



Statutory Document No. 23/98

## THE PENSION SCHEMES ACT 1995

### THE PENSION SCHEMES LEGISLATION (APPLICATION) ORDER 1998

*Approved by Tynwald 17<sup>th</sup> February 1998*

*Coming into operation in accordance with Article 1*

In exercise of the powers conferred on the Department of Health and Social Security by section 1 of the Pension Schemes Act 1995(a), and of all other enabling powers, the following Order is hereby made:-

#### Citation and commencement

1. (1) This Order may be cited as the Pension Schemes Legislation (Application) Order 1998 and shall, subject to section 1(4) of the Pension Schemes Act 1995, come into force as provided in paragraph (2).

(2) This Article and Articles 2 and 3 shall come into force forthwith and each provision of the applied legislation, as modified, shall come into force or be deemed to have come into force, as the case may be, on the same day as that provision came into force in Great Britain.

#### Interpretation

2. (1) In this Order "the applied legislation" means -

- (a) the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996(b);
- (b) the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1996(c);
- (c) the Personal Pension Schemes (Appropriate Schemes and Disclosure of Information) (Miscellaneous Amendments) Regulations 1996(d);

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(a) 1995 c.11; (b) S.I. 1996/775; (c) S.I. 1996/776; (d) S.I. 1996/1435.

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- (d) The Protected Rights (Transfer Payment) Regulations 1996(a);
- (e) The Contracting-out (Transfer and Transfer Payment) Regulations 1996(b);
- (f) The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(c);
- (g) The Occupational Pension Schemes (Contracting-out) Amendment Regulations 1996(d).

(2) Unless the context otherwise requires -

- (a) any reference in any of the applied legislation to any provision in an instrument of a legislative character which is not itself a provision of any of the applied legislation shall be construed as if the provision so referred to had been in force in the Island from the date on which that instrument of a legislative character had effect in Great Britain;
- (b) reference in any legislation applied by this Order to any provision of any such legislation or of any other legislation applied to the Island by an order under section 1 of the Pension Schemes Act 1995 or section 1 of the Social Security Act 1982(e), shall be construed as a reference to that legislation as it has effect in the Island.

#### Application to the Island of the applied legislation

3. The applied legislation, as modified and shown as Schedules to this Order, shall apply to the Island as part of the law of the Island.

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(a) S.I. 1996/1461; (b) S.I. 1996/1462; (c) S.I. 1996/1537; (d) S.I. 1996/1577; (e) 1982 c.9.

## SCHEDULE 1

This Schedule sets out the text of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (S.I. 1996/775) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type.

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### STATUTORY INSTRUMENTS

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1996 No. 775

### SOCIAL SECURITY

The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996

#### **Citation, commencement and interpretation**

1. (1) These Regulations may be cited as the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 and shall come into force on 6<sup>th</sup> April 1996.

(2) In these Regulations -

“the Act” means the Pension Schemes Act 1993;

“administrative charges” means any charges or costs incurred as a result of taking out or entering into an appropriate policy of insurance but excluding any new commission costs; and

“normal pension age” has the same meaning as in section 180 of the Act.

(3) A reference to a numbered regulation is to the regulation in these Regulations bearing that number and, unless the context otherwise requires, a reference in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation.

#### **Conditions subject to which effect may be given to protected rights of a member of a scheme on winding up by insurance policies**

2. (1) For the purposes of section 32A(1)(a) of the Act (effect may be given to protected rights where a scheme is being wound up and such conditions as may be prescribed are satisfied) the prescribed conditions are that the trustees or managers give written notice to the member, in accordance with paragraph (3), of the proposal to give effect to his protected rights by means of an appropriate policy of insurance under section 32A(1)(a) or (b) of the Act and either -

(a) the member agrees in writing within three months from the date of the written notice;

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(a) Section 32A inserted into the Pension Schemes Act 1993 by section 146 of the Pensions Act 1995 c.26

- (b) where the condition in sub-paragraph (a) is not satisfied -
  - (i) no application for a cash equivalent under section 95 of the Act (ways of taking right to cash equivalent) is received by the trustees or managers within 3 months of the date of the written notice; or
  - (ii) an application for a cash equivalent under section 95 of the Act is received by the trustees or managers within 3 months of the date of the written notice and any of the conditions referred to in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1)(b)(ii) are -

- (a) the member withdraws his application for a cash equivalent in accordance with section 100 of the Act;
- (b) the member loses his right to the cash equivalent under section 98(7) of the Act (variation and loss of rights); or
- (c) it is not possible for the trustees or managers within the period specified in section 99(2) of the Act (trustees' duties after exercise of option) to do what is needed to carry out what the member requires.

(3) The written notice referred to in paragraph (1) shall -

- (a) be sent by post to the member's last known address; and
- (b) include the information specified in the Schedule to these Regulations.

#### **Requirements applying to insurance companies**

3. The requirements referred to in section 32A(2)(a)(ii) of the Act (policy of insurance appropriate if the insurance company satisfies prescribed requirements) are that the insurance company -

- (a) is authorised under section 6 of the *Insurance Act 1986 (an Act of Tynwald)*;
- (b) *is a company incorporated in the United Kingdom or another member state of the European Communities in respect of which a permit under section 25 of that Act is in force; or*
- (c) *Omitted.*

### **Conditions on which policies of insurance may be surrendered**

4. The conditions referred to in section 32A(2)(b) of the Act (policy of insurance appropriate for the purposes if it may not be surrendered except on conditions which satisfy prescribed requirements) are -

- (a) that the consent of the beneficiary to the surrender is given in writing to the insurance company; and
- (b) that, in consideration of the surrender, the benefits previously secured by the policy of insurance are replaced by benefits which are secured by means of one of the following, namely -
  - (i) another policy of insurance which is appropriate within the meaning of section 32A(2) of the Act; or
  - (ii) the acquisition of transfer credits under the rules of a contracted-out occupational pension scheme; or
  - (iii) the acquisition of rights under the rules of an appropriate personal pension scheme.

### **Conditions on which appropriate policies of insurance may be commuted**

5. The conditions referred to in section 32A(2)(c) of the Act (policy of insurance appropriate where commutation conditional on satisfying prescribed requirements) are -

- (a) that the benefits secured by the policy of insurance have become payable and the aggregate of those benefits payable to the beneficiary, or, as the case may be, to his widow or her widower does not exceed £260 per annum; and
- (b) all of the beneficiary's interest under the policy of insurance is discharged upon payment of a lump sum.

### **Other requirements applying to policies of insurance**

6. (1) For the purposes of section 32A(2)(d) of the Act (policy of insurance appropriate if it satisfies such other requirements as may be prescribed) the prescribed requirements are -

- (a) where the appropriate policy of insurance is to be taken out or entered into with the same insurance company which issued the original insurance policy, no new costs except administrative charges in respect of the proposed policy of insurance are to be attributed to the beneficiary;
- (b) that the age at which the beneficiary is to be entitled to receive benefits ("the normal retirement age") is to be the same age as the normal pension age under the scheme being wound up or such other age ("the agreed retirement age"), not being earlier than the age of 60, as agreed by the beneficiary;

(c) that the policy contains provision to the effect that, or is endorsed so as to provide that -

- (i) any rights under the insurance policy ("the insured rights") which derive from the protected rights of the member of the scheme which is being wound up, are to be treated as if they were protected rights under an occupational pension scheme and, subject to paragraph (2), as if sections 27, 28, 29 and 32 and Chapter IV of Part IV of the Act and regulations made under those sections and under section 145 of the Pensions Act 1995 were applicable to them;
- (ii) an annual statement is to be sent to the beneficiary stating the value of that beneficiary's insured rights under the policy; and
- (iii) information to be sent to the beneficiary in respect of the rights and options (if any) available to him not less than 4 months and not more than 6 months before the agreed retirement age or, if there is no such agreed retirement age, the normal retirement age.

(2) For the purposes of paragraph (1)(c)(i) the provisions in the Act referred to in that subparagraph shall be construed as if -

- (a) the policy of insurance is an occupational pension scheme;
- (b) the insurance company is the trustee or manager of the scheme;
- (c) the beneficiary is the member of the scheme; and
- (d) the terms of the policy are the scheme rules.

## SCHEDULE

### INFORMATION TO BE SPECIFIED IN THE WRITTEN NOTICE

1. Details of the proposal to -
  - (i) wind-up the scheme;
  - (ii) give effect to protected rights by means of an appropriate policy of insurance on or after 3 months from the date of the written notice.
2. An explanation of the effect of winding-up a scheme.
3. Details of the cash equivalent of the member's protected rights at a date not earlier than 3 months prior to the date of the written notice.
4. A statement that if the member does not wish his protected rights to be secured by an appropriate policy of insurance, notification of where those protected rights are to be transferred to must be given to the trustees or managers within 3 months from the date of the written notice.
5. The options available to the member in respect of his protected rights.
6. The name and address of the insurance company providing the appropriate policy of insurance and where appropriate a statement confirming that the insurance company is the same company which manages the scheme and issues the insurance policy or policies securing the benefits under that scheme.
7. Where appropriate, details of any administrative charges or other costs or charges which will be incurred and on whom they fall in respect of the proposed appropriate policy of insurance.
8. The rights and options available under the appropriate policy of insurance in respect of assignment, surrender and commutation.
9. The availability of independent financial advice.

## SCHEDULE 2

This Schedule sets out the text of the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/776) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type.

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### STATUTORY INSTRUMENTS

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1996 No. 776

#### SOCIAL SECURITY

The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1996

#### Citation, commencement and interpretation

1.(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1996 and shall come into force on 6th April 1996.

(2) In these Regulations -

"the Appropriate Schemes Regulations" means the Personal Pension Schemes (Appropriate Schemes) Regulations 1988(a);

"the Abatement Regulations" means the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987(b);

"the Disclosure Regulations" means the Personal Pension Schemes (Disclosure of Information) Regulations 1987(c);

"the Protected Rights Regulations" means the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987(d); and

"the Contracting-out Regulations" means the Occupational Pension Schemes (Contracting-out) Regulations 1984(e).

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(a) S.I. 1988/137; (b) S.I. 1987/1113; (c) S.I. 1987/1110; (d) S.I. 1987/1117; (e) S.I. 1984/380.

## **Amendment of the Contracting-out Regulations**

### **2. Omitted.**

## **Amendment of the Protected Rights Regulations**

3. (1) The Protected Rights Regulations shall be amended in accordance with the following provisions of this regulation.

(2) After regulation 5 there shall be inserted -

### **“Conditions applying to payments under an interim arrangement**

5A. For the purposes of section 28(1A) of the Act (in the case of a personal pension scheme effect may be given to protected rights by the making of payments under an interim arrangement which among other things satisfy such conditions as may be prescribed) the prescribed conditions are that -

- (a) payments are to be made to the member throughout the interim period at monthly intervals unless, subject to section 28A(1) of the Act (payments to be made at intervals not exceeding twelve months), the member elects for those payments to be made less frequently than by monthly payments; and
- (b) the interim arrangement provides for the member to be able to elect to terminate the interim arrangement at any time during the interim period; and
- (c) the interim arrangement provides for, in the event of the death of an unmarried member or, where section 28A(2) of the Act would apply, the death of the widow or widower, the balance of the value of the protected rights to be paid to any person in accordance with directions given by that member, widow or widower in writing, or where no such directions are given, to his or her estate.

### **Requirements for interim arrangements**

5B. (1) For the purposes of section 28A(3)(b) of the Act (aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months must not be less than the prescribed percentage of the annual amount of the annuity which would have been purchasable by him on the relevant reference date) the prescribed percentage is 35 per cent.

(2) For the purposes of section 28A(5)(a) of the Act (the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner) the prescribed manner is -

- (a) in the case of payments to be made to a member in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year up to and including the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(a);

(b) in the case of payments to be made to a widow or widower of a member in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year up to and including the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(b);

(c) in the case of payments to be made -

- (i) to a married member; or
- (ii) on the first day of a succeeding period of 3 years beginning with the starting date to a member who marries during the interim period,

in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of a tax year after the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(c);

(d) in the case of payments to be made -

- (i) to an unmarried member; or
- (ii) to a widow or a widower of a member; or
- (iii) on the first day of a succeeding period of 3 years beginning with the starting date to a member who becomes a widow or widower and remains so during the interim period; or
- (iv) on the first day of a succeeding period of 3 years beginning with the starting date to a member whose marriage is dissolved and remains unmarried during the interim period,

in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of a tax year after the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(d).

