



Statutory Document No. 37/02

## THE PENSION SCHEMES ACT 1995

### THE PENSION SCHEMES LEGISLATION (APPLICATION) ORDER 2002

*Approved by Tynwald*      *19<sup>th</sup> February 2002*

*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 2002 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 follows -

- (a) the Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations 2000(b) and the Personal Pension Schemes (Payments by Employers) Regulations 2000(c) shall come into force on 6<sup>th</sup> April 2002;
- (b) the Sharing of State Scheme Rights (Provision of Information and Valuation) Regulations 2000(d) shall be deemed to have come into force on 1<sup>st</sup> October 2001.

#### Interpretation

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

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(a) 1995 c.11; (b) S.I. 2000/750; (c) S.I. 2000/2692; (d) S.I. 2000/2693.

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- (a) the Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations 2000;
- (b) the Personal Pension Schemes (Payments by Employers) Regulations 2000;  
and
- (c) the Sharing of State Scheme Rights (Provision of Information and Valuation) Regulations 2000.

(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 2000(a) 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 in the Schedules to this Order, shall apply to the Island as part of the law of the Island.

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(a) 2000 c.5.

## SCHEDULE 1

This Schedule sets out the text of the Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations (S.I. 2000/750) 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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2000 No. 750

### PENSIONS

The Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations 2000

#### Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations 2000 and shall come into force on *6<sup>th</sup> April 2002*.

(2) In these Regulations -

"the Act" means the Pension Schemes Act 1993(a);

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

#### Payments of amounts by *the Department*

2. (1) A payment by the *Department* of an amount referred to in -

- (a) subsection (1D) of section 41 of the Act (reduced rates for members of salary related contracted-out schemes - payment of remaining balance);
- (b) subsection (2C) of section 42A of the Act (reduced rates for members of money purchase contracted-out schemes - payment of remaining balance),

shall be made in accordance with paragraph (2) below.

(2) The payments shall be made in such manner as the *Department* may approve.

(3) Where an amount to which paragraph (1) above applies would otherwise not be a whole number of pence, it shall be adjusted to the nearest whole number of pence, and any amount of a half penny or less shall be disregarded.

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(a) 1993 c.48.

**Recovery of amounts by *the Department***

3. Where the *Department* is, by virtue of section 41(1E) or 42A(2D) of the Act, entitled to recover an amount from a secondary contributor, that amount may be recovered as a debt owed by the secondary contributor to the *Department*.

## SCHEDULE 2

This Schedule sets out the text of the Personal Pension Schemes (Payments by Employers) Regulations 2000 (S.I. 2000/2692) 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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**2000 No. 2692**

### **PENSIONS**

The Personal Pension Schemes (Payments by Employers) Regulations 2000

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

1. (1) These Regulations may be cited as the Personal Pension Schemes (Payments by Employers) Regulations 2000 and shall come into force on *6<sup>th</sup> April 2002*.

(2) In these Regulations -

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

"scheme" means a personal pension scheme;

"trustees or managers", in relation to a scheme, means -

- (a) in the case of a scheme established under a trust, the trustees of the scheme;  
and
- (b) in any other case, the managers of the scheme.

#### **Record of direct payment arrangements**

2. For the purposes of section 111A(4)(b) of the 1993 Act (record of direct payment arrangements must satisfy prescribed requirements) the prescribed requirements are that the record contains separate entries for the rates of contributions payable under the direct payment arrangements -

- (a) on the employer's own account in respect of the employee; and
- (b) on behalf of the employee out of deductions from the employee's earnings.

**Prescribed time in which an employer is to make a record of direct payment arrangements available to trustees or managers**

3. For the purposes of section 111A(5) of the 1993 Act (employer must within the prescribed period send a copy of the record to the trustees or managers) the prescribed period after the preparation or any revision of the record within which the employer must send a copy of the record or, as the case may be, of the revised record to the trustees or managers of the scheme is such period which is likely to result in the copy of that record being available to the trustees or managers of the scheme no later than the date upon which the first contribution payable by reference to that record falls due for payment.

