

Abolition of contracting out on
a defined contribution basis:
consultation on draft
consequential legislation

The Pensions Act 2007 (Abolition of
Contracting-out for Defined Contribution
Pension Schemes)(Consequential
Amendments) Regulations 2011

The Pensions Act 2008 (Abolition of
Protected Rights) (Consequential
Amendments) Order 2011

The Pensions Act 2007 (Abolition of
Contracting-out for Defined Contribution
Pension Schemes)(Consequential
Amendments No. 2) Regulations 2011

The Pensions Act 2008 (Abolition of
Protected Rights) (Consequential
Amendments No. 2) Order 2011

Contents

Preface	3
How to respond to this consultation	4
Freedom of information	4
The consultation arrangements	5
Feedback on this consultation	6
What will we do after the consultation?	6
Impact Assessment	6
Background	7
Subject of consultation	9
Commentary on the draft regulations/orders	13
Annex A – The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential amendments) Regulations 2011	20
Annex B – The Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments) Order 2011	29
Annex C – The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential amendments No. 2) Regulations 2011	39
Annex D – The Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments No. 2) Order 2011	42
Annex E – Written Ministerial Statement 12 March 2010	49
Annex F – List of those consulted	50

Preface

On 25 May 2006, the then Government published a White Paper *Security in retirement: towards a new pensions system*, which included proposals to abolish contracting-out on a defined contribution (DC) or money purchase basis. This proposal was taken forward with the exception of the removal of the rules which required provision to be made for a survivor where there is a spouse or civil partner. The relevant legislation is contained in Section 15 of the Pensions Act 2007. In contracted-out DC schemes, the amount of an individual's pension fund derived from the rebate, its investment return and any tax relief on the rebate are known as **protected rights**. Further provisions which permit the removal of all rules on accrued protected rights including the requirement to provide for a survivor benefit are contained in Section 106 of the Pensions Act 2008.

This consultation document seeks views on whether the following draft consequential legislation will permit contracted out rebates to be paid or recovered after the abolition date, for periods prior to 6 April 2012, whilst still achieving the Government's objective of ending contracting-out on a money purchase basis.

- The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential Amendments) Regulations 2011;
- The Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments) Order 2011;
- The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential Amendments No. 2) Regulations 2011; and
- The Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments No. 2) Order 2011.

Your comments on any aspect of the draft Regulations would be welcomed.

This document is on the Department's website at:

<http://www.dwp.gov.uk/consultations/2010/>

Who this consultation is aimed at

This consultation is aimed primarily at pension industry professionals, pension schemes, trustees, and industry and member representative organisations, but we would be interested in views from any source.

How to respond to this consultation

The consultation period will run from **28 July 2010 to 19 October 2010**. Please ensure that your response reaches us by the end of that period.

Please send your responses, preferably by email, to: contractingout@dwp.gsi.gov.uk or by post to:

Neil Vosper/Uzair Farooq
Department for Work and Pensions
7th Floor
Caxton House
Tothill Street
London SW1H 9NA
Tel: 020 7449 7397

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

We have sent this consultation document to people and organisations who have already been involved in this work or who have expressed an interest. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

Freedom of information

The information you send us may need to be passed to colleagues within the Department for Work and Pensions and published in a summary of responses received, and referred to in the published consultation report.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.

If you want to find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

The Central Freedom of Information Team
Department for Work and Pensions
5th Floor, Adelphi
1-11 John Adam Street
London, WC2N 6HT
Email: freedom-of-information-request@dwp.gsi.gov.uk

More information about the Freedom of Information Act can be found on the Ministry of Justice website
<http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/guidance/guidancefoi.htm>

The consultation arrangements

The consultation is being conducted in line with the Government Code of Practice on Consultation – www.bis.gov.uk/files/file47158.pdf – and its seven consultation criteria, which are as follows:

- **When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.
- **Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.
- **Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.
- **Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.
- **The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- **Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- **Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

Feedback on this consultation

We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Roger Pugh
DWP Consultation Co-ordinator
2nd Floor, Britannia House
2 Ferensway
Hull, HU2 8NF
Tel: 01482 609571
Email: roger.pugh@dwp.gsi.gov.uk

In particular, please tell us if you feel that the consultation does not satisfy Cabinet Office Code of Practice on Consultation. Please also make any suggestions as to how the process of consultation could be improved further.

