Draft Regulations laid before Parliament under section 186(3)(a) of the Pension Schemes Act 1993, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

PENSIONS

The Occupational Pension Schemes (Contracting-out) (Amendment) Regulations 2009

Made - - - -

Coming into force - - 6th April 2009

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 24B(5), 24C, 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(**1**).

In accordance with section 185(1) of that Act(**2**), the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

A draft of these Regulations has been laid before Parliament in accordance with section 186(3)(a) of that Act(**3**) and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Contracting-out) (Amendment) Regulations 2009 and shall come into force on 6th April 2009.

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

2.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996(**4**) are amended in accordance with this regulation.

(2) After regulation 69 (miscellaneous provisions affecting section 51 of the 1993 Act), insert—

(**1**) 1993 c.48. Sections 24B and 24C were inserted by section 14(3) of the Pensions Act 2007 (c.22). Section 181(1) is cited for the meaning it gives to "prescribed" and "regulations". Section 183(1) was amended by paragraph 79 of Schedule 5, and paragraph 15(a) of Schedule 6, to the Pensions Act 1995 (c.26).
(**2**) Section 185(1) was amended by paragraph 46 of Schedule 3, and paragraph 80(a) of Schedule 5, to the Pensions Act 1995.
(**3**) Section 186(3)(a) was inserted by section 14(12)(a) of the Pensions Act 2007.
(**4**) S.I. 1996/1172.

"**Conversion of guaranteed minimum pensions into other benefits: actuarial equivalence**

69A.—(1) For the purposes of Condition 1 of section 24B of the 1993 Act (the conversion conditions), actuarial equivalence is to be determined in accordance with this regulation.

(2) The trustees are responsible for determining actuarial equivalence.

(3) In determining actuarial equivalence, the trustees must—

(a) obtain advice from the actuary about what assumptions are appropriate at the conversion date,

(b) consider that advice,

(c) decide what assumptions are appropriate at the conversion date and, if the trustees later think it is necessary, change that decision, and

(d) arrange for the actuary to calculate the actuarial values of the post-conversion benefits and the pre-conversion benefits in accordance with paragraph (4).

(4) In calculating the actuarial values mentioned in paragraph (3)(d), the actuary must—

(a) use the assumptions chosen by the trustees under paragraph (3)(c), and

(b) ignore the value of any—

(i) benefits that have been commuted,

(ii) amounts that have been paid in respect of any benefits,

(iii) amounts in respect of any benefits that, before the conversion date, became due to be paid, and

(iv) discretionary benefits that might be awarded in the future.

(5) When the actuarial values mentioned in paragraph (3)(d) have been calculated, the actuary must send the trustees a certificate if the post-conversion benefits are actuarially at least equivalent to the pre-conversion benefits.

(6) The certificate must—

(a) state that—

(i) the calculations have been completed, and

(ii) the post-conversion benefits are actuarially at least equivalent to the pre-conversion benefits, and

(b) be sent to the trustees no later than three months after the calculations have been completed.

Conversion of guaranteed minimum pensions into other benefits: survivors' benefits

69B.—(1) For the purposes of Condition 4 of section 24B of the 1993 Act, the circumstances in which, and periods during which, the converted scheme must provide survivors' benefits are prescribed in this regulation.

(2) The circumstances are that—

(a) an earner's pre-conversion benefits include a guaranteed minimum pension, and

(b) the scheme before conversion provided that—

(i) if such an earner dies leaving a widow, widower or surviving civil partner (whether before or after attaining pensionable age), the widow, widower or surviving civil partner will be entitled to a guaranteed minimum pension, and