scheme in relation to the scheme rules; and

(ii) an employer subject to the rules of the scheme; or

(c) the employers are partnerships having at least half of their partners in common.".

(3) In regulation 24 (schemes funded by level annual premiums), after paragraph (3)(**5**) insert—

"(3A) For the purposes of paragraph (3)(a), any alteration of the scheme which arises solely from the abolition of contracting-out for salary related schemes under the Pensions Act 2014(**6**) does not constitute a material alteration.".

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996

3. In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(**7**), in the definition of "section 9(2B) rights"(**8**)—

(a) in paragraph (a), for "contracted-out by virtue of section 9(2B) of the 1993 Act" substitute "that was a salary-related contracted-out scheme(**9**)";

(b) in paragraph (b), in the introductory words—

(**2**) S.I. 1991/167.
(**3**) Paragraph (2) was substituted by S.I. 1992/1531, and sub-paragraph (2)(b) was amended by S.I. 1996/2131 and S.I. 2013/459.
(**4**) 2006 c.46.
(**5**) Paragraph (3) was amended by S.I. 1996/2131.
(**6**) *See* section 24(1) of, and Schedule 13 to, the Pensions Act 2014 ("the 2014 Act").
(**7**) S.I. 1996/1172.
(**8**) This definition was substituted by S.I. 1997/786 and amended by S.I. 1999/3198, S.I. 2011/1246 and S.I. 2015/1677.
(**9**) *See* section 7B of the Pension Schemes Act 1993 (c.48) ("the 1993 Act") inserted by paragraph 6 of Schedule 13 to the 2014 Act for the definition of "salary related contracted-out scheme".

(i) after "has been made" insert "(other than a payment made in accordance with regulation 10 (transfers payments to occupational and personal pension schemes in respect of section 9(2B) rights) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996(**10**)"; and

(ii) after "such a scheme," insert "whether before or after the second abolition date(**11**),"; and

(c) in paragraph (b)(i), for "contracted-out by virtue of section 9(2B) of that Act" substitute "that was a salary-related contracted-out scheme".

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

4.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations 1996(**12**) are amended as follows.

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

(a) in the definition of "connected employer transfer" and "connected employer transfer payment"(**13**)—

(i) after sub-paragraph (b)(ii), omit the words from "and, in this definition" to the end of that paragraph; and

(ii) before the words "salary-related contracted-out scheme", in each case where they occur, insert "scheme that was a";

(b) in the definition of "overseas scheme"(**14**)—

(i) before "salary-related contracted-out scheme" insert "scheme that was a"; and

(ii) omit the words "nor one in respect of which section 53 of the 1993 Act applies by virtue of section 52(1) of that Act";

(c) in the definition of "the principal appointed day", for "7(2B)" substitute "181(1)";

(d) omit the definition of "salary-related contracted-out scheme"(**15**); and

(e) for the definition of "section 9(2B) rights"(**16**), substitute—

""section 9(2B) rights" has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015(**17**);".

(3) In regulation 3 (transfers of guaranteed minimum pensions to salary-related contracted-out schemes)—

(a) in the heading, before "salary-related" insert "schemes that were";

(b) in the opening words, before "salary-related" insert "scheme that was a"; and

(c) in paragraph (c), omit the words from the beginning to "the receiving scheme,".

(**10**) S.I. 1996/1462. Regulation 10 was substituted by S.I. 2011/1245 and is amended by article 4(7) of this instrument.
(**11**) *See* section 7A of the 1993 Act inserted by paragraph 6 of Schedule 13 to the 2014 Act for the definition of "second abolition date".
(**12**) S.I. 1996/1462.
(**13**) These definitions were substituted by S.I. 2013/459.
(**14**) This definition was substituted by S.I. 2007/814 and amended by S.I. 2007/3014.
(**15**) A scheme that was a contracted-out scheme is now defined in the 1993 Act. *See* sections 7B and 181(1), inserted by the 2014 Act.
(**16**) This definition was substituted by S.I. 1997/786 and amended by S.I. 1999/3198 and S.I. 2011/1246.
(**17**) S.I. 2015/1677 as amended by article 28 of this instrument.

(4) In regulation 5 (transfer payments in respect of guaranteed minimum pensions to occupational and personal pension schemes)(**18**), in the opening words, omit "a salary-related contracted-out scheme,".

(5) In regulation 7(1) (transfers of liability in respect of section 9(2B) rights – general)(**19**), in sub-paragraphs (a) and (b)—

(a) after "from a" insert "scheme that was a"; and

(b) omit "(or a scheme which was formerly a salary-related contracted-out scheme)".

(6) In regulation 8 (transfer payments to salary-related contracted-out schemes in respect of section 9(2B) rights)—

(a) in the heading, before "salary-related" insert "schemes that were";

(b) in the opening words, for "salary-related contracted-out scheme" substitute "scheme that was a salary-related contracted-out scheme which was contracted-out by virtue of section 9(2B) of the 1993 Act"; and

(c) in paragraph (c)(**20**), for the words from "which is contracted-out" to the end of that paragraph substitute "which was contracted-out in relation to the receiving scheme on or after the principal appointed day.".