If you have any requirements that we need to meet to enable you to comment, please let us know.

What will we do after the consultation?

A Government Response to the consultation will be published. We will aim to publish this summary within three months of the consultation closing. The summary of responses will be available on the Department's website:

<http://www.dwp.gov.uk/consultations/2010/>

Impact Assessment

Section 15 and Schedule 4 of the Pensions Act 2007, and sections 106 and 145(2) of the Pensions Act 2008 provide for, respectively, the abolition of contracting-out on a defined contribution basis and the abolition of rules applying to protected rights that would, otherwise, continue to apply to the protected rights built up before the date of abolition.

The Pensions Act 2007 amends and repeals certain provisions of the Pension Schemes Act 1993 and other primary legislation to abolish contracting-out for money purchase schemes. Section 15(5) provides a regulation-making power to allow for further consequential provision to be made, if required, to primary and secondary legislation as a result of the abolition of contracting-out for money purchase schemes and personal pension schemes.

The Pensions Act 2008 provisions provide for the removal protected rights rules but do not include comprehensive consequential amendments required to primary legislation. Section 145(2) of that Act provides an order-making power which allows consequential amendments to be made to both primary

and secondary legislation, as a result of the removal of protected rights provisions.

An impact assessment was conducted in the context of these provisions (and the results have been published on the following website:

<http://www.dwp.gov.uk/docs/pensions-bill-ria.pdf>). We may consider undertaking a further impact assessment if appropriate.

Background

In April 1978, the Government introduced the State Earnings Related Pension Scheme (SERPS). Employees who paid full rate National Insurance contributions (NICs) started to build up rights to an additional pension from the State, based on their earnings during their working life. This was on top of the flat-rate, basic state pension.

Between 6 April 1978 and 5 April 1997, employers sponsoring salary-related occupational pension schemes could 'contract out' their employees from SERPS through membership of the scheme, provided the scheme took on the responsibility for paying a minimum pension - a Guaranteed Minimum Pension (GMP). On reaching state pension age, members would generally have built up a GMP of a broadly similar amount to the SERPS pension to which they would otherwise have been entitled, had they stayed in the State system. Employees who are contracted-out pay lower, rebated, National Insurance contributions. This is because they are not going to receive a full SERPS pension. SERPS was later replaced by the State Second Pension (S2P) on 6 April 2002.

In 1988, contracting-out was extended to defined contribution (DC) (or money purchase) schemes, both occupational and personal schemes. These are called Contracted-Out Money Purchase Schemes (COMPS) and Appropriate Personal Pensions (APPs). Stakeholder pension schemes have also been able to contract out from 2002 and are a type of APP. Up until 5 April 1997 there was a link between contracting-out and the additional State Pension. Up until this date, people who were contracted-out could still get some SERPS pension in circumstances where the value of their GMP (or notional GMP, where they were contracted-out via a COMP or APP) is less than the pension they would have received had they remained in the state system. However, the link between contracting-out and the additional State Pension was broken from 6 April 1997 and those who were contracted-out did not accrue any additional State Pension after this date.

In contracted-out DC schemes, there are certain conditions which are attached to protected rights and these have been a source of complexity for schemes and members. Protected rights have to be tracked separately from non-protected rights as there is a legal requirement for annuities deriving from protected rights to provide for a survivor benefit where the annuitant is married or in a civil partnership. This presents an additional administrative cost for schemes and members and has led to more complex arrangements and less choice for the

member.

The Pensions Commission Report *A New Pension Settlement for the Twenty-First Century*, published in 2005, recommended that contracting-out on a defined contribution basis be abolished. The then Government accepted that recommendation and on 25 May 2006, it published a White Paper *Security in retirement: towards a new pensions system*, which included proposals to abolish contracting-out on a defined contribution (DC) basis. The proposal was taken forward and section 15 of the Pensions Act 2007 allows for the abolition of contracting-out. The requirement to provide for a survivor benefit was not removed in the Pensions Act 2007, but further provisions in section 106 of the Pensions Act 2008 permit the removal of all rules on accrued protected rights.