(3) For the purposes of section 28A (5)(a)(ii) of the Act (the current published tables of rates of annuities prepared in the prescribed manner by the Government Actuary) the prescribed manner is, in the case referred to in -

(a) paragraph (2)(a), on the basis -

- (i) that no distinction shall be made by reference to the sex or marital status of the member;
- (ii) that in respect of a member who has died, the rate of the annuity is one-half of the rate at which it would have been payable if the member had been living;
- (iii) that the rate of annuity will be increased on each of its anniversaries, by the percentage increase in the retail price index in the preceding twelve month period or by the percentage for that period which corresponds to 3 per cent., whichever is the lesser;
- (iv) of a deduction of 2 per cent. of the purchase price of the annuity to allow for the initial expenses of the insurance company; and

(v) that the frequency of payment is monthly in arrears;

(b) paragraph (2)(b), on the basis -

- (i) that no distinction shall be made by reference to the sex of the widow or widower;
- (ii) that the widow or widower is the last survivor with any rights to an annuity;
- (iii) of the matters referred to in paragraph (a)(iii) to (v);

(c) paragraph (2)(c), on the basis -

- (i) that no distinction shall be made by reference to the sex of the member;
- (ii) that the rate of annuity will be increased on each of its anniversaries, by the percentage increase in the retail price index in the preceding twelve month period or by the percentage for that period which corresponds to 5 per cent., whichever is the lesser; and
- (iii) of the matters referred to in sub-paragraph (a)(ii), (iv) and (v);

(d) paragraph (2)(d), on the basis -

- (i) that no distinction shall be made by reference to the sex of the member of the widow or widower;
- (ii) that, in the case of a widow or widower, he or she is the last survivor, or in the case of an unmarried member there is no other person, with any rights to an annuity; and
- (iii) of the matters referred to in sub-paragraph (a)(iv) and (v) and (c)(ii)."

(3) In regulation 6(1) and (2) (giving effect to protected rights by providing a lump sum) the words "as it applies to a money purchase contracted-out scheme" shall be omitted in each place they appear.

(4) In regulation 8 (choice of insurance company by annuitant) for the words "pensionable age" there shall be substituted -

(a) in paragraph (a), in the first place in which they appear, and in paragraph (b) the words -

" , in the case of a money purchase contracted-out scheme, the normal pension age if that age is not less than 60 years or, in the case of a personal pension scheme, the agreed age at which he is entitled to receive benefits under the scheme or pensionable age, whichever is the earlier, ";

(b) in paragraph (a), in the second place in which they appear, the words, "that age".

(5) In regulation 10(2) and (3) (death of scheme member before effect given to his protected rights) at the beginning there shall be inserted the words "Subject to regulation 10A".

(6) After regulation 10 there shall be inserted the following regulation -

**"Death of a scheme member before effect is given to protected rights: interim arrangements for widows or widowers**

10A. (1) Where the member has died without effect being given to his protected rights and that member is survived by -

- (a) a qualifying widow or widower; or
- (b) a non-qualifying widow or widower who, in accordance with the member's written directions is nominated to receive the value of that member's protected rights,

effect shall be given to those rights if that widow or widower so elects by the making of payments, as soon as practicable, under an interim arrangement such as is described in paragraph (2).

(2) The interim arrangement referred to in paragraph (1) is one which -

- (a) complies with -
  - (i) the requirements of section 28A(3) and (5) of the Act and regulations made under those subsections; and
  - (ii) the conditions referred to in regulation 5A as if the widow or widower were the member;
- (b) at the end of the interim period, enables effect to be given to the deceased's protected rights in such ways as are permitted by the provisions of section 28 of the Act as the rules of the scheme may specify.

(3) In this regulation "qualifying widow or widower" shall have the same meaning as in regulation 10."

(7) In regulation 13 (personal pension schemes - notifications to the Secretary of State) -

(a) in paragraph (1) -

- (i) in sub-paragraph (b) after the word "annuity" there shall be inserted ", payment under an interim arrangement";
- (ii) after sub-paragraph (d) there shall be added -
  - "(e) where effect has been given to them by means of a payment under an interim arrangement, to identify the appropriate personal pension scheme which has entered into the interim arrangement and the starting date."

### **Amendment of the Disclosure Regulations**

4. (1) The Disclosure Regulations shall be amended in accordance with the following provisions of this Regulation.

(2) In regulation 1(2) (interpretation) for the meaning of "pensionable age" there shall be substituted -

"pensionable age" has the meaning given by the rules set out in paragraph 1 of Part I of Schedule 4 to the Pensions Act 1995."

(3) In regulation 5(4)(a) (information to be made available to individuals) for the words "pensionable age" there shall be substituted -

"the agreed age at which he is entitled to receive benefits under the scheme or pensionable age, whichever is the earlier,".

(4) In paragraph 7 of Schedule 1 after the word "annuities" there shall be inserted "discharged by the making of payments under an interim arrangement".

### **Amendment of the Abatement Regulations**

5. (1) The Abatement Regulations shall be amended in accordance with the following provisions of this Regulation.

(2) In regulation 3(1) (guaranteed minimum pension to which earner's widow or widower is treated as entitled after minimum contributions have been paid) for the words "reaching pensionable age" in each place where they appear there shall be substituted the words "effect is given to his protected rights under section 28(1A), (2)(a), (3) or (4) of the Act(a)".

(3) In regulation 5(1) (guaranteed minimum pension to which earner's widow or widower is treated as entitled after minimum payments have been made) for the words "reaching pensionable age" in each place where they appear there shall be substituted the words "effect is given to protected rights (including rights treated as protected rights as a consequence of regulation 6(1)(c)(i) of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996(b)) under section 28(2)(a), (3) or (4) of the Act or as a consequence of regulations made under section 145 of the Pensions Act 1995 (extension of interim arrangements to occupational pension schemes)".

### **Amendment of the Appropriate Schemes Regulations**

6. In regulation 12 of the Appropriate Schemes Regulations (notices to the *Department* by an earner and trustees or managers) -

(a) for paragraph (2) there shall be substituted the following paragraph -

"(2) Subject to paragraph (3), the date specified in a notice under section 44(1) of the Act as the date from which the scheme is to be the earner's chosen scheme shall, subject to paragraph (2A), be 6th April in that or the next tax year.";

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(a) Section 28 was amended by sections 142 and 146 of, and paragraph 34 of Schedule 5 to, the Pensions Act 1995 (c.26)

(b) S.I. 1996/775.

(b) for paragraph (2A) there shall be substituted the following paragraph -

"(2A) Where notice is given by 17th May in a tax year it may specify 6th April in the preceding tax year."

## SCHEDULE 3

This Schedule sets out the text of the Personal Pension Schemes (Appropriate Schemes and Disclosure of Information) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1435) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type.

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### STATUTORY INSTRUMENTS

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1996 No. 1435

#### SOCIAL SECURITY

The Personal Pension Schemes (Appropriate Schemes and Disclosure of Information) (Miscellaneous Amendments) Regulations 1996

#### Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Personal Pension Schemes (Appropriate Schemes and Disclosure of Information) (Miscellaneous Amendments) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations -

"the Appropriate Schemes Regulations" means the Personal Pension Schemes (Appropriate Schemes) Regulations 1988(a); and

"the Disclosure Regulations" means the Personal Pension Schemes (Disclosure of Information) Regulations 1987(b).

#### Amendment of the Appropriate Schemes Regulations

2. (1) The Appropriate Schemes Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) (interpretation) -

(a) after the definition of "investment business" there shall be inserted -

" 'overseas arrangement' means a scheme or arrangement, other than an occupational pension scheme, which -

(a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;

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(a) S.I. 1988/137; (b) S.I. 1987/1110.

(b) is not an appropriate personal pension scheme; and

(c) is administered wholly or primarily outside the *Isle of Man*;

'overseas scheme' means an occupational pension scheme which is administered wholly or primarily outside the *Isle of Man* but does not include one which is contracted-out within the meaning of section 7(3) of the Act nor one to which section 53(a) of the Act applies;"

(b) for the definition of "pensionable age" there shall be substituted -

" 'pensionable age' has the meaning given by the rules in paragraph 1 of Part I of Schedule 4 to the Pensions Act 1995;"

(3) For regulation 14 (circumstances in which minimum contributions are not to be paid to schemes) there shall be substituted -

"14. (1) Minimum contributions shall not be paid in respect of an earner for the tax year or any part of the tax year in which that earner -

(a) reaches pensionable age; or

(b) dies and in which he would have reached pensionable age.

(2) Where effect has been given to the earner's protected rights under section 28 of the Act(b) (ways of giving effect to protected rights), minimum contributions shall not, except as provided by paragraphs (3) to (9) be paid in respect of the period during which the scheme was the earner's chosen scheme.

(3) Where effect has been given to the earner's protected rights by the making of a transfer payment to another appropriate scheme which has become the earner's chosen scheme or a money purchase contracted-out scheme, the minimum contributions shall be paid to the trustees or managers of that scheme.

(4) Where effect has been given to the earner's protected rights by the making of a transfer payment to a salary-related scheme or an overseas scheme, or an overseas arrangement and the *Department* becomes aware, as a consequence of evidence in respect of the earner's age being brought to *its* attention, that an additional amount of minimum contributions would have been payable had *the Department* been aware of that evidence, that additional amount of minimum contributions shall be paid to the trustees or managers of that scheme.

(5) Where effect has been given to the earner's protected rights by the purchase of an annuity or by the provision by the scheme of a pension, and the amount of the minimum contributions in question is at least 10 times as great as the lower earnings limit for the tax year in which the *Department* becomes aware that minimum contributions are payable or would be payable, but for paragraph (2), those minimum contributions shall be paid (in the case of an annuity) to the insurance company from which the annuity has been purchased or (in the case of a pension) to the trustees or managers of the scheme.

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(a) Section 7 was amended by section 136(1) of and paragraph 22 of Schedule 5 to, the Pensions Act 1995. Section 53 was amended by paragraph 48 of Schedule 5 to the Pensions Act 1995.  
(b) Section 28 was amended by section 142 and 146(2) of the Pensions Act 1995.

(6) Where effect has been given to the earner's protected rights by the purchase of an annuity or by the provision by the scheme of a pension and -

- (a) the circumstances in paragraph (5) do not exist; and
- (b) minimum contributions are payable for the tax year or part of the tax year in which the earner died,

those minimum contributions shall be paid to the earner's widow or widower, or if the earner died unmarried, they may at the *Department's* discretion be paid to any person.

(7) Where effect has been given to the earner's protected rights by the purchase of an annuity or by provision by the scheme of a pension and -

- (a) the circumstances in paragraph (5) do not exist; and
- (b) the *Department* becomes aware, as a consequence of evidence in respect of the earner's age being brought to *its* attention, that an additional amount of minimum contributions would have been payable had he been aware of that evidence,

that additional amount of minimum contributions shall be payable for any tax year or part of a tax year before the tax year in which effect had been given to protected rights to the earner or the earner's widow or widower, or if the earner died unmarried, they may at the *Department's* discretion be paid to any person.

(8) Where effect has been given to the earner's protected rights by the provision of a lump sum, minimum contributions shall be payable to the earner or the earner's widow or widower, or if the earner died unmarried, they may at the *Department's* discretion be paid to any person.

(9) Where effect has been given to the earner's protected rights by the making of payments under an interim arrangement and the earner remains an employed earner, minimum contributions shall continue to be payable to the trustees or managers of the earner's chosen scheme."

(4) For regulation 17A (calculation of minimum contributions) there shall be substituted -

"17A.- (1) For the purposes of determining the appropriate age-related percentage for the purposes of section 45(1)(a) of the Act, the *Department* may require an earner to send documentary evidence of his date of birth.

(2) For the purposes of section 45B(2)(b) of the Act(b) (information held as to the age to be disclosed to the *Department* to trustees or managers of an appropriate personal pension scheme and such other persons as may be prescribed) the prescribed person shall be the person who is responsible for administering the scheme."

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- (a) Section 45(1) is amended by section 138(2) of the Pensions Act 1995.
  - (b) Section 45B was inserted by section 139 of the Pensions Act 1995.

### **Amendment of the Disclosure Regulations**

3. (1) The Disclosure Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 5(2) (information to be made available to individuals) for the words "paragraphs 1 and 2" there shall be substituted "paragraphs 1, 2 and 12".

(3) In Schedule 2 (information to be made available to individuals) after paragraph 11 there shall be added -

"12. The date of birth used for determining the appropriate age-related percentage for the purposes of section 45(1) of the Act as disclosed to the trustees by the *Department* and the name and address of whom to contact should that date of birth be incorrect."

### **Transitional provision in respect of minimum contributions**

4. For the purposes of paying minimum contributions in respect of an employed earner for any period up to and including the tax year 1996-1997, regulation 14 of the Appropriate Schemes Regulations shall continue to have effect as if regulation 2 of these Regulations had not come into force.

## SCHEDULE 4

This Schedule sets out the text of the Protected Rights (Transfer Payment) Regulations 1996 (S.I. 1996/1461) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type.