(7) In regulation 10 (transfer payments to occupational and personal pension schemes in respect of section 9(2B) rights)(**21**), in the opening words, omit "a salary-related contracted-out scheme,".

(8) In regulation 12 (modifications of Part III of the 1993 Act on transfers of and transfer payments in respect of guaranteed minimum pensions from occupational pension schemes)—

(a) in the opening words, before "salary-related contracted-out scheme" insert "scheme that was a";

(b) subject to article 5(1), omit paragraph (a); and

(c) subject to article 5(1), in paragraph (b), for "any other" substitute "a".

(9) In regulation 13 (modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts)—

(a) in the opening words, before "salary-related contracted-out scheme" insert "scheme that was a";

(b) subject to article 5(2), omit paragraph (a); and

(c) subject to article 5(2), in paragraph (b)(**22**) omit the words from the beginning to "to the receiving scheme,".

(10) Omit regulation 13A (modification of section 12C of the 1993 Act where transfer payments are made to salary-related contracted-out schemes)(**23**).

(11) In Schedule 1 (further conditions for transfers of guaranteed minimum pensions)—

(a) for the heading to Part I substitute "Further Conditions for Transfer to a Scheme that was a Salary-related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions";

(b) in paragraph 2, omit sub-paragraph (a) and the "but" immediately following it; and

(**18**) Regulation 5 was substituted by S.I. 2011/1245.
(**19**) Regulation 7(1) was amended by S.I. 1997/786.
(**20**) Regulation 8(c) was amended by S.I. 1997/786.
(**21**) Regulation 10 was substituted by 2011/1245.
(**22**) Regulation 13(b) was amended by S.I. 1997/1786.
(**23**) Regulation 13A was inserted by S.I. 1997/786 and amended by S.I. 2011/1246.

(c) for the heading to Part II substitute "Further Conditions for Transfer from an Appropriate Policy to a Scheme that was a Salary-related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions".

(12) In Schedule 2 (modifications of Part III of the 1993 Act)—

(a) in paragraphs 1 and 6(**24**) in the definition of "guaranteed minimum pension", for "by an occupational pension scheme" substitute "by a scheme that was a salary-related contracted-out scheme";

(b) in paragraphs 3 and 7, for "is contracted-out" substitute "was contracted-out";

(c) subject to article 5(1), omit paragraph 3; and

(d) subject to article 5(2), omit paragraph 7.

Saving of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

5.—(1) Regulation 12(a) and (b) of, and paragraph 3 of Schedule 2 to, the Contracting-out (Transfer and Transfer Payment) Regulations 1996 ("the Transfer Regulations") continue to have effect as if the amendments made by article 4(8)(b) and (c), and (12)(c) of this Order had not been made, in relation to a transfer of accrued rights to guaranteed minimum pensions of an earner who was in employment which was contracted-out by reference to the receiving scheme, where that transfer occurred before the second abolition date.

(2) Regulation 13(a) and (b) of, and paragraph 7 of Schedule 2 to, the Transfer Regulations continue to have effect as if the amendments made by article 4(9)(b) and (c) and (12)(d) of this Order had not been made, in relation to a transfer of accrued rights to guaranteed minimum pensions from an appropriate policy where the earner was in employment which was contracted-out by reference to the receiving scheme and the transfer occurred before the second abolition date.

(3) For the purposes of this article—

"accrued rights" has the meaning given in section 20(6) (transfer of accrued rights) of the Pension Schemes Act 1993 ("the 1993 Act")(**25**);

"appropriate policy" means a policy of insurance or an annuity contract as described in section 19(4) (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts) of the 1993 Act(**26**);

"employment which was contracted-out" is to be construed in accordance with section 8(1) (meaning of "contracted-out employment etc.) of the 1993 Act(**27**);

"guaranteed minimum pension" has the meaning given in section 8(2) of the 1993 Act(**28**);

"the second abolition date" has the meaning given in section 181(1) (general interpretation) of the 1993 Act(**29**).

Amendment of the Occupational Pension Schemes (Indexation) Regulations 1996

6. In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Indexation) Regulations 1996(**30**)—

(a) omit the definition of "abolition date";

(**24**) Paragraphs 1 and 6 were substituted by S.I. 1997/786.
(**25**) 1993 c.48. Section 20(6) was amended by S.I. 2005/2050.
(**26**) Section 19(4) was amended by S.I. 2001/3649 and S.I.2007/3014.
(**27**) Section 8(1) was substituted by paragraph 7(1) of Schedule 13 to the 2014 Act.
(**28**) Section 8(2) was amended by paragraph 7(4) of Schedule 13 to the 2014 Act.
(**29**) The definition of "second abolition date" is inserted into section 181(1) by paragraph 43(2) of the 2014 Act.
(**30**) S.I. 1996/1679. The definitions of "abolition date" and "protected rights" were inserted by S.I. 2011/1246. The definition of "section 9(2B) rights" was inserted by S.I. 2005/704 and amended by S.I. 2011/1246.