When is the abolition date?

An announcement made by the previous Government on 12 March 2010 confirmed the abolition date to be **6 April 2012** (a copy of the statement is attached at **Annex E**) and this Government has agreed this date.

When does the legislation come into force?

This means that on 6 April 2012 the following provisions will be in force or brought into force on that date:

- Section 15(1) of the Pensions Act 2007
- Part 1 of Schedule 4 of the Pensions Act 2007
- Section 106 of the Pensions Act 2008.

The draft legislation contained in Annexes A-D, builds on section 15 of, and Schedules 4 and 7 to, the Pensions Act 2007, and sections 106 and 145(2) of the Pensions Act 2008 and seeks to amend or revoke existing legislation in order to end contracting-out for all money purchase occupational and personal pension schemes. Whilst the legislation seeks to end contracting-out on a money purchase basis, a 'transitional period' after this date is needed in order to allow for administrative 'tidying up'. It was for this reason that the consequential amendments to primary legislation set out in Part 2 of Schedule 4 to the Pensions Act 2007 were not specified to be brought into force on the abolition date. It is intended that the following provisions of that Schedule will be brought into force on 6 April 2015:

- paragraph 42(2) and (3)(b) & (c) (amending provisions in the Social Security Contributions and Benefits Act 1992 relating to the making minimum payments)
- paragraph 47 (amendment to section 8 of the Pension Schemes Act 1993 relating to minimum payments)
- paragraph 49 (omitting section 31 of the Pension Schemes Act 1993 (Investment and resources of scheme))
- paragraph 59(3) (amendments to Schedule 2 of the Pensions Act 1993 (certification requirements)).

It is not intended to bring into force the remaining provisions in Part 2 of Schedule 4 of the Pensions Act 2007 for the time being. These include provisions repealing provisions in the Pensions Act 1993 which provide for reduced NI contribution rates and rebates for members of money-purchase contracted-out schemes (section 42A) and the payment of minimum contributions to personal pension schemes (section 43). These provisions need to be retained to allow for the adjustment of rebates and minimum contributions by HMRC, as a result of amendments to an individual's national insurance record, which in some cases can take place several years after the original payment was made.

Subject of consultation

The draft statutory instruments amend or repeal (where appropriate) all references to “contracted-out money purchase schemes” and “appropriate personal pension schemes” in legislation. As such schemes will no longer be contracted-out, the legislation will be redundant or retained for a transitional period only following abolition. Protected rights will no longer exist as from 6 April 2012: post-abolition they become ordinary money purchase scheme benefits.

The changes made by the four draft statutory instruments being consulted upon here need to be considered alongside the changes made by section 15 to, and Schedule 4 of, the Pensions Act 2007, and section 106 of the Pensions Act 2008, to provide the full picture.

The statutory instruments also amend the legislation to provide for the following:

Transitional Period

The legislation, as drafted, allows a 3 year transitional period whereby the current automated process of rebate payments and recoveries between HMRC and money purchase schemes (formerly contracted-out) can continue as at present. This transitional period will ease administrative burdens on schemes and will allow for:

- the payment of the final year's rebate (due for the 2011/12 tax year) after 6 April 2012; and
- the payment or recovery of rebates which are recalculated by HMRC as a result of adjustments to individual's national insurance records in the 3 years following abolition.

During the transitional period it will be for the scheme to advise HMRC that a member has moved their pension pot out of the scheme. In these cases, if a rebate payment is received by the former scheme in respect of a member who transferred their pension pot, the former scheme will, if they are able,

transfer that payment to the new scheme (as currently happens). If the payment is returned to HMRC, HMRC will transfer the payment to the new scheme if known, or in other circumstances, to the individual, who will be advised to pay the money into their pension scheme. When the transitional period expires on the 5 April 2015, all rebate adjustment payments after this date will be paid direct to individuals and recoveries will be handled clerically by HMRC.

