



Statutory Document No. 14/06

THE PENSION SCHEMES ACT 1995

THE WELFARE REFORM AND PENSIONS ACT 1999 (APPLICATION)
(AMENDMENT) ORDER 2006

Approved by Tynwald

22nd February 2006

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 (c.11), and of all other enabling powers, the following Order is hereby made:-

Citation, commencement and interpretation

1. (1) This Order may be cited as the Welfare Reform and Pensions Act 1999 (Application) (Amendment) Order 2006 and shall, subject to section 1(4) of the Pension Schemes Act 1995, come into force as provided for in paragraph (2).

(2) This Article and Article 2 shall come into force on 6th April 2006.

(3) In this Order –

(a) “the 1993 Act” means the Pension Schemes Act 1993 (c.48) as that Act of Parliament has effect in the Isle of Man **(a)**; and

(b) “the 1999 Act” means the Welfare Reform and Pensions Act 1999 (c.30) as that Act of Parliament has effect in the Isle of Man **(b)**.

Amendment of the Welfare Reform and Pensions Act 1999 (Application) Order 2001 (S.D. 291/01)

2. (1) Amend the Schedule to the Welfare Reform and Pensions Act 1999 (Application) Order 2001 (which sets out those provisions of the Welfare Reform and Pensions Act 1999 relating to pension schemes which have effect in the Isle of Man) in accordance with the following paragraphs.

(2) Amend section 37 of the 1999 Act (requirements relating to pension credit benefit) in accordance with paragraphs (3), (4) and (5).

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(a) See S.D. 531/95; (b) See S.D. 291/01.

(3) As sections 101G and 101H of the 1993 Act insert –

“Restrictions on power to give transfer notice

101G. (1) In the case of a salary related occupational pension scheme, the power to give a transfer notice may only be exercised if-

- (a) the member has been provided with a statement under section 101H, and
- (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.

(2) The power to give a transfer notice may not be exercised in the case of an occupational pension scheme if-

- (a) there is less than a year to go until the member reaches normal benefit age, or
- (b) the pension to which the member is entitled by virtue of his pension credit rights, or benefit in lieu of that pension, or any part of it has become payable.

(3) Where an eligible member of a qualifying scheme-

- (a) is entitled to make an application under section 95 to the trustees or managers of the scheme, or
- (b) would be entitled to do so, but for the fact that he has not received a statement under section 93A in respect of which the guarantee date is sufficiently recent,

he may not, if the scheme so provides, exercise the power to give them a transfer notice unless he also makes an application to them under section 95.

(4) The power to give a transfer notice may not be exercised if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.

Salary related schemes: statements of entitlement

101H. (1) The trustees or managers of a qualifying scheme which is a salary related occupational pension scheme shall, on the application of an eligible member, provide him with a written statement of the amount of the cash equivalent of his pension credit benefit under the scheme.

(2) For the purposes of subsection (1), the amount of the cash equivalent shall be determined by reference to a date falling within-

- (a) the prescribed period beginning with the date of the application, and
- (b) the prescribed period ending with the date on which the statement under that subsection is provided to the applicant.

(3) Regulations may make provision in relation to applications under subsection (1) and may, in particular, restrict the making of successive applications.

(4) If trustees or managers to whom subsection (1) applies fail to perform an obligation under that subsection, section 10 of the Pensions Act 1995 (power of the Department to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to secure that the obligation was performed.”.

(4) As paragraph (a) of section 101J(7) of the 1993 Act (time within which a transfer notice must be complied with) insert –

“(a) in the case of a salary related scheme, the date by reference to which the amount shown in the relevant statement under section 101H is determined;”.

(5) As subsection (3) of section 101P of the 1993 Act (interpretation of Chapter 2 of Part 4A of the 1993 Act) insert –

“(3) In this Chapter, references to the relevant statement under section 101H, in relation to a transfer notice given to the trustees or managers of a salary related occupational pension scheme, are to the statement under that section on which the giving of the notice depended.”.

Made 29th December 2005



Minister for Health and Social Security

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 such exceptions, adaptations and modifications as may be specified by the Order, any legislation to which that Act applies.
2. *Inter alia*, the Act applies to the Pension Schemes Act 1993 and to those provisions of the Welfare Reform and Pensions Act 1999 relating to pension schemes (both Acts of the United Kingdom Parliament which have effect in the Isle of Man and referred to as “the 1993 Act” and “the 1999 Act” respectively) and to any statutory instrument made or having effect as if made under them.

3. Article 1 provides for the citation, commencement and interpretation of the Order.
4. Article 2(1) introduces the changes the Order makes.
- 5.1 Article 2(2) provides that section 37 of the 1999 Act is to be amended in accordance with paragraphs (3), (4) and (5) of that article.
- 5.2 Section 37 of the 1999 Act inserted Part 4A into the 1993 Act. That Part sets out the general rules as to the future occupational pension rights a person acquires when a pension sharing order is made in their favour against their former spouse when the two parties divorce. Such rights are called “pension credit rights”. Chapter 2 of Part 4A of the 1993 Act (containing sections 101F to 101Q) gives people the right to transfer their pension credit rights in one scheme to another scheme.
- 5.3 Amendments are being made elsewhere to the 1993 Act giving salary related occupational pension scheme members –
 - the right to be provided with a written statement of entitlement to their benefits under the scheme as they stand at a certain date; and
 - the right to the value of those benefits within 3 months of that date.Those benefits can then be transferred to another scheme or used to purchase an annuity.
- 5.4 Article 2(3) inserts sections 101G and 101H into the 1993 Act to give people with accrued pension credit rights in a salary related occupational pension scheme an equivalent entitlement to a written statement of their entitlement to those rights and article 2(4) and (5) make consequential amendments to sections 101J and 101P of the same Act.