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### STATUTORY INSTRUMENTS

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1996 No. 1461

#### SOCIAL SECURITY

The Protected Rights (Transfer Payment)  
Regulations 1996

#### Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Protected Rights (Transfer Payment) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations -

"the 1993 Act" means the Pension Schemes Act 1993;

"the Abatement of Benefit Regulations" means the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987(a);

"appropriate personal pension scheme" shall be construed in accordance with section 7 of the 1993 Act(b);

***"the Department" means the Department of Health and Social Security;***

"money purchase contracted-out scheme" means an occupational pension scheme which is contracted-out by virtue of satisfying section 9(3) of the 1993 Act(c);

"overseas scheme" means an occupational pension scheme which is administered wholly or primarily outside the *Isle of Man* but does not include one which is contracted-out within the meaning of section 7(3) of the 1993 Act nor one in respect of which section 53 of the 1993 Act(d) applies;

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(a) S.I. 1987/1113;

(b) Section 7 was amended by section 136(1) of an paragraph 22 of Schedule 5 to the Pensions Act 1995;

(c) Section 9(3) was amended by section 136(4) of and paragraph 24 of Schedule 5 to the Pensions Act 1995

(d) Section 53 was amended by paragraph 48 of Schedule 5 to the Pensions Act 1995

"post-97 protected rights" means -

- (a) protected rights which are attributable to payments or contributions in respect of employment carried on on or after the principal appointed day; and
- (b) protected rights which derive from section 9(2B) rights which have been the subject of a transfer payment;

"pre-97 protected rights" means -

- (a) protected rights which are attributable to payments or contributions in respect of employment carried on before the principal appointed day; and
- (b) protected rights which derive from guaranteed minimum pensions which have been the subject of a transfer payment;

"the principal appointed day" has the meaning given to that expression by section 7(2B) of the 1993 Act(a);

"protected rights" has the meaning given to that expression by section 10 of the 1993 Act(b);

"salary-related contracted-out scheme" means an occupational pension scheme which is contracted-out by virtue of satisfying section 9(2) of the 1993 Act(c);

"scheme" means an occupational pension scheme or a personal pension scheme;

"section 9(2B) rights" are -

- (a) rights (other than rights attributable to voluntary contributions within the meaning of section 111 of the 1993 Act) which are attributable to an earner's service on or after the principal appointed day in employment which is contracted-out in accordance with section 9(2B) of the 1993 Act(d); and
- (b) where a transfer payment has been made to a salary-related scheme in respect of rights mentioned in paragraph (a) or of post-97 protected rights, any rights arising under that scheme as a consequence of that payment, or, where only part of it was made in respect of such rights, of that part of it;

"trustees", in relation to a scheme which is not set up or established under a trust, means the managers of the scheme.

## General

2. A money purchase contracted-out scheme or an appropriate personal pension scheme (or a scheme which was formerly a money purchase contracted-out scheme or an appropriate personal pension scheme) may give effect to the protected rights of a member by the making of a transfer payment -

- (a) to an appropriate personal pension scheme; or

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(a) Section 7(2B) was inserted by section 136(1) of the Pensions Act 1995.

(b) Section 10 was amended by paragraph 25 of Schedule 5 to the Pensions Act 1995.

(c) Section 9(2) was amended by section 136(3) of the Pensions Act 1995.

(d) Section 9(2B) was inserted by section 136(3) of the Pensions Act 1995.

- (b) to an occupational pension scheme

in accordance with regulations 3 to 5 and in these Regulations a "transfer payment" means a transfer payment such as is described in this regulation.

#### **Transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes**

3. A transfer payment may be made to a money purchase contracted-out scheme or an appropriate personal pension scheme if -

- (a) the member consents in writing;
- (b) the transfer payment (or, if it forms part of a larger payment giving effect to both protected and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents);
- (c) in the case of a transfer payment to a money purchase contracted-out scheme, the member -
  - (i) is employed by an employer who is a contributor to the receiving scheme, or
  - (ii) has previously been a member of the receiving scheme; and
- (d) the transfer payment is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the member.

#### **Transfer payments to salary-related contracted-out schemes**

4. A transfer payment may be made to a salary-related contracted-out scheme if -

- (a) the member consents in writing;
- (b) the transfer payment (or, if it forms part of a larger payment giving effect to both protected and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act;
- (c) the member -
  - (i) is employed by an employer who is a contributor to the receiving scheme, or
  - (ii) has previously been a member of the receiving scheme;
- (d) where the transfer payment or any part of it gives effect to pre-97 protected rights, the receiving scheme, in consequence of that payment (or, where only part of it gives effect to such rights, of that part) provides for
  - the member, and
  - the member's widow or widower

to be entitled, without prejudice to any other rights which the member receives under that scheme, to guaranteed minimum pensions equal to those to which they would have been treated as entitled by virtue of

- section 47(2) or (5) of the 1993 Act (further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 46), or
- section 48(2) of the 1993 Act(a) (reduced benefits where minimum payments or minimum contributions paid)

had the transfer payment not been made, except that the receiving scheme may make provision that any earnings factor of the member is to be revalued in accordance with section 16(2) of the 1993 Act (revaluation of earnings factors for purposes of section 14; early leavers etc.) as modified by regulation 6; and

- (e) where the transfer payment or any part of it gives effect to post-97 protected rights, the transfer payment (or, where only part of it gives effect to post-97 protected rights, that part) is applied to provide rights for the member which, had they accrued in the receiving scheme, would be provided in accordance with the rules of the receiving scheme relating to earners who are in employment which is contracted-out in relation to the receiving scheme or have been in employment which was so contracted-out.

#### Transfer payments to overseas schemes

5. A transfer payment may be made to an overseas scheme if -

- (a) the member consents in writing;
- (b) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the member has emigrated on a permanent basis and has entered employment to which the receiving scheme applies;
- (c) the transfer payment (or, if it forms part of a larger payment giving effect to both protected and other rights, that part which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is given, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act;
- (d) the member has acknowledged in writing that he accepts that the scheme to which the transfer payment is to be made may not be regulated in any way by the law of the *Isle of Man* and that as a consequence there may be no obligation under that law on the receiving scheme or its trustees to provide any particular value or benefit in return for the transfer payment; and
- (e) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the member has received a statement from the receiving scheme showing the benefits to be awarded in respect of the transfer payment and the conditions (if any) on which these could be forfeited or withheld.

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(a) Section 48(2) was amended by paragraph 58 of Schedule 1 to the Social Security Incapacity for Work Act 1994 (c.18) and section 140(2) of the Pensions Act 1995.

**Modifications or Part III of the 1993 Act where transfer payments are made to salary-related contracted-out schemes**

6. (1) Where a transfer payment has been made to a salary-related contracted-out scheme in accordance with regulation 4 (or with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations 1987(a)) the 1993 Act shall have effect as modified by this regulation.

(2) The definition of "guaranteed minimum pension" in section 8(2)(b) shall have effect as if -

- (a) after "sections 13 and 17" there were inserted "or in compliance with the requirement set out in regulation 4(d) of the Protected Rights (Transfer Payment) Regulations 1996 (or, as the case may be, with the requirement set out in paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations 1987"; and
- (b) at the end there were added "or, as the case may be, of that requirement".

(3) Section 47(2)(b) (further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 46) shall have effect as if after paragraph (ii) there were added "unless he is entitled to that guaranteed minimum pension by reason of regulation 4(d) of the Protected Rights (Transfer Payment) Regulations 1996 (or of paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations 1987)".

(4) Section 14(1)(c) (earner's guaranteed minimum pension) shall have effect as if -

- (a) after "guaranteed minimum" there were inserted "both"; and
- (b) at the end there were added "and in relation to any pension provided by a scheme in compliance with the requirement set out in regulation 4(d) of the Protected Rights (Transfer Payment) Regulations 1996 (or, as the case may be, with the requirement set out in paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations 1987)".

(5) In a case to which regulation 2(1) of the Abatement of Benefit Regulations applies, section 16(1) (revaluation of earnings factors for purposes of section 14: early leavers etc.) shall have effect as if any earnings factor to which regulation 2(2)(b) of those Regulations applies were, before being increases as mentioned in section 16(1), equal to the amount mentioned in regulation 2(2)(b) of those Regulations.

(6) Section 16(2) shall have effect -

- (a) if the scheme from which the transfer payment was made was a personal pension scheme, in respect only of each relevant year after the year in which minimum contributions, within the meaning given to that expression in section 181(1) (general interpretation), were last payable; and
- (b) if the scheme from which the transfer payment was made was, or had formerly been, a money purchase contracted-out scheme, in respect only of each relevant year after the year in which contracted-out employment by reference to that scheme terminated.

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(a) S.I. 1987/1118.

(b) Section 8 was amended by section 136(2) of and paragraph 23 of Schedule 5 to the Pensions Act 1995.

(c) Section 14 was amended by paragraph 27 of Schedule 5 to the Pensions Act 1995.



## **Revocations and transitional provisions**

7. (1) Subject to paragraphs (2) and (3) and to Schedule 2, the regulations listed in column 2 of Schedule 1 (some of which are spent) are revoked to the extent specified in column 3 of Schedule 1.

(2) Where a transfer payment has been made to a salary-related contracted-out scheme in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations 1987, then regulation 4(8) and (9) of those Regulations (as in force immediately before these Regulations came into force) shall continue to have effect in relation to any state scheme premium which has been paid before the principal appointed day or is payable immediately before that day.

(3) Where an application under section 95 of the 1993 Act (ways of taking right to cash equivalent) has been made before the principal appointed day, for the purposes of dealing with that application regulations 2 to 5 of these Regulations shall not apply and regulations 1 to 3 of the Protected Rights (Transfer Payment) Regulations 1987 (as in force immediately before these Regulations came into force) shall continue to apply subject to the modifications set out in Schedule 2.



SCHEDULE 1

Regulation 7

REVOCATIONS

| Column 1<br><i>Statutory Instrument No.</i> | Column 2<br><i>Statutory Instrument</i>   | Column 3<br><i>Provision Revoked</i> |
|---|---|--------------------------------------|
| S.I. 1987/1118                              | The Protected Rights (Transfer Payment) Regulations 1987                                  | The whole of the Regulations         |
| S.I. 1994/1062                              | The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations 1994 | Schedule 2, paragraph 20             |
| S.I. 1994/1751                              | The Protected Rights (Transfer Payment) Amendment Regulations 1994                        | The whole of the Regulations         |

SCHEDULE 2

Regulation 7

TRANSITIONAL PROVISIONS

In a case such as is mentioned in regulation 7(3), the Protected Rights (Transfer Payment) Regulations 1987 are modified as follows:

- (a) all references to the Occupational Pensions Board are replaced by references to the *Department*;
- (b) the definition of "overseas scheme" is replaced by the definition of "overseas scheme" in these Regulations; and
- (c) the definition of "section 53 money purchase scheme" is replaced by the definition "'section 53 money purchase scheme which was formerly a money purchase contracted-out scheme and in respect of which section 53 applies" and the definition of "section 53 salary related scheme" is replaced by the definition "'section 53 salary related scheme" means a scheme which was formerly a salary related contracted-out scheme and in respect of which section 53 applies".

## SCHEDULE 5

This Schedule sets out the text of the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type.

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### STATUTORY INSTRUMENTS

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1996 No. 1462

#### SOCIAL SECURITY

The Contracting-out (Transfer and Transfer Payment)  
Regulations 1996

#### ARRANGEMENT OF REGULATIONS

##### PART 1

##### GENERAL

1. Citation, commencement and interpretation

##### PART II

##### TRANSFERS OF AND TRANSFER PAYMENTS IN RESPECT OF GUARANTEED MINIMUM PENSION

2. General
3. Transfers of guaranteed minimum pensions to salary-related contracted-out schemes
4. Connected employer transfers of guaranteed minimum pensions
5. Transfer payments in respect of guaranteed minimum pensions to money purchase contracted-out schemes and appropriate personal pension schemes
6. Transfer payments in respect of guaranteed minimum pensions to overseas schemes

### PART III

#### TRANSFERS OF LIABILITY IN RESPECT OF SECTION 9(2B) RIGHTS

7. General
8. Transfer payments to salary-related contracted-out schemes in respect of section 9(2B) rights
9. Connected employer transfer payments
10. Transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes in respect of section 9(2B) rights
11. Transfer payments to overseas schemes or arrangements in respect of section 9(2B) rights

### PART IV

#### MODIFICATIONS OF PART III OF THE 1993 ACT

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
13. Modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts

### PART V

#### REVOCATIONS AND TRANSITIONAL PROVISIONS

14. Revocations and transitional provisions

### SCHEDULES

1. Further conditions for transfers of guaranteed minimum pensions
2. Modifications of Part III of the 1993 Act
3. Revocations
4. Transitional provisions

## PART I

### GENERAL

#### Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Contracting-out (Transfer and Transfer Payment) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations -

"the 1993 Act" means the Pension Schemes Act 1993;

"accrued rights", for the purposes of Parts II and IV of these Regulations, has the meaning given to that expression in section 20(6) of the 1993 Act;

"appropriate personal pension scheme" shall be construed in accordance with section 7 of the 1993 Act(a);

"appropriate policy" means a policy of insurance or an annuity contract such as is described in section 19(4) of the 1993 Act;

"appropriately secured" has the meaning given to that expression in section 19(3) of the 1993 Act;

"connected employer transfer" and "connected employee transfer payment" mean respectively a transfer of guaranteed minimum pensions from a salary-related contracted-out scheme to a salary-related contracted-out scheme and a transfer payment in respect of section 9(2B) rights from a salary-related contracted-out scheme to a salary-related contracted-out scheme where either -

- (a) the transferring scheme and the receiving scheme apply to employment with the same employer; or
- (b) the transferring scheme and the receiving scheme apply to employment with different employers, the earner or person concerned is one of a group of persons in respect of whom transfers or transfer payments are being made from the transferring scheme to the receiving scheme and either -
  - (i) the transfer or transfer payment is a consequence of a financial transaction between the employers,
  - (ii) each of the employers is one of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1 of the *Companies Act 1974 (an Act of Tynwald)*;
  - (iii) the employers are associated employers within the meaning of section 590A(3) and (4) of the Income and Corporation Taxes Act 1988;

"earner" includes an earner who is not in employment at the time of the transfer or transfer payment;

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(a) Section 7 was amended by section 136(1) of and paragraph 22 of Schedule 5 to the Pensions Act 1995.