In addition, provisions in the Pension Schemes Act 1993 which require minimum payments to be paid by employers to money purchase contracted-out schemes are to be retained for a 3 year period until 6 April 2015. This is to allow for minimum payments due for the tax year ending 5 April 2012 to be made, and to allow for any potential late payments or adjustments to minimum payments due for the period before 6 April 2012 to be made after that date.

Articles 8(6) and 17(2) of the Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011 permits HMRC to make rebate payments direct to the earner. Amendments made by regulation 4(10) of the Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 requires minimum payments due for a period prior to the abolition date, to be paid after this date.

Question 1

In considering the draft legislation, are you satisfied that the remaining provisions adequately allow for 'tidying up' post abolition – in particular has any legislation been revoked which you consider needs to be retained? Conversely, is there anything that has been retained which you think needs to be revoked?

The de minimis limit

As explained above, individual NI records are often amended because of changes notified to HMRC. These amendments can impact on the amount of rebate payable. We propose to introduce a minimum limit (a 'de minimis' limit) on the amount of rebate required to be paid, where it is to be paid to the individual. This will avoid the cost to the taxpayer of paying sums due where the value is very low and would have a negligible impact on the individual's retirement income from the subsequent annuity bought with their pension fund. This legislation sets the limit at a level which corresponds to the cost of paying the rebate clerically by HMRC (that is, the rebate will not be paid where it costs more to administer the rebate than its value). The limit will be published annually by HMRC. Such a limit is permitted by Article 1 of Protocol 1 of the European Convention on Human Rights (the right not to be deprived of one's possessions, which we consider applies to the rebate), where it is in the public interest and subject to conditions provided for by law.

The introduction of the de minimis limit is set out in Article 5(6) and (7) of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments No.2) Order 2011.

The de minimis limit does not apply to the current system of automated rebate payments made in bulk to schemes, which will continue for 3 years after the abolition date. The cost of making such bulk payments, per individual, is negligible.

The Contracted-Out Deduction (COD)

As explained in the background section above, employees who were contracted-out for any period prior to 6 April 1997 will not receive a full SERPS pension. Legislation requires that a contracted-out deduction (COD) be applied to 'notional' SERPS (to take into account the fact that the member paid lower rate NICs) when a scheme member reaches state pension age. The reference to notional SERPS relates to the amount the member would have received had they remained in the state system.

Prior to abolition;

- If a member dies before effect has been given to their protected rights, any surviving spouse or civil partner will inherit all of the member's money purchase benefits. In this case there would be a corresponding 100% COD applied to the survivor's SERPS (which includes the survivor's inherited 'notional' SERPS as well as any SERPS accrued in their own right).
- If a member dies after effect has been given to their protected rights, the widow or widower or surviving civil partner will be entitled to a survivor's pension from the scheme of half the member's pension, and will subsequently have a 50% COD made to the survivor's SERPS (which includes the survivor's inherited 'notional' SERPS as well as any SERPS accrued in their own right).

From 6 April 2012, there will no longer be a requirement on former contracted-out money purchase schemes to track protected rights separately (they will no longer exist) - an administrative easement sought by schemes. As schemes will no longer record former protected rights, and do not need to notify HMRC if a member has died before or after retirement, HMRC will not know if effect has been given to those rights (whether the survivor has inherited 100% or 50% of the pot, or nothing). Therefore a 50% contracted-out deduction (COD) will be made to the survivor's SERPS, in all cases. This will be applied regardless of whether the survivor is entitled to a survivor's pension from the member's scheme at half the rate of the member's pension (because after the abolition date the scheme will no longer be required to provide a survivor's pension (as currently provided for by sections 28 and 29 of Pension Schemes Act 1993 which are repealed by the Pensions Act 2007). Although there will no longer be a legal requirement to provide a survivor's benefit, the existence of the open market option means that the member will still be able to choose the most appropriate option for their circumstances and this may include purchasing a survivor's pension.

The introduction of a 50% COD for all survivors from 6 April 2012 is set out in Article 4(3) & (4) of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011.