**Time limits for giving notice to the *Department* and to the employee that any contribution which is payable has not been paid and the circumstances in which such notice need not be given**

4. (1) Subject to paragraph (2), for the purposes of section 111A(6) of the 1993 Act (except in prescribed circumstances notice to be given by the trustees or managers to the *Department* and to the employee within a prescribed period that any contribution which is payable has not been paid on or before its due date) the prescribed period within which the trustees or managers of the scheme must, where any contribution shown by the record to be payable under the direct payment arrangements has not been paid on or before its due date, give notice of that fact -

- (a) to the *Department*, is the period of 30 days beginning with the day following that due date; and
- (b) to the employee, is the period of 90 days beginning with the day following that due date, unless payment has been made before the end of the period of 60 days beginning with the day following that due date.

(2) The prescribed circumstances in which the trustees or managers of the scheme need not give notice to the *Department* or the employee or both that any contribution referred to in paragraph (1) has not been paid on or before its due date are when the *Department has* informed the trustees or managers -

- (a) that it or the employee or both it and the employee need not be notified that any future contribution shown by the record to be payable under the direct payment arrangements has not been paid on or before its due date; and
- (b) when, if at all, they must resume giving notice in accordance with section 111A(6) of the 1993 Act to the *Department* or the employee or both the *Department* and the employee that any future contribution shown by the record to be payable under the direct payment arrangements has not been paid on or before its due date.

**Prescribed period for the purpose of calculating the due date for the payment of any contribution on behalf of an employee**

5. For the purposes of section 111A(15)(b) of the 1993 Act (meaning of "due date" where a contribution payable under the direct payment arrangements falls to be paid on behalf of the employee) the prescribed period is the period of 19 days commencing on the day following the last day of the month in which the deduction was made from the employee's earnings.

**The issue of payment statements to an employee**

6. (1) For the purposes of section 111A(7) of the 1993 Act (trustees or managers to send the employee a statement of payments made during a prescribed period before the end of prescribed intervals) the prescribed period for which the statement must set out the amounts and dates of the payments made under the direct payment arrangements is the period specified in paragraph (2).

(2) The prescribed period is -

- (a) in the case of the first statement referred to in paragraph (1), the period beginning with -

- (i) *6<sup>th</sup> April 2002*, or the date the employee joins the scheme, whichever is the later, in the case of an employee who is or becomes a member of a scheme during the period from *6<sup>th</sup> April 2002* to *5<sup>th</sup> April 2003*; or
- (ii) the date the employee joins the scheme, in the case of an employee who becomes a member of a scheme on or after *6<sup>th</sup> April 2003*,

and ending with the date of the last payment which appears on that statement; and

- (b) in the case of the second or any subsequent statement (the relevant statement), a period of not more than 12 months beginning with the day following the date of the last payment which appeared on the statement immediately preceding the relevant statement.

**(3) Omitted.**

(4) For the purposes of paragraph (2)(a) the date of the last payment referred to in that paragraph must be no later than -

- (a) *5<sup>th</sup> April 2004*, where paragraph (2)(a)(i) applies; or
- (b) 12 months after the date the employee joined the scheme, where paragraph (2)(a)(ii) applies.

(5) The prescribed intervals before the end of which the trustees or managers must send the employee the statement referred to in paragraph (1) are those specified in paragraph (6).

(6) The prescribed intervals are -

- (a) in the case of the first statement referred to in paragraph (1) -
  - (i) the period beginning with *6<sup>th</sup> April 2002* and ending with *5<sup>th</sup> April 2004*, where paragraph (2)(a)(i) applies; or
  - (ii) the period of 12 months beginning with the date the employee joined the scheme, where paragraph (2)(a)(ii) applies; and
- (b) in the case of -
  - (i) the second statement, the period of 12 months beginning with the next anniversary of the date the employee joined the scheme following the date the trustees or managers sent the employee the first statement; and
  - (ii) the third or any subsequent statement, the period of 12 months beginning with the anniversary of the date the employee joined the scheme.