"money purchase contracted-out scheme" means an occupational pension scheme which is contracted-out by virtue of satisfying section 9(3) of the 1993 Act(a);

"overseas arrangement" means a scheme or arrangement, other than an occupational pension scheme, which -

- (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;
- (b) is not an appropriate personal pension scheme; and
- (c) is administered wholly or primarily outside the *Isle of Man*;

"overseas scheme" means an occupational pension scheme which is administered wholly or primarily outside the *Isle of Man* but does not include one which is contracted-out within the meaning of section 7(3) of the 1993 Act nor one in respect of which section 53 of the 1993 Act(b) applies;

"the principal appointed day" has the meaning given to that expression in section 7(2B) of the 1993 Act(c);

"protected rights" has the meaning given to that expression in section 10 of the 1993 Act(d);

"salary-related contracted-out scheme" means an occupational pension scheme which is contracted-out by virtue of satisfying section 9(2) of the 1993 Act(e);

"scheme" means an occupational pension scheme or a person pension scheme;

"section 9(2B) rights" are -

- (a) rights (other than rights attributable to voluntary contributions within the meaning of section 111 of the 1993 Act) which are attributable to an earner's service on or after the principal appointed day in employment which is contracted-out in accordance with section 9(2B) of the 1993 Act(f); and
- (b) where a transfer payment has been made to a salary-related scheme in respect of rights mentioned in paragraph (a) or of post-97 protected rights (as defined in regulation 1(2) of the Protected Rights (Transfer Payment) Regulations 1996(g)), any rights arising under that scheme as a consequence of that payment or, where only part of it was made in respect of such rights, of that part of it;

"trustees", in relation to a scheme which is not set up or established under a trust, means the managers of the scheme.

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(a) Section 9(3) was amended by section 136(4) of and paragraph 24 of Schedule 5 to the Pensions Act 1995.

(b) section 53 was amended by paragraph 48 of Schedule 5 to the Pensions Act 1995.

(c) Section 7(2B) was inserted by section 136(1) of the Pensions Act 1995.

(d) Section 10 was amended by paragraph 25 of Schedule 5 to the Pensions Act 1995.

(e) Section 9(2) was amended by section 136(3) of the Pensions Act 1995.

(f) Section 9(2B) was inserted by section 136(3) of the Pensions Act 1995.

(g) S.I. 1996/461.

## PART II

### TRANSFERS OF AND TRANSFER PAYMENTS IN RESPECT OF GUARANTEED MINIMUM PENSIONS

#### General

2. (1) A transfer or transfer payment from an occupational pension scheme of or in respect of the accrued rights of an earner to guaranteed minimum pensions may be made in accordance with whichever of regulations 3 to 6 is applicable and no such transfer or transfer payment may otherwise be made from such a scheme.

(2) A transfer or transfer payment from an appropriate policy of or in respect of the accrued rights of an earner to guaranteed minimum pensions which are appropriately secured may be made in accordance with whichever of regulations 3, 5 or 6 is applicable and no such transfer or transfer payment may otherwise be made from such a policy.

(3) A transfer of liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them may be made from an occupational pension scheme in accordance with whichever of regulations 3 or 4 is applicable and no such transfer may be made otherwise.

(4) In regulations 3 to 6 "transfer" means a transfer, of accrued rights or liability, such as is described in this regulation and "transfer payment" means a payment in respect of accrued rights such as is described in this regulation.

#### Transfers of guaranteed minimum pensions to salary-related contracted-out schemes

3. A transfer may be made to a salary-related contracted-out scheme if -

- (a) the earner or person concerned consents in writing;
- (b) in the case of a transfer of the accrued rights of an earner -
  - (i) the earner is employed by an employer who is a contributor to the receiving scheme, or
  - (ii) the earner has previously been a member of the receiving scheme;
- (c) in the case of a transfer of the accrued rights of an earner who is not in employment which is contracted-out by reference to the receiving scheme, the conditions specified in paragraphs 1 to 4 of Schedule 1 are satisfied, unless the transfer is from an appropriate policy in which case the condition set out in paragraph 5 of Schedule 1 must be satisfied;
- (d) in the case of a transfer of the accrued rights of an earner from an appropriate policy, the receiving scheme does not make provision under section 16(2) and (3) of the 1993 Act<sup>(a)</sup> (revaluation of earnings factors for purposes of section 14; early leavers etc.), or any analogous provision, in relation to the rights transferred where the effect would be to increase them at a different rate from that at which they would have been increased had the transfer not taken place; and

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<sup>(a)</sup> Section 16(3) was amended by paragraph 28 of Schedule 5 to the Pensions Act 1995.

- (e) in the case of a transfer of liability for the payment of guaranteed minimum pensions to or in respect of a person who has become entitled to them, the transfer is from a scheme and the conditions set out in paragraph 6 of Schedule 1 are satisfied.

#### **Connected employer transfers of guaranteed minimum pensions**

4. A connected employer transfer may be made to a salary-related contracted-out scheme subject to the conditions set out in regulation 3(c) and (e).

#### **Transfer payments in respect of guaranteed minimum pensions to money purchase contracted-out schemes and appropriate personal pension schemes**

5. A transfer payment may be made to a money purchase contracted-out scheme or an appropriate personal pension scheme if -

- (a) the earner consents in writing;
- (b) if the transfer payment is to a money purchase contracted-out scheme -
  - (i) the earner is employed by an employer who is a contributor to the receiving scheme, or
  - (ii) the earner has previously been a member of the receiving scheme;
- (c) the transfer payment is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the earner; and
- (d) the transfer payment (whether or not it forms part of a larger payment in respect of both guaranteed minimum pensions and other rights) is of an amount at least equal to the cash equivalent of the earner's accrued rights to guaranteed minimum pensions, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act(a) (calculation of cash equivalents).

#### **Transfer payments in respect of guaranteed minimum pensions to overseas schemes**

6. A transfer payment may be made to an overseas scheme if -

- (a) the earner consents in writing;
- (b) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the earner has emigrated on a permanent basis and is in employment to which the receiving scheme applies;
- (c) the transfer payment (whether or not it forms part of a larger payment in respect of both guaranteed minimum pensions and other rights) is of an amount at least equal to the cash equivalent of the earner's accrued rights to guaranteed minimum pensions, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act;

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(a) Section 97 was amended by paragraph 4 of Schedule 6 to the Pensions Act 1995.

- (d) the earner has acknowledged in writing that he accepts that the scheme to which the transfer payment is to be made may not be regulated in any way by the law of the *Isle of Man* and that as a consequence there may be no obligation under that law on the receiving scheme or its trustees or administrators to provide any particular value or benefit in return for the transfer payment; and
- (e) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the earner has received a statement from the receiving scheme showing the benefits to be awarded in respect of the transfer payment and the conditions (if any) on which these could be forfeited or withheld.

### PART III

#### TRANSFERS OF LIABILITY IN RESPECT OF SECTION 9(2B) RIGHTS

##### General

##### 7. (1) A transfer of liability -

- (a) from a salary-related contracted-out scheme (or a scheme which was formerly a salary-related contracted-out scheme) or from an appropriate policy in respect of the accrued section 9(2B) rights of an earner; or
- (b) from a salary-related contracted-out scheme (or a scheme which was formerly a salary-related contracted-out scheme) for the payment to or in respect of a person who has become entitled to them of pensions under that scheme deriving from section 9(2B) rights

may be made in accordance with arrangements which satisfy paragraph (2) and no such transfer may be made otherwise.

##### (2) The arrangements referred to in paragraph (1) must result in there being made -

- (a) in the case of a transfer referred to in paragraph (1)(a), a transfer payment to the receiving scheme or overseas arrangement, in accordance with whichever of regulations 8 to 11 is applicable, of at least the cash equivalent of the accrued section 9(2B) rights in respect of which the transfer is being made, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act; and
- (b) in the case of a transfer referred to in paragraph (1)(b), a connected employer transfer payment to a salary-related contracted-out scheme in accordance with regulation 9.

(3) In this regulation and regulations 8 to 11 "transfer payment" means a payment to effect a transfer of liability such as is referred to in paragraph (1).

##### Transfer payments to salary-related contracted-out schemes in respect of section 9(2B) rights

8. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to a salary-related contracted-out scheme if -

- (a) the earner consents in writing;

- (b) the earner -
  - (i) is employed by an employer who is a contributor to the receiving scheme, or
  - (ii) has previously been a member of the receiving scheme; and
- (c) the transfer payment is applied to provide rights for the earner or person concerned which, had they accrued in the receiving scheme, would be provided in accordance with the rules of the receiving scheme relating to earners who are in employment which is contracted-out in relation to the receiving scheme or have been in employment which was so contracted-out.

#### **Connected employer transfer payments**

9. A connected employer transfer payment may be made to a salary-related contracted-out scheme subject to -

- (a) the condition set out in regulation 8(c); and
- (b) the condition set out in regulation 12(3) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(a) (requirement for actuarial certificate).

#### **Transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes in respect of section 9(2B) rights**

10. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to a money purchase contracted-out scheme or an appropriate personal pension scheme if -

- (a) the earner consents in writing;
- (b) if the transfer payment is to a money purchase contracted-out scheme, the earner -
  - (i) is employed by an employer who is a contributor to the receiving scheme, or
  - (ii) has previously been a member of the receiving scheme; and
- (c) the transfer payment is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the earner.

#### **Transfer payments to overseas schemes or arrangements in respect of section 9(2B) rights**

11. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to an overseas scheme or overseas arrangement if -

- (a) the earner consents in writing;
- (b) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the earner has emigrated on a permanent basis and, where the receiving scheme is an occupational pension scheme, that he has entered employment to which the receiving scheme applies;

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(a) S.I. 1991/167.

- (c) the earner has acknowledged in writing that he accepts that the scheme or arrangement to which the transfer payment is to be made may not be regulated in any way by the law of the *Isle of Man* and that as a consequence there may be no obligation under that law on the receiving scheme or arrangement or its trustees or administrators to provide any particular value or benefit in return for the transfer payment; and
- (d) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the earner has received a statement from the receiving scheme or arrangement showing the benefits to be awarded in respect of the transfer payment and the conditions (if any) on which these could be forfeited or withheld.

#### PART IV

#### MODIFICATION OF PART III OF THE 1993 ACT

#### **Modifications of Part III of the 1993 Act on transfers of and transfer payments in respect of guaranteed minimum pensions from occupational pension schemes**

12. Where a transfer to a salary-related contracted-out scheme, or a transfer payment to an overseas scheme, has taken place from an occupational pension scheme in accordance with regulations 3, 4 or 6 (or with regulation 2 of the Contracting-out (Transfer) Regulations 1985(a)), the 1993 Act shall have effect subject to the following modifications -

- (a) where the transfer was of the accrued rights to guaranteed minimum pensions of an earner who was in employment which was contracted-out by reference to the receiving scheme, the modification of section 14(1)(b) (earner's guaranteed minimum) specified in paragraph 3 of Schedule 2;
- (b) in the case of any other transfer of the accrued rights of an earner to guaranteed minimum pensions, the modifications of sections 8(2)(c) (meaning of "guaranteed minimum pension"), 20(6) (transfer of accrued rights: meaning of "accrued rights") and 159(d) (inalienability of guaranteed minimum pension and protected rights payments) specified in paragraphs 1, 4 and 5 of Schedule 2;
- (c) in the case of any transfer of the liability for payment of guaranteed minimum pensions to or in respect of a person who had become entitled to them, the modifications of sections 8(2) and 159 specified in paragraphs 1 and 5 of Schedule 2;
- (d) in the case of any transfer payment to an overseas scheme in respect of the accrued rights of an earner to guaranteed minimum pensions, the modification of section 46(e) (effect of entitlement to guaranteed minimum pensions on payment of social security benefits) specified in paragraph 2 of Schedule 2.