Contracted-Out Mixed Benefit Schemes (COMBS)

Currently, a scheme could hold one contracting-out certificate which covers both a money purchase (defined contribution) and salary related (defined benefit) sections. That is, the scheme will currently be contracted-out under both Section 9(3) of the Pension Schemes Act 1993 (the DC section) and Section 9(2) of the Pension Schemes Act 1993 (the DB section). Although one certificate is held, COMBS are treated by HMRC as two separate schemes.

From 6 April 2012, the contracting-out certificate will be valid for the salary related section only as Section 149 of the Pension Schemes Act 1995 has been amended to exclude contracting-out under Section 9(3) of Pension Schemes Act 1993 from abolition date. The contracted-out money purchase benefits would become ordinary money purchase benefits from 6 April 2012.

Question 2

The draft legislation has sought to remove references to contracted-out mixed benefits schemes as only salary related schemes can continue to be contracted-out after April 2012. Is the removal of these references sufficient for schemes to be aware that any contracting-out certificate issued to a mixed benefit scheme will remain valid only on a salary related basis after April 2012?

Disclosure of Information

Amendments to the Personal Pension Schemes (Disclosure of Information) Regulations 1987 and the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 have primarily focused upon removing regulations that refer to defined contribution contracting-out. But we have also introduced a one-off requirement under each set of regulations which identifies what the member needs to be aware of as a result of abolition. This makes it clear what the minimum information requirements will be. We do not anticipate that this would result in schemes incurring any additional costs as it is already a legal requirement that schemes must notify members of any changes to their pension provision. DWP is currently working with the industry to determine what further guidance would be helpful for them.

These amendments are introduced by regulations 2(7)(c) and 8(4)(c) of the Pensions Act 2007 (Abolition of Contracting-out for Defined Contributions Pension Schemes) (Consequential Amendments) Regulations 2011 and

articles 2(5)(e) and 11(5)(c) of Pension Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011.

Question 3

Do you agree that this information requirement will not add to the cost that schemes expect to incur as a result of communicating with their members in relation to abolition of defined contribution contracting out?

Commentary on the draft regulations/orders

There are four separate draft instruments for legislative reasons.

- Section 15 of the Pensions Act 2007 contains a power to make regulations.
- Section 145(2) of the Pensions Act 2008 contains an order-making power.

Regulations and orders are not permitted to be combined in the same statutory instrument, so changes made under each of these powers have to be in a separate instrument.

In addition, changes to primary legislation are subject to affirmative parliamentary procedure (which means they are subject to parliamentary debate) whilst changes to secondary legislation are subject to the negative parliamentary procedure (and so not necessarily debated), so these changes are in separate instruments.

The Regulations and Orders revoke legislation which currently permits contracting-out on a money purchase basis. The draft legislation primarily removes references to contracting-out terms such as “protected rights”, “appropriate personal pension schemes”, “contracted-out mixed benefit schemes” and “contracted-out money purchase schemes”. In the sections that follow, each set of regulations being amended has been grouped in accordance with the nature of the amendments as follows:

- Legislation which is to be revoked; and
- Legislation which is being amended to remove DC contracting-out terms.

Where amendments are more substantial, additional comment has been provided.

The following seeks to explain the purpose and effect of each of the four draft statutory instruments:

The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential Amendments)

Regulations 2011

This is split into three parts. Part 1 will come into force on 6 April 2012, amending or revoking regulations in place which permit contracting-out on a defined contribution basis. Some provisions are being retained for a 3 year transitional period. Part 2 will come into force on 6 April 2013 and removes the requirement for schemes to notify members of changes to their pension scheme as a result of the abolition of DC contracting-out. Part 3 will come into force on 6 April 2015 and revokes the provisions which permit minimum payments to be deducted from earnings and made payable to scheme trustees. The intention is to allow 3 years for employers to make subsequent adjustments to minimum payments payable for the tax year(s) prior to abolition.