**(7) Omitted.**

**Revocation**

7. Regulation 5A of the Personal Pension Schemes (Disclosure of Information) Regulations 1987(a) (member to be informed when contributions not received) is revoked.

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(a) S.I. 1987/1110.

### SCHEDULE 3

This Schedule sets out the text of the Sharing of State Scheme Rights (Provision of Information and Valuation) Regulations 2000 (S.I. 2000/2693) 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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2000 No. 2693

PENSIONS

SOCIAL SECURITY

The Sharing of State Scheme Rights (Provision of Information and Valuation) Regulations 2000

#### Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Sharing of State Scheme Rights (Provision of Information and Valuation) Regulations 2000 and shall *be deemed to have* come into force on *1<sup>st</sup> October 2001*.

(2) In these Regulations -

"the 1992 Act" means the Social Security Contributions and Benefits Act 1992;

"the 1999 Act" means the Welfare Reform and Pensions Act 1999;

"shareable state scheme rights" has the meaning given by section 47(2) of the 1999 Act.

#### Basic information about the sharing of state scheme rights and divorce

2. (1) The requirements imposed on the *Department* for the purposes of section 23(1)(a) of the 1999 Act (supply of pension information in connection with divorce etc.) are that *it* shall furnish -

(a) the information specified in paragraphs (2) and (3) -

(i) to a person who has shareable state scheme rights on request from that person; or

(ii) to the court, pursuant to an order of the court; or

(b) the information specified in paragraph (3) to the spouse of a person who has shareable state scheme rights, on request from that spouse.

(2) The information specified in this paragraph is a valuation of the person's shareable state scheme rights.

(3) The information in this paragraph is an explanation of -



- (a) the state scheme rights which are shareable;
- (b) how a pension sharing order or provision will affect a person's shareable state scheme rights; and
- (c) how a pension sharing order or provision in respect of a person's shareable state scheme rights will result in the spouse of the person who has shareable state scheme rights becoming entitled to a shared additional pension.

(4) The *Department* shall furnish the information specified in paragraphs (2) and (3) to the court or, as the case may be, to the person who has shareable state scheme rights within -

- (a) 3 months beginning with the date the *Department* receives the request or, as the case may be, the order for the provision of that information;
- (b) 6 weeks beginning with the date the *Department* receives the request or, as the case may be, the order for the provision of the information, if the person who has shareable state scheme rights has notified the *Department* on the date of the request or order that the information is needed in connection with proceedings commenced under any of the provisions referred to in section 23(1)(a) of the 1999 Act; or
- (c) such shorter period specified by the court in an order requiring the *Department* to provide a valuation in accordance with paragraph (2).

(5) Where -

- (a) the request made by the person with shareable state scheme rights for, or the court order requiring, the provision of information does not include a request or, as the case may be, an order for a valuation under paragraph (2); or
- (b) the spouse of the person with shareable state scheme rights requests the information specified in paragraph (3),

the *Department* shall furnish that information to the person who has shareable state scheme rights, his spouse, or the court, as the case may be, within one month beginning with the date the *Department* receives the request or the court order for the provision of that information.

**Information about the sharing of state scheme rights and divorce: valuation of shareable state scheme rights**

3. Where an application for financial relief or financial provision under any of the provisions referred to in section 23(1)(a) of the 1999 Act has been made or is in contemplation, the valuation of shareable state scheme rights shall be calculated and verified for the purposes of regulation 2(2) of these Regulations in such manner as may be approved by or on behalf of the Government Actuary.