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(a) S.I. 1985/1323.

(b) Section 14 was amended by paragraph 27 of Schedule 5 to the Pensions Act 1995.

(c) Section 8 was amended by section 136(2) of and paragraph 23 of Schedule 5 to the Pensions Act 1995.

(d) Section 159 was amended by paragraph 41 of Schedule 3 to the Pensions Act 1995.

(e) Section 46 was amended by paragraph 44 of Schedule 5 to the Pensions Act 1995.

**Modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts**

13. Where a transfer to a salary-related contracted-out scheme, or a transfer payment to an overseas scheme, in respect of an earner's accrued rights to guaranteed minimum pensions has taken place from an appropriate policy in accordance with regulation 3 or 6 (or with regulation 2A of the Contracting-out (Transfer) Regulations 1985), the 1993 Act shall have effect subject to the following modifications -

- (a) where the earner was in employment which was contracted-out by reference to the receiving scheme, the modification of section 14(1) specified in paragraph 7 of Schedule 2;
- (b) where the earner was in employment which was not contracted-out by reference to the receiving scheme, the modifications of sections 8(2), 20(6) and 159 specified in paragraphs 6, 8 and 9 of Schedule 2;
- (c) in the case of any transfer payment to an overseas scheme, the modification of section 46 specified in paragraph 2 of Schedule 2.

**PART V**

**REVOCATIONS AND TRANSITIONAL PROVISIONS**

**Revocations and transitional provisions**

14. (1) Subject to paragraphs (2) and (3) and to Schedule 4, the regulations listed in column 2 of Schedule 3 (some of which are spent) are revoked to the extent specified in column 3 of that Schedule.

(2) Where a transfer such as is mentioned in regulation 12 has taken place in accordance with regulation 2 of the Contracting-out (Transfer) Regulations 1985, then paragraph 6 of Schedule 3 to those Regulations (as in force immediately before these Regulations came into force) shall continue to have effect in relation to any state scheme premium which has been paid before the principal appointed day or is payable immediately before that day.

(3) Where an application under section 95 of the 1993 Act (ways of taking right to cash equivalent) has been made before the principal appointed day, for the purposes of dealing with that application regulations 2 to 11 of these Regulations shall not apply and regulations 1, 2, 2A and 2B of the Contracting-out (Transfer) Regulations 1985 (as in force immediately before these Regulations came into force) shall continue to apply subject to the modifications set out in Schedule 4.

SCHEDULE 1

Regulation 3

FURTHER CONDITIONS FOR TRANSFERS OF GUARANTEED  
MINIMUM PENSIONS

PART I

FURTHER CONDITIONS FOR TRANSFER TO A SALARY-RELATED  
CONTRACTED-OUT SCHEME OF ACCRUED RIGHTS TO GUARANTEED  
MINIMUM PENSIONS WHERE EMPLOYEE IS NOT IN  
EMPLOYMENT WHICH IS CONTRACTED-OUT BY REFERENCE TO  
THE RECEIVING SCHEME

1. Subject to paragraphs 2 to 4, the receiving scheme must in respect of the rights transferred -

- (a) provide for pensions payable at the rates at which guaranteed minimum pensions would have been payable by the transferring scheme if the transfer had not taken place; and
- (b) contain the same provision for commencement and continuation of payment of those pensions and (if any) for commutation, suspension and forfeiture as for guaranteed minimum pensions provided by the receiving scheme in accordance with sections 13(a) and 17(b) of the 1993 Act.

2. Subject to paragraphs 3 and 4, the arrangements for the transfer (in this Schedule called "the arrangements") must contain provision that the earner's earnings factors which are attributable to any particular period of service, or the weekly equivalent derived therefrom, will be increased at the same rate under the receiving scheme as that at which they or it would have fallen to be increased under the transferring scheme if -

- (a) his service in contracted-out employment by reference to the transferring scheme had been terminated; but
- (b) the transfer had not taken place.

3. If the weekly equivalent derived from the earnings factors which are attributable to any particular period of service was not, before the transfer, affected by a provision made, or a provision analogous to one made, under section 16(2) and (3) of the 1993 Act, the arrangements may contain a provision analogous to one made under section 16(2) and (3) in relation to it.

4. If the weekly equivalent derived from the earnings factors which are attributable to any particular period of service was, before the transfer, affected by a provision made, or a provision analogous to one made, under section 16(2) and (3) of the 1993 Act, the arrangements may contain a provision that those earnings factors will be increased under the receiving scheme at the same rate as that at which they would have fallen to be increased if -

- (a) there had never been a provision made, or a provision analogous to one made; or

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(a) Section 13 was amended by paragraph 26 of Schedule 5 to the Pensions Act 1995.  
(b) Section 17 was amended by paragraph 29 of Schedule 5 to the Pensions Act 1995.

- (b) in the case only of the first transfer of the rights in question, a different provision had been made

under section 16(2) and (3) relating to that weekly equivalent.

## PART II

### FURTHER CONDITIONS FOR TRANSFER FROM AN APPROPRIATE POLICY TO A SALARY-RELATED CONTRACTED-OUT SCHEME OF ACCRUED RIGHTS TO GUARANTEED MINIMUM PENSIONS WHERE EMPLOYEE DOES NOT ENTER EMPLOYMENT WHICH IS CONTRACTED-OUT BY REFERENCE TO THE RECEIVING SCHEME

5. The receiving scheme must provide for pensions to be paid which are of at least equal value to the annuity which would have been payable by the transferring policy, had the transfer not taken place, in respect of the earner's accrued rights to guaranteed minimum pensions.

## PART III

### FURTHER CONDITIONS FOR TRANSFER OF LIABILITY FOR THE PAYMENT OF A GUARANTEED MINIMUM PENSION TO OR IN RESPECT OF A PERSON WHO HAS BECOME ENTITLED TO IT

6. The date of commencement of the pension the liability for which is transferred -

- (a) if payable to the person who has become entitled to it, must be the date from which liability for payment is assumed by the receiving scheme; and
- (b) if payable to his widow or her widower, must be the same as it would have been under the provisions of the transferring scheme

and the receiving scheme must contain the same provision (if any) for suspension and forfeiture of that pension as for guaranteed minimum pensions provided by the receiving scheme in accordance with section 13 or (as the case may be) 17 of the 1993 Act.

SCHEDULE 2

Regulations 12 and 13

MODIFICATIONS OF PART III OF THE 1993 ACT

1. The definition of "guaranteed minimum pension" in section 8(2) shall have effect as if -

(a) after the words "sections 13 to 17" there were inserted the words "or with those requirements as modified by paragraph 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, by paragraph 5 of Schedule 2 to the Contracting-out (Transfer) Regulations 1985) or in compliance with the condition set out in paragraph 1 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in paragraph 1 of Schedule 2 to the Contracting-out (Transfer) Regulations 1985)";

(b) at the end there were added the words "or of that condition".

2. Section 46 shall have effect as if the reference in subsection (10)(b) to one or more guaranteed minimum pensions included the guaranteed minimum pension which would have been payable if they had been preserved in and paid by the transferring scheme or policy.

3. Section 14(1) shall have effect as if the reference to employment which is contracted-out by reference to the scheme included a reference to employment in any period of linked qualifying service which was contracted-out by reference to the transferring scheme.

4. Section 20(6) shall have effect as if after the words "sections 13 and 17" there were inserted the words "or with those requirements as modified by paragraph 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, by paragraph 5 of Schedule 2 to the Contracting-out (Transfer) Regulations 1985) or in compliance with the condition set out in paragraph 1 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1985)".

5. Section 159 shall have effect as if subsections (1)(b) and (3) were omitted.

6. The definition of "guaranteed minimum pension" in section 8(2) shall have effect as if -

(a) after the words "sections 13 and 17" there were inserted the words "or in compliance with the condition set to in paragraph 5 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in regulation 2A(4) of the Contracting-out (Transfer) Regulations 1985)"; and

(b) at the end there were added the words "or of that condition".

7. Section 14(1) shall have effect as if the reference to employment which is contracted-out by reference to the scheme included a reference to employment in any period of linked qualifying service which was contracted-out by reference to the transferring scheme.

8. Section 20(6) shall have effect as if after the words "sections 13 and 17" there were inserted the words "or in compliance with the condition set out in paragraph 5 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in regulation 2A(4) of the Contracting-out (Transfer) Regulations 1985)".

9. Section 159 shall have effect as if subsections (1)(b) and (3) were omitted.

## SCHEDULE 3

Regulation 14

## REVOCATIONS

| Column 1<br>Statutory Instrument No. | Column 2<br>Statutory Instrument  | Column 3<br>Provision revoked |
|--------------------------------------|---|-------------------------------|
| S.I. 1985/1323                       | The Contracting-out (Transfer) Regulations 1985   | The whole of the Regulations  |
| S.I. 1986/317                        | The Occupational Pension Schemes (Contracting-out) Amendment Regulations 1986             | Regulation 3                  |
| S.I. 1986/1716                       | The Contracting-out (Requisite Benefits - Consequential Provisions) Regulations 1986      | Regulation 5(2)               |
| S.I. 1987/1099                       | The Contracting-out (Transfer) Amendment Regulations 1987                                 | The whole of the Regulations  |
| S.I. 1987/1114                       | The Personal and Occupational Pension Schemes (Consequential Provisions) Regulations 1987 | Regulation 6                  |
| S.I. 1988/475                        | The Contracting-out (Miscellaneous Amendments) Regulations 1988                           | Regulation 4                  |
| S.I. 1994/1062                       | The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations 1994 | Schedule 2, paragraph 5       |

SCHEDULE 4

Regulation 14

TRANSITIONAL PROVISIONS

In a case such as is mentioned in regulation 14(3), the Contracting-out (Transfer) Regulations 1985 are modified as follows:

- (a) all references to the Occupational Pensions Board are replaced by references to the *Department*;
- (b) the definition of "overseas scheme" is replaced by the definition of "overseas scheme" in these Regulations; and
- (c) the definition of "section 53 money purchase scheme" is replaced by the definition "section 53 money purchase scheme" means a scheme which was a formerly a money purchase contracted-out scheme and in respect of which section 53 applies" and the definition of "section 53 salary related scheme" is replaced by the definition "section 53 salary related scheme" means a scheme which was formerly a salary related contracted-out scheme and in respect of which section 53 applies".

## SCHEDULE 6

This Schedule sets out the text of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type.

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### STATUTORY INSTRUMENTS

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1996 No. 1537

#### SOCIAL SECURITY

The Personal and Occupational Pension Schemes  
(Protected Rights) Regulations 1996

#### Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulation, unless the context otherwise requires -

"the 1993 Act" means the Pension Schemes Act 1993;

"child benefit" has the same meaning as in the Social Security Contributions and Benefits Act 1992(a);

***"the Department" means the Department of Health and Social Security;***

"member" means member of an occupational pension scheme or a personal pension scheme;

"money purchase contracted-out scheme" has the same meaning as in section 8(1)(a)(ii) of the 1993 Act;

"normal pension age" has the meaning given in section 180 of the 1993 Act;

"pensionable age" has the meaning given by the rules in paragraph 1 of Part I of Schedule 4 to the Pensions Act 1995;

"principal appointed day" means the day designated as the principal appointed day for the purposes of Part III of the Pensions Act 1995;

"scheme" means an occupational pension scheme or a personal pension scheme; and

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(a) 1994 c.4.

"section 9(2B) rights" are rights (other than rights attributable to voluntary contributions within the meaning of section 111 of the 1993 Act) which are attributable to an earner's service on or after the principal appointed day in employment which is contracted-out in accordance with section 9(2B) of the 1993 Act(a).

(3) In these Regulations, except in so far as the context otherwise requires, any reference -

- (a) to a regulation is to the regulation in these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number; and
- (c) in a paragraph to a lettered sub-paragraph is to the sub-paragraph of that paragraph bearing that letter.

#### **Manner of calculation and verification of protected rights**

2. (1) For the purposes of section 27(3) of the 1993 Act (identification and valuation of protected rights), the value of a member's protected rights shall, subject to paragraph (2), be calculated and verified -

- (a) in such manner as may be approved in particular cases by the trustees or managers of the scheme; and
- (b) by adopting methods consistent with the requirements of sections 9(3) and (5), and 26 to 32 of the 1993 Act.