Regulations that are revoked under this Statutory Instrument:

- **The Protected Rights (Transfer Payment) Regulations 1996;**
- **The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996** (revoked entirely by this instrument and by the **Pensions Act 2008 (Abolition of Protected Rights)(Consequential Amendments) Order 2011**);
- **The Occupational Pension Schemes (Age-related Payments) Regulations 1997;**

Regulations that are amended to remove terms relevant to the abolition of DC contracting-out under this Statutory Instrument:

- **The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991;**
- **The Occupational and Personal Pensions Schemes (Contracting-out etc: Review of Determination) Regulation 1997;**
- **The Pension Sharing (Valuation) Regulations 2000;**
- **The Pension Sharing (Pension Credit Benefit) Regulations 2000;** &
- **The Stakeholder Pension Scheme Regulations 2000.**

Amendments to **the Occupational Pension Schemes (Contracting-out) Regulations 1996** and **The Contracting-Out (Transfer and Transfer Payments) Regulations 1996** – In addition to contracting-out terms, references to transfers between contracted-out defined benefit (DB) and contracted-out DC schemes have been removed, as this will no longer be possible post abolition.

Amendments to **the Personal Pension Schemes (Disclosure of Information) Regulations 1987** and **the Occupational Pension Schemes (Disclosure of Information) Regulations 1996** – We are removing the regulations that currently refer to defined contribution contracting-out. In addition, those provisions that currently deal with schemes ceasing to be contracted-out (for whatever reason) have been replaced with a provision which deals specifically with schemes which cease to contract out as a result

of section 15(1) of the Pensions Act 2007. This provision is then removed from 6 April 2013 when it will no longer be required.^a

Amendments to **the Personal Pension Schemes (Appropriate Schemes) Regulations 1997** – Regulations 12 and 13 to 20, make provision for the calculation of earnings and the calculation, allocation, manner of payment and conditions around minimum contributions. In order to process payments of minimum contributions after the abolition date, for tax year(s) prior to that date, these regulations need to be retained, along with the relevant parts of regulation 1 (interpretation). The rest of these regulations are no longer required and are to be omitted.

Question 4

As from the abolition date, protected rights (derived from rebated national insurance contributions) will no longer exist. The existing restrictions on the transfer of funds currently comprising protected rights will no longer be in place after 6 April 2012 – is it clear from the amendments made by regulations 5 and 6 that this is the case?

The Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments) Order 2011

This Order is also in three parts. Part 1 will come into force on 6 April 2012, Part 2 on 6 April 2013, and Part 3 on 6 April 2015.

Regulations that are revoked under this Statutory Instrument:

- **The Personal Pension Schemes (Compensation) Regulations 1988;**
- **The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996;**
- **The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (revoked entirely by this instrument and the Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential amendments) Regulations 2011);**

^a Proposed changes to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 and the Personal Pension Schemes (Disclosure of Information) Regulations 1987 were consulted upon **between 6/1/10 and 1/3/10**. Regulations making the proposed changes are intended to be made shortly and to come into force in autumn 2010. Amendments consequential on the abolition of DC contracting-out proposed here will be made to those regulations as amended in autumn 2010, but are shown here as amendments to the two sets of regulations as currently in force, to avoid confusion.

- **The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996;**

Regulations that are amended to remove DC contracting-out terms under this Statutory Instrument:

- **The Personal Pension Schemes (Disclosure of Information) Regulations 1987;**
- **The Personal Pension Schemes (Transfer Value) Regulations 1987;**
- **The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991;**
- **The Contracting-Out (Transfer and Transfer Payments) Regulations 1996;**
- **The Occupational Pension Schemes (Disclosure of Information) Regulations 1996;**
- **The Occupational Pension Schemes (Indexation) Regulations 1996;**
- **The Occupational Pension Schemes (Scheme Administration) Regulations 1996;**
- **The Occupational Pension Schemes (Transfer Values) Regulations 1996;**
- **The Occupational Pension Schemes (Winding-up) Regulations 1996;**
- **The Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998;**
- **The Pension Sharing (Pension Credit Benefit) Regulations 2000;**
- **The Stakeholder Pension Scheme Regulations 2000;**
- **The Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005;**
- **The Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006;**
- **The Occupational Pension Schemes (Modification of Schemes) Regulations 2006; and**
- **The Employment Equality (Age) Regulations 2006^a.**

Amendments to the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987

In Part 1, Article 4 provides for the blanket 50% Contracted-out Deduction (COD) to be applied to the survivor's SERPS entitlement from