**Calculation and verification of cash equivalents for the purposes of the creation of state scheme pension debits and credits**

4. For the purposes of -

- (a) section 49 of the 1999 Act (creation of state scheme pension debits and credits);
- (b) section 45B of the 1992 Act (reduction of additional pension in Category A retirement pension: pension sharing);
- (c) section 55A of the 1992 Act (shared additional pension); and
- (d) section 55B of the 1992 Act (reduction of shared additional pension: pension sharing),

cash equivalents shall be calculated and verified in such manner as may be approved by or on behalf of the Government Actuary.

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Made 23rd January 2002

*Clare Christian*

Minister for Health and Social Security

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#### 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 the exceptions, adaptations and modifications, any legislation to which the Act applies.
2. Inter alia, the Act applies to the Pension Schemes Act 1993, the Pensions Act 1995, the Welfare Reform and Pensions Act 1999 and the Child Support, Pensions and Social Security Act 2000 (all Acts of Parliament) and any statutory instrument made or having effect as if made under any of 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 Regulations referred to in paragraphs 4 and 5 shall come into force on 6<sup>th</sup> April 2002, whereas the Regulations referred to in paragraph 6 shall be deemed to have come into force on 1<sup>st</sup> October 2001. Where necessary the provisions have been applied in the Island administratively pending their application by Order.
4. The Occupational Pension Schemes (Contracting-out) (Payment and Recovery of Remaining Balances) Regulations (S.I. 2000/750)

These Regulations are made in exercise of powers inserted in sections 41 and 42A of the Pension Schemes Act 1993, by Schedules 9 and 10 respectively to the Welfare Reform and Pensions Act 1999.

The Regulations make provision for the manner in which amounts are to be paid to a secondary contributor by the Department in circumstances where the total amount of contributions due from that contributor under Part I of the Social Security Contributions and Benefits Act 1992 is insufficient to enable him to reduce the contributions due in respect of particular primary contributors by the full amounts required under the sections mentioned above. Provision is also made for amounts to be adjusted so as to avoid the payment of trivial or fractional amounts.

The Regulations also provide for the manner in which the Department may recover any amounts which it has paid to secondary contributors but which it was not required to pay.

5. The Personal Pension Schemes (Payments by Employers) Regulations 2000 (S.I. 2000/2692)

These Regulations make provision concerning the monitoring of employers' payments to personal pension schemes under section 111A of the Pension Schemes Act 1993. The Regulations mirror attempts made in the United Kingdom to build confidence and accountability into personal pension schemes.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 sets out the prescribed requirements for the contents of the record of direct payment arrangements.

Regulation 3 specifies the period within which the employer must send a copy of the record of direct payment arrangements to the trustees or managers of the personal pension scheme.

Regulation 4 specifies the time limits within which the trustees or managers of the personal pension scheme must give notice to the Department and to the employee that any contribution which is payable by the employer under the direct payment arrangements has not been paid and the circumstances in which such notice need not be given.

Regulation 5 specifies the period to be used for the purpose of calculating the due date for the payment by the employer of any contribution paid on behalf of an employee.

Regulation 6 provides for the period which a payment statement sent to an employee by the trustees or managers of a personal pension scheme must cover, and the frequency with which such statements must be sent to the employee.

Regulation 7 revokes regulation 5A of the Personal Pension Schemes (Disclosure of Information) Regulations 1987.

6. The Sharing of State Scheme Rights (Provision of Information and Valuation) Regulations 2000 (S.I. 2000/2693)

These Regulations make provision in connection with the sharing, on divorce or nullity of marriage, of rights to the additional pension component of a state retirement pension.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 specifies the information which the Department must supply to the parties to a marriage or the court in relation to the sharing of state scheme rights. This regulation also specifies the time limits within which that information must be furnished.

Regulation 3 sets out how the value of the state scheme rights must be calculated and verified when a valuation of those rights is requested in connection with the sharing of those rights.

Regulation 4 provides for how cash equivalents shall be calculated and verified for the purposes of the creation of state scheme pension debits and credits, the reduction of the additional pension, the creation of the shared additional pension and the reduction of the shared additional pension, as a result of pension sharing.