(2) In a case where a member's rights (as described in paragraph (1)) fall, either wholly or in part, to be valued in a manner which involves making estimates of the value of benefits, the value of those rights shall be calculated and verified -

- (a) in such manner as may be approved in particular cases by -
  - (i) a Fellow of the Institute of Actuaries, or
  - (ii) a Fellow of the Faculty of Actuaries, or
  - (iii) a person with other actuarial qualifications who is approved by the *Department*, at the request of the trustees or managers of the scheme in question, as being a proper person to act for the purposes of these regulations in connection with that scheme,

and in this regulation "actuary" means any person such as is referred to in head (i), (ii) or (iii) of this sub-paragraph; and

- (b) by adopting methods and making assumptions which -
  - (i) if not determined by the trustees or managers of the scheme in question, are notified to them by an actuary, and

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(a) Section 9(2B) was inserted by section 136(3) of the Pensions Act 1995.

- (ii) are certified by an actuary to the trustees or managers of the scheme as being consistent with the requirements of sections 9(3) and (5), 10 and 26 to 32 of the 1993 Act and as being consistent with the guidance note "Retirement Benefit Schemes - Transfer Values (GN11)" published by the Institute of Actuaries and the Faculty of Actuaries and current at the date of the calculation.

**Options under section 10(2) and (3) of the 1993 Act for schemes to designate which rights are protected rights**

3. For the purposes of section 10(2) and (3) of the 1993 Act (scheme rules may provide that a member's protected rights are rights specified in section 10(2) and (3) of the 1993 Act and such other rights as may be prescribed), the prescribed rights are rights to money purchase benefits which derive from -

- (a) guaranteed minimum pensions under an occupational pension scheme, or guaranteed minimum pensions appropriately secured by virtue of section 19 of the 1993 Act, which have been the subject of a transfer payment to the trustees or managers of the scheme;
- (b) section 9(2B) rights under an occupational pension scheme, or section 9(2B) rights appropriately secured by virtue of section 19 of the 1993 Act, which have been the subject of a transfer payment to the trustees or managers of the scheme;
- (c) in the case of a personal pension scheme, a payment made to the trustees or managers of the scheme in accordance with section 7 of the Social Security Act 1986(a) and regulation 3(10) of the Personal and Occupational Pension Schemes (Incentive Payments) Regulations 1987(b);
- (d) in the case of a personal pension scheme, a payment under section 42A(3) of the 1993 Act(c) made to the trustees or managers of the scheme in accordance with regulation 37(6) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(d);
- (e) in the case of an occupational pension scheme, a payment of minimum contributions made to the trustees or managers of the scheme in accordance with regulation 14(3) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1988(e); and
- (f) in the case of a personal pension scheme, a payment attributable to tax relief on the employee's share of minimum contributions, being the difference between that share and the grossed-up equivalent of that share; the expressions "employee's share" and "grossed-up equivalent" having the meanings given to them by *section 23(2) of the Tax Act 1989 (an Act of Tynwald)*.

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- (a) Section 7 is saved by section 189 and paragraph 22 of Schedule 6 to the Pension Schemes Act 1993.
  - (b) S.I. 1987/1115.
  - (c) Section 42A was inserted by section 137(5) of the Pensions Act 1995.
  - (d) S.I. 1996/1172.
  - (e) S.I. 1988/137.

## Conditions applying to pensions and annuities which give effect to protected rights

4. (1) For the purpose of subsections (2)(a) (effect may be given to protected rights by the provision by the scheme of a pension which among other things satisfies such conditions as may be prescribed) and (3) (effect may be given in certain circumstances to protected rights by the purchase by the scheme of an annuity which among other things satisfies such conditions as may be prescribed) of section 28 of the 1993 Act, the prescribed conditions are that the person or annuity gives effect to all the protected rights of the member, and that the terms on which the pension is provided, or the terms of the purchase of the annuity -

- (a) satisfy the requirements of paragraphs (2) to (5); and
- (b) make no provision other than such as -
  - (i) is necessary to establish what the initial rate and the method of payment of the pension or annuity are to be, and that it shall continue to be paid at that rate (subject only to paragraphs (3) and (6) and to the requirements of sections 51 (annual increase in rate of occupational pension) and 162 (annual increase in rate of personal pension) of the Pensions Act 1995) throughout the lifetime of the member,
  - (ii) is necessary to satisfy the requirements of paragraphs (2) to (5) and regulation 5, and
  - (iii) is permitted by paragraphs (6) to (9).

(2) The rate of the pension or annuity shall be determined -

- (a) without regard to the sex of the member; and
- (b) in the case of -
  - (i) protected rights derived from guaranteed minimum pensions by virtue of regulation 3(a) or payments or contributions in respect of employment in a tax year commencing before the principal appointed day, without regard to the marital status of the member;
  - (ii) a married member whose protected rights derived from section 9(2B) rights by virtue of regulation 3(b) or payments or contributions in respect of employment in a tax year commencing on or after the principal appointed day, on the basis that the member, in the event of his death, will leave a widow or widower; and
  - (iii) an unmarried member whose protected rights derived from section 9(2B) rights by virtue of regulation 3(b) or payments or contributions in respect of employment in a tax year commencing on or after the principal appointed day, as if in the event of that member's death he or she will leave a widow or widower, except where the member agreed to the rate being determined on his or her life only.

(3) In the case of protected rights which are derived from guaranteed minimum pensions by virtue of regulation 3(a) or payments or contributions in respect of employment in any tax year before the coming into force of section 51 or, as the case may be, section 162 of the Pensions Act 1995, the rate of the pension or annuity shall -

- (a) on a date ("the first date") not later than the first anniversary of the date on which it becomes payable, and

(b) on each anniversary of the first date,

be increased by the same percentage as that by which parts of guaranteed minimum pensions are increased by the order (if any) made by the *Department* under section 109 of the 1993 Act and coming into force on the first day of the tax year in which the date of the increase falls.

(4) Except with the written consent of the person to whom the pension or annuity is payable, the pension or annuity, if paid in arrears, shall be paid no less frequently than by monthly instalments.

(5) The pension or annuity shall be paid no less frequently than by annual instalments.

(6) In the case of protected rights which are derived from guaranteed minimum pensions by virtue of regulation 3(a) or payments or contributions in respect of employment in any tax year before the coming into force of section 51, or as the case may be, section 162 of the Pensions Act 1995, the pension or annuity may be increased, not more frequently than on the first date mentioned in paragraph (3) and on each of its anniversaries, but by larger percentages than paragraph (3) requires, so however that no increase is by more than 3 per cent.

(7) When the member has died, the pension or annuity may continue to be paid, at a rate which satisfies the requirements of paragraph (8), to or for the benefit of other persons if the requirements of paragraph (9) are satisfied.

(8) The requirements first referred to in paragraph (7) are that the rate shall not exceed -

- (a) at any given time during the period which is within 5 years of the date on which the pension or annuity commenced, the rate at which it would have been payable if the member had been living at that time; and
- (b) at any given time during any other period, one-half of the rate at which it would have been payable if the member had been living at that time.

(9) The requirements secondly referred to in paragraph (7) are that the pension or annuity shall be paid only -

- (a) to the member's widow or widower, in a case where immediately after the member's death the pension or annuity is required by virtue of regulation 5 to be paid to him or her;
- (b) to any one person, in a case to which sub-paragraph (a) does not apply;
- (c) for the benefit of any child or children, if -
  - (i) sub-paragraph (a) does not apply,
  - (ii) the pension or annuity has not been paid in accordance with sub-paragraph (b), and
  - (iii) immediately before the member's death the member was entitled to child benefit in respect of that child or those children, or would have been so entitled if that child or one, some or all of those children had not been absent from *the Island*;

but only for so long as that child or at least one of those children is under the age of 18; and

- (d) to any one person, during any period -

- (i) which is within 5 years of the date on which the pension or annuity commenced, and
- (ii) which immediately follows the death of a person who died while the pension or annuity was being paid to him in accordance with sub-paragraph (a) or (b) or in accordance with this sub-paragraph, or which begins on the date on which the child or the last of the children in respect of whom the pension or annuity has been paid in accordance with sub-paragraph (c) attained the age of 18 or died under that age.

**Circumstances in which and periods for which pension or annuity is to be paid to widow or widower after being paid to member**

5. (1) For the purposes of section 29(1)(b)(i) of the 1993 Act (pension or annuity to be paid to member's widow or widower in prescribed circumstances and for the prescribed period) the prescribed circumstances are, subject to paragraph (4), that -

- (a) the widow or widower is entitled to child benefit in respect of a child under 18 who is, or is residing with a child under 16 who is -
  - (i) a son or daughter of the widow or widower and the member, or
  - (ii) a child in respect of whom the member immediately before his or her death, was, or would have been if the child had not been absent from Great Britain, entitled to child benefit, or
  - (iii) if the widow or widower and the member were residing together immediately before the member's death, a child in respect of whom the widow or widower then was, or would have been if the child had not been absent from Great Britain, entitled to child benefit;

or

- (b) the widow or widower had attained the age of 45 either -
  - (i) when the member died, or
  - (ii) during a period when the circumstances mentioned in sub-paragraph (a) existed.

(2) For the purposes of section 29(1)(b)(i) of the 1993 Act the prescribed period is -

- (a) in a case to which the circumstances described in sub-paragraph (a) but not sub-paragraph (b) of paragraph (2) exist, the period (subject to paragraph (3)) during which the circumstances described in sub-paragraph (a) of paragraph (1) continue to exist; and
- (b) in a case to which the circumstances described in sub-paragraph (b) of paragraph (1) exist, the remainder of the widow's or widower's life (subject to paragraph (3)).

(3) There is excluded from the periods prescribed in paragraph (2) any period after the widows or widower remarriage under pensionable age.

(4) The prescribed circumstances referred to in paragraph (1) in which a pension or annuity is to be paid to the member's widow or widower do not include circumstances where the rate of the pension or annuity paid to the member has, in accordance with regulation 4(2)(b)(iii), been determined by reference to his or her life only.

### **Interim arrangements**

6. For the purposes of section 28(1A) of the 1993 Act(a) (in the case of a personal pension scheme effect may be given to protected rights by the making of payments under an interim arrangements which among other things satisfy such conditions as may be prescribed) the prescribed conditions are that -

- (a) payments are to be made to the member throughout the interim period at monthly intervals unless, subject to section 28A(1) of the 1993 Act(b) (payments to be made at intervals not exceeding twelve months), the member elects for those payments to be made less frequently than by monthly payments; and
- (b) the interim arrangement provides for the member to be able to elect to terminate the interim arrangement at any time during the interim period; and
- (c) the interim arrangement provides for, in the event of the death of an unmarried member or, where section 28A(2) of the 1993 Act would apply, the death of the widow or widower, the balance of the value of the protected rights to be paid to any person in accordance with directions given by that member, widow or widower in writing, or where no such directions are given, to his or her estate.

### **Payments made under interim arrangements**

7. (1) For the purposes of section 28A(3)(b) of the 1993 Act (aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months must not be less than the prescribed percentage of the annual amount of the annuity which would have been purchasable by him on the relevant reference date) the prescribed percentage is 35 per cent.

(2) For the purposes of section 28A(5)(a) of the 1993 Act (the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner) the prescribed manner is -

- (a) in the case of payments to be made to a member in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year up to and including the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(a);
- (b) in the case of payments to be made to a widow or widower of a member in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year up to and including the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(b);
- (c) in the case of payments to be made -
  - (i) to a married member; or
  - (ii) on the first day of a succeeding period of 3 years beginning with the starting date to a member who marries during the interim period,

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(a) Section 28 was amended by section 142 of the Pensions Act 1995.

(b) Section 28A was inserted by section 143 of the Pensions Act 1995.

in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of any tax year after the tax year 1996-1997, by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(c);

- (d) in the case of payments to be made -
- (i) to an unmarried member; or
  - (ii) to a widow or widower of a member; or
  - (iii) on the first day of a succeeding period of 3 years beginning with the starting date to a member who becomes a widow or widower and remains so during the interim period; or
  - (iv) on the first day of a succeeding period of 3 years beginning with the starting date to a member whose marriage is dissolved and remains unmarried during the interim period,

in respect of protected rights which derive from minimum contributions and other amounts payable to the scheme in respect of a tax year after the tax year 1996-1997 by reference to the current published table prepared by the Government Actuary in accordance with paragraph (3)(d).

(3) For the purposes of section 28A(5)(a)(ii) of the 1993 Act (the current published tables of rates of annuities prepared in the prescribed manner by the Government Actuary) the prescribed manner is, in the case referred to in -

- (a) paragraph (2)(a), on the basis -
- (i) that no distinction shall be made by reference to the sex or marital status of the member;
  - (ii) that in respect of a member who has died, the rate of the annuity is one-half of the rate at which it would have been payable if the member had been living;
  - (iii) that the rate of annuity would be increased on each of its anniversaries in accordance with the requirements in regulation 4(3);
  - (iv) of a deduction of an amount which the Government Actuary considers reasonable from the purchase price of the annuity to allow for the initial expenses of the insurance company; and
  - (v) that the frequency of payment is monthly in arrears;
- (b) paragraph (2)(b), on the basis -
- (i) that no distinction shall be made by reference to the sex of the widow or widower;
  - (ii) that the widow or widower is the last survivor with any rights to an annuity;
  - (iii) of the matters referred to in sub-paragraph (a)(iii) to (v);
- (c) paragraph (2)(c), on the basis -

- (i) that no distinction shall be made by reference to the sex of that member;
  - (ii) that the rate of annuity would be increased on each of its anniversaries in accordance with the requirements of section 162(2) of the Pensions Act 1995; and
  - (iii) of the matters referred to in sub-paragraph (a)(ii), (iv) and (v);
- (d) paragraph (2)(d), on the basis -
- (i) that no distinction shall be made by reference to the sex of the member or the widow or widower;
  - (ii) that, in the case of a widow or widower, he or she is the last survivor, or in the case of an unmarried member there is no other person, with any rights to an annuity; and
  - (iii) of the matters referred to in sub-paragraph (a)(iv) and (v) and (c)(ii).

#### **Giving effect to protected rights by the provision of a lump sum**

8. (1) For the purposes of section 28(4)(b) of the 1993 Act (effect may be given to protected rights by the provision of a lump sum where the annual rate of the pension or annuity would not exceed the prescribed amount) the prescribed amount is £260.

(2) For the purposes of section 28(4)(c) of the 1993 Act (effect may be given to protected rights by the provision of a lump sum in prescribed circumstances) the prescribed circumstances are that -

- (a) effect is given to all the member's protected rights by the provision of a lump sum; and
- (b) either -
  - (i) the member has no rights under the scheme other than his protected rights;
  - or
  - (ii) effect is given to all those of his rights under the scheme which are not protected rights by the provision of a lump sum.

#### **Suspension and forfeiture of payments giving effect to protected rights**

9. (1) For the purposes of section 32 of the 1993 Act, the circumstances in which the rules of a scheme may provide for payments giving effect to a member's protected rights to be suspended are -

- (a) that the person who is entitled to payments giving effect to those rights is, in the opinion of the trustees or managers of the scheme, unable to act by reason of mental disorder or otherwise, so however that there is provision in the scheme for equivalent sums to be paid or applied, while that person is so unable, for the maintenance of that person or, at the discretion of the trustees or managers, of that person together with his dependants or of his dependants only, and, to the extent that they are not so applied, to be held for that person until he is again able to act or, as the case may be, for his estate;



- (b) that that person is undergoing a period of imprisonment or detention in legal custody, so however that there is provision in the scheme for equivalent sums to be paid or applied during such a period for the maintenance of such one or more of that person's dependants as the trustees or managers of the scheme may in their discretion determine.

(2) For the purposes of section 32 of the 1993 Act, the circumstances in which the rules of a scheme may provide for a payment giving effect to a member's protected rights to be forfeited are -

- (a) that the trustees or managers of the scheme do not know the address of the person to whom the payment should be made; and
- (b) that a period of at least 6 years has elapsed from the date on which that payment became due.

#### **Choice of insurance company by annuitant**

10. For the purposes of section 29(4) of the 1993 Act (scheme member to be taken to have chosen an insurance company to provide his annuity only if he gives notice in the prescribed manner and within the prescribed period) the prescribed manner is in writing, and the prescribed period is -

- (a) where the trustees or managers of the scheme know of no reason to suppose that the pension or annuity will not commence on the date on which the member will attain -
  - (i) in the case of a money purchase contracted-out scheme the normal pension age if that age is not less than 60 years, or
  - (ii) in the case of a personal pension, the agreed age at which he is entitled to receive benefits under the scheme if that age is not less than 60 years,

a period of 5 months (or such longer period as the rules of the scheme may allow) beginning on the date which is 6 months earlier than that on which he will attain that age; and

- (b) in any other case -

- (i) if the date of the agreement in respect of when the pension or annuity is to commence ("the date of agreement") is more than one month before the agreed date for commencement of payment ("the agreed date"), a period beginning on the date of agreement and ending one month before the agree date, and
- (ii) if the date of agreement is not more than one month before the agreed date, a period consisting only of the date of agreement,

or such longer period as the rules of the scheme may allow.

#### **Insurance companies that may provide protected rights by way of annuities**

11. For the purposes of section 29(3) of the 1993 Act (annuity complies with the annuity requirements if it is provided by an insurance company which satisfies prescribed conditions) the prescribed conditions are that the insurance company -

- (a) (i) *is authorised under section 6 of the Insurance Act 1986 (an Act of Tynwald) to carry on ordinary long-term insurance business (within the meaning of that Act); or*



- (ii) *may carry on long-term business by virtue of a permit under section 25 of that Act; or*
- (iii) *is exempted by regulations under that Act from the requirement to be authorised under section 6 of that Act;*

and

- (b) offers annuities, with a view to purchase of those annuities by schemes in order to give effect to the protected rights of their members, without having regard to the sex, or, except to the extent allowed under regulation 4(2)(b), to the marital status of the members either in making the offers or in determining the rates at which the annuities are paid; and
- (c) *Omitted.*

#### **Death of member before effect given to his protected rights**

12. (1) In this regulation "qualifying widow or widower" means a widow or widower of the member who immediately after the member's death either -

- (a) is aged 45 or over; or
- (b) is entitled to child benefit in respect of a child under 18 who is, or is residing with a child under 16 who is -
  - (i) a son or daughter of the widow or widower and the member, or
  - (ii) a child in respect of whom the member, immediately before his death, was, or would have been if the child had not been absent from *the Island*, entitled to child benefit, or
  - (iii) if the widow or widower and the member were residing together immediately before the member's death, a child in respect of whom the widow or widower then was, or would have been if the child had not been absent from *the Island*, entitled to child benefit.

(2) Subject to regulation 13, for the purposes of section 28(5) of the 1993 Act (if member has died without effect being given to protected rights effect may be given in prescribed manner), in a case where -

- (a) the member is not survived by a qualifying widow or widower; or
- (b) the trustees or managers of the scheme, having taken reasonable steps to ascertain whether the member was survived by a qualifying widow or widower, conclude in good faith that he or she was not; or
- (c) the member is survived by a qualifying widow or widower who dies before the value of the member's protected rights are paid to or for the benefit of her or him by virtue of paragraphs (3) to (8),

the prescribed manner is by the payment, as soon as practicable, of the value of the member's protected rights to or for the benefit of any person or persons in accordance with directions given by the member in writing, or to the member's estate.

(3) Subject to regulation 13, for the purposes of section 28(5) of the 1993 Act, in a case where the member is survived by a qualifying widow or widower, and the circumstances mentioned in paragraph (2)(b) do not exist, the prescribed manner is -

- (a) by the provision, as soon as practicable, of a pension such as is described in paragraph (4); or
- (b) by the purchase by the scheme, as soon as practicable, of an annuity such as is described in paragraph (4), which is provided by an insurance company such as is described in paragraph (12); or
- (c) by the provision, as soon as practicable, of a lump sum as is described in paragraph (14).

(4) The pension or annuity referred to in paragraph (3) is one that gives effect to all the protected rights of the member, and the terms on which the pension is provided, or the terms of the purchase of the annuity -

- (a) satisfy the requirements of paragraphs (5) to (7); and
- (b) make no provision about the payment of the pension or annuity, or about the rate at which, or the categories of persons to whom, it is to be paid, other than such as -
  - (i) is necessary to establish what the initial rate and method of payment of the pension or annuity are to be, and that it shall continue to be paid to the widow or widower at that rate (subject only to paragraphs (6) and (8) and the requirements of section 51 or, as the case may be, section 162 of the Pensions Act 1995) throughout the period described in paragraph (5),
  - (ii) is necessary to satisfy the requirements of paragraphs (5) to (7), and
  - (iii) is permitted by paragraphs (8) to (11).

(5) The pension or annuity shall be paid to the qualifying widow or widower during the period which begins on a date which is as soon as practicable after the member's death and ends when the widow or widower either -

- (a) dies; or
- (b) remarries while under pensionable age; or
- (c) ceases while under the age of 45 to be as described in paragraph (1)(b).

(6) In the case of protected rights which are derived from guaranteed minimum pensions by virtue of regulation 3(a) or payments of contributions in respect of employment in any tax year before the coming into force of section 51 of the Pensions Act 1995 or, as the case may be, section 162 of the Pensions Act 1995, the rate of the pension or annuity shall be increased as described in regulation 4(3).

(7) The pension or annuity shall be paid as described in regulation 4(4) and (5).

(8) When the qualifying widow or widower has -

- (a) died; or
- (b) remarried while under pensionable age; or
- (c) ceased while under the age of 45 to be as described in paragraph (1)(b),

the pension or annuity may be paid, at a rate which satisfies the requirements of paragraph (10), to or for the benefit of the persons specified in paragraph (11) if the requirements of that paragraph are satisfied.

(10) The requirements first referred to in paragraph (9) are that the rate shall not exceed the rate at which the pension or annuity would have been payable if it had still been payable under paragraph (5).

(11) The requirements secondly referred to in paragraph (9) are that the pension or annuity shall be paid only -

- (a) to the person who was the qualifying widow or widower;
- (b) for the benefit of any child or children, if a person has died while the pension or annuity was being paid to him in accordance with paragraph (5) or sub-paragraph (a) and immediately before his death he was entitled to child benefit in respect of that child or those children, or would have been so entitled if that child or one, some or all of those children had not been absent from Great Britain, but only for so long as that child or at least one of those children is under the age of 18; and
- (c) to any one person during any period -
  - (i) which is within 5 years of the date on which the pension or annuity commenced, and
  - (ii) which immediately follows the death of a person who died while the pension or annuity was being paid to him in accordance with paragraph (5) or sub-paragraph (a) or this sub-paragraph, or which begins on the date on which the child or the last of the children in respect of whom the pension or annuity has been paid in accordance with sub-paragraph (b) attained the age of 18 or died under that age.

(12) The insurance company referred to in paragraph (3) is one which satisfies the conditions described in regulation 11(a) and (c), and which has, subject to paragraph (13), been chosen by the widow or widower.

(13) A widow or widower is only to be taken to have chosen an insurance company if she or he gives notice in writing of her or his choice to the trustees or managers of the scheme during a period which begins on the date of the member's death and ends on the date which is 3 months after the date on which the trustees or managers notify her or him of her or his right to choose; and if she or he does not do so, the trustees or managers may themselves choose the insurance company instead.

(14) The lump sum referred to in paragraph (3) is one which is paid to the qualifying widow or widower in the following circumstances, namely where -

- (a) the annual rate of the pension or annuity which would have been provided or purchased for her or him if the lump sum had not been provided does not exceed £260;
- (b) effect is given to all the member's protected rights by the provision of a lump sum; and
- (c) either -
  - (i) the member, when he died, had no rights under the scheme other than his protected rights, or

- (ii) effect is given to all those of his rights under the scheme which are not protected rights by the provision of a lump sum.

#### **Death before effect given to protected rights: interim arrangements for widow or widower**

13. (1) Where the member has died without effect being given to his protected rights and that member is survived by -

- (a) a qualifying widow or widower; or
- (b) a non-qualifying widow or widower who, in accordance with the member's written direction is nominated to receive the value of that member's protected rights,

effect shall be given to those rights if that widow or widower so elects by the making of payments, as soon as practicable, under an interim arrangements such as is described in paragraph (2).

(2) The interim arrangement referred to in paragraph (1) is one which -

- (a) complies with -
  - (i) the requirements of section 28A(3) and (5) of the 1993 Act and regulations made under those subsections; and
  - (ii) the conditions referred to in regulation 6 as if the widow or widower were the member;
- (b) at the end of the interim period, enables effect to be given to the deceased's protected rights in such ways as are permitted by the provisions of section 28 of the 1993 Act as the rules of the scheme may specify.

(3) In this regulation "qualifying widow or widower" shall have the same meaning as in regulation 12.

#### **Enforceable entitlement after death of member**

14. Without prejudice to any other requirements, a personal pension scheme can be an appropriate scheme and an occupational pension scheme can be a money purchase contracted-out scheme only if the provision it makes for giving effect to the protected rights of a member who has died is such that any widow, widower or other person who is entitled to any payment giving effect to those rights is able to enforce that entitlement.

#### **Further requirements in respect of giving effect to protected rights**

15. Without prejudice to other requirements, a scheme which offers pensions with a view to giving effect, under section 28(2)(a) of the 1993 Act, to protected rights by means of those pensions, can be (in the case of a personal pension scheme) a money purchase contracted-out scheme only if it offers those pensions without having regard to the sex or, except to the extent allowed under regulation 4(2)(b), to the marital status of the persons to whom it offers them, both in making those offers and in determining the rates at which those pensions are paid.

### **Personal pension schemes - notifications to the *Department***

16. (1) Within 5 weeks after effect has been given to the protected rights of a member of a personal pension scheme, the trustees or managers of that scheme shall notify the *Department* in writing that effect has been given to those rights, giving such particulars as the *Department* may require to enable him -

- (a) to identify the means by which effect has been given to them;
- (b) where effect has been given to them by means of a pension, to identify the making of payments under an interim arrangement or lump sum, to identify the recipient of it;
- (c) where effect has been given to them by means of annuity, to identify the insurance company responsible for paying the annuity;
- (d) where effect has been given to them by means of a transfer payment, to identify the personal or occupational pension scheme to which the transfer payment was made; and
- (e) where effect has been given to them by means of a payment under an interim arrangement, to identify the appropriate personal pension scheme in respect of the interim arrangement and the starting date.

(2) The trustees or managers of a personal pension scheme which is or has been an appropriate scheme shall, if required to do so by the Secretary of State, in such manner and at such times as he may require, furnish to him such information relating to members of the scheme as he may require in order to know for what, if any, protected rights the scheme is responsible, and from what minimum contributions, minimum payments or transfer payments they derive.

### **Tax-exemption and tax-approval.**

17. For the purposes of section 33 of the 1993 Act (nothing in sections 26 to 32 of the 1993 Act to be taken to prejudice any requirements with which a scheme must comply if it is to qualify for tax-exemption or tax-approval) tax-exemption and tax-approval mean respectively exemption from tax and approval of the *Assessor of Income Tax under the Income Tax (Retirement Benefit Schemes) Act 1978 or Part I of the Income Tax Act 1989 (Acts of Tynwald) or any other enactment or extra-statutory concession relating to occupational pension schemes or personal pension schemes.*

### **Revocations**

18. The Regulations set out in column (1) of the Schedule are revoked to the extent mentioned in column (3) of that Schedule.

SCHEDULE  
REVOCATIONS

Regulation 18

| Regulations revoked  | References     | Extent of revocations   |
|--|----------------|---|
| The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987                          | S.I. 1987/1117 | The whole of the Regulations  |
| The Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988 | S.I. 1988/474  | Regulation 9.   |
| The Personal and Occupational Pension Schemes (Amendments) (No. 2) Regulations 1990                        | S.I. 1990/1142 | Regulation 7.   |
| The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1992                  | S.I. 1992/1531 | Regulations 25 and 26.  |
| The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations 1994                  | S.I. 1994/1062 | Regulation 2 insofar as it relates to the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987 and paragraph 19 of Schedule 2 Regulations 1994 |
| The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1995                  | S.I. 1995/35   | Regulation 6.   |

## SCHEDULE 7

This Schedule sets out the text of the Occupational Pension Schemes (Contracting-out) Amendment Regulations 1996 (S.I. 1996/1577) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type.

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### STATUTORY INSTRUMENTS

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1996 No. 1577

#### SOCIAL SECURITY

The Occupational Pension Schemes (Contracting-out)  
Amendment Regulations 1996

#### Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Contracting-out) Amendment Regulations 1996 and shall come into force on 12th July 1996.

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

2. The Occupational Pension Schemes (Contracting-out) Regulations 1996(a) are amended by inserting after regulation 76 the following regulation -

**"Transitional arrangements for schemes contracted-out under section 9(2) of the 1993 Act to become contracted-out under section 9(3) of that Act**

76A. (1) This regulation applies where a scheme, which is a salary-related contracted-out scheme immediately before the principal appointed day, satisfies the requirements of section 9(3) of the 1993 Act in respect of all earners' service on or immediately after that day.

(2) The circumstances referred to in paragraph (1) shall, for the purposes of section 12(3) of that Act (determination of basis on which a scheme is contracted-out) be circumstances in which a scheme which has been contracted-out by virtue of section 9(2) of that Act may become contracted-out by virtue of section 9(3) of that Act.

(3) Where this regulation applies, sections 50, 52 and 53 of that Act shall be modified so as to have effect as if the guaranteed minimum pensions provided by the scheme were provided by a separate scheme which had ceased to be certified as a contracted-out scheme.

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(a) S.I. 1996/1172.



**EXPLANATORY NOTE**  
(This note is not part of the Order)

1. Section 1 of the Pension Schemes Act 1995 enables the Department by Order to apply to the Island, as part of the law of the Island and incorporating exceptions, adaptations and modifications, any legislation to which the Act applies.
2. Inter alia, the Act applies to the Pension Schemes Act 1993 and the Pensions Act 1995 (of Parliament) and any statutory instrument made or having effect as if made under those Acts.
3. This Order applies to the Island the legislation referred to in Article 2(1) of the Order the provisions of which, as applied, are summarised in the following paragraphs. The applied legislation comes into force or is deemed to have come into force, as the case may be, on the same day as the corresponding provisions come or came into force in Great Britain. Where necessary the provisions have been applied in the Island administratively pending their application by Order.
4. The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (S.I. 1996/775)

Regulation 2 and the Schedule to these Regulations provide for the conditions on which effect may be given to protected rights of a member of a scheme on winding up by means of an appropriate policy of insurance.

Regulation 3 prescribes the requirements which an insurance company must satisfy.

Regulations 4 and 5 prescribe the conditions which the policies of insurance must satisfy before they can be surrendered or commuted.

Regulation 6 prescribes the other requirements which the policies of insurance must satisfy.

5. The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/776)

These Regulations amend the Occupational Pension Schemes (Contracting-out) Regulations 1984 ("the Contracting-out Regulations"), the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987 ("the Protected Rights Regulations"), the Personal Pension Schemes (Disclosure of Information) Regulations 1987 ("the Disclosure Regulations"), the Personal and Occupations Pension Schemes (Abatement of Benefit) Regulations 1987 ("the Abatement Regulations") and the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 ("the Appropriate Schemes Regulations").

Regulation 3(2), (5), (6) and (7) make amendments to the Protected Rights Regulations to provide for cases where effect may be given to protected rights, under a personal pension scheme, by the making of payments under an interim arrangement if prescribed conditions are satisfied. Regulation 3(4) makes consequential amendments.

Regulation 3(3) amends regulation 6 of the Protected Rights Regulations to enable effect to be given to protected rights by the provision of a lump sum benefit in the case of a personal pension scheme.

Regulation 4 makes miscellaneous amendments to the Disclosure Regulations as a consequence of provisions providing for equal treatment and the introduction of interim arrangements.

Regulation 5 amends the Abatement Regulations to provide that where minimum contributions or minimum payments have been made in respect of an earner who dies, the treatment of his or her widow or widower as being entitled to a guaranteed minimum pension and the rate of such pension depends on whether effect has been given to protected rights at the date of death.

Regulation 6 amends the Appropriate Schemes Regulations with regard to the giving of notices of an earner's chosen scheme to the Department under section 44 of the Pension Schemes Act 1993.

6. The Personal Pension Schemes (Appropriate Schemes and Disclosure of Information) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1435)

These Regulations amend the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 ("the Appropriate Schemes Regulations") and the Personal Pension Schemes (Disclosure of Information) Regulations 1987 ("the Disclosure Regulations").

Regulation 2 amends the Appropriate Schemes Regulations to provide circumstances in which, except where provided, minimum contributions shall not be payable and makes miscellaneous amendments.

Regulation 3 amends the Disclosure Regulations so as to require trustees to disclose information relating to the date of birth used in determining the appropriate age-related percentage to scheme members.

Regulation 4 provides a transitional provision in the case of the payment of minimum contributions in respect of the period up to and including the tax year 1996-1997.

7. The Protected Rights (Transfer Payment) Regulations 1996 (S.I. 1996/1461)

These Regulations replace the Protected Rights (Transfer Payment) Regulations 1987 which are now (subject to transitional provisions) revoked. The Regulations supplement the changes introduced by the Pensions Act 1995 to Part III of the Pension Schemes Act 1993 (although they are made under powers in the 1993 Act which have not been amended by the 1995 Act). They also consolidate and amend those provisions of the 1987 Regulations which remain relevant.

Regulation 1 contains general provisions relating to citation, commencement and interpretation.

Regulations 2 to 5 make provision for the circumstances in which and the conditions subject to which effect may be given to the protected rights of a member of a scheme which is or was a money purchase contracted-out scheme or an appropriate personal pension scheme by the making of a transfer payment to another pension scheme.

Regulation 6 modifies Part III of the 1993 Act, where a transfer payment has been made to a scheme which is contracted-out under section 9(2) of that Act (a salary-related contracted-out scheme), in order to accommodate the guaranteed minimum pensions to which a member of such a scheme becomes entitled in consequence of that payment.

Regulation 7 contains revocations and transitional provisions.

8. The Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462)

These Regulations replace the Contracting-out (Transfer) Regulations 1985 which are now (subject to transitional provisions) revoked. The Regulations supplement changes introduced by the Pensions Act 1995 to Part III of the Pension Schemes Act 1993. They also consolidate and amend those provisions of the 1985 Regulations which remain relevant.

Part I of the Regulations contains general provisions relating to citation, commencement and interpretation.

Part II of the Regulations makes provision for the circumstances in which and the conditions subject to which a transfer or a transfer payment in respect of an earner's accrued rights to guaranteed minimum pensions (or the liability for the payment of guaranteed minimum pensions in respect of which entitlement has already arisen) may be made from one pension scheme to another or from an insurance policy or annuity contract to a pension scheme.

Part III of the Regulations makes provision for the circumstances in which and the conditions subject to which a transfer of liability may be made from a pension scheme or from an insurance policy or annuity contract to a pension scheme or arrangement in respect of rights to pensions which have accrued on or after the principal appointed day under a scheme contracted-out by virtue of section 9(2B) of the 1993 Act.

Part IV of the Regulations modifies Part III of the 1993 Act where a transfer or transfer payment has been made under Part I of the Regulations to a scheme which is contracted-out under section 9(2) of that Act (a salary-related contracted-out scheme) so as to ensure that the receiving scheme provides guaranteed minimum pensions in consequence of the transfer or transfer payment.

Part V of the Regulations contains revocations and transitional provisions.

9. The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537)

These Regulations ("the Regulations") consolidate the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987 with amendments and in addition make minor and drafting amendments.

The Regulations prescribe the manner of calculation and verification of protected rights (regulation 2); the rights which a scheme may designate as protected rights, in addition to those so designated by the Pension Schemes Act 1993 (c.48) (regulation 3); the conditions which are to apply to pensions and annuities which give effect to protected rights (regulation 4); the circumstances in which and periods for which a pension or annuity is to be paid to a widow or widower after a scheme member's death (regulation 5); the conditions which are to apply to payments under an interim arrangement (regulation 6); the requirements which interim arrangements must satisfy (regulation 7); the circumstances in which a lump sum benefit may be provided (regulation 8); the circumstances in which protected rights may be surrendered or forfeited (regulation 9); the manner in which and the period within which an insurance company may be chosen by an annuitant (regulation 10); the conditions that an insurance company must satisfy if it is to provide an annuity which is to give effect to protected rights (regulation 11); and the provision that is to be made if a scheme member dies before effect is given to his protected rights (regulations 12 and 13). Regulation 14 requires that a scheme's provision for giving effect to the protected rights of a member who has died must be such that the person entitled to any payment giving effect to those rights must be able to enforce that entitlement; and regulation 15 requires that a scheme should not, in offering pensions which are to give effect to protected rights, discriminate on grounds of sex or marital status except as permitted by the regulation.

Regulation 16 provides that, when effect has been given to protected rights under a personal pension scheme, certain information must be given to the Department; and regulation 17 defines the meaning of tax-exemption and tax-approval.

Revocations are made by regulation 18 and the Schedule.

10. The Occupational Pension Schemes (Contracting-out) Amendment Regulations 1996 (S.I. 1996/1577)

These Regulations enable certain salary-related contracted-out schemes, which do not meet the requirements of section 9(2B) of the Pension Schemes Act 1993, to remain contracted-out from the day appointed for the coming into force of those requirements ("the principal appointed day").

Regulation 1 provides for citation and commencement.

Regulation 2 amends the Occupational Pension Schemes (Contracting-out) Regulations 1996 by inserting a new regulation 76A. This applies where, immediately before the principal appointed day, a scheme satisfies the requirements of subsection (2) of section 9 of the Pension Schemes Act 1993 and, on or immediately after that day, satisfies the requirements of subsection (3) of that section. It provides -

for such circumstances to be a prescribed exception to section 12(3) of that Act (which prohibits a scheme from changing the basis on which it is contracted-out);

for the modification of sections 50, 52 and 53 (formerly certified schemes) in relation to the guaranteed minimum pensions provided by the scheme;

for the continuation of a contracting-out certificate issued before the principal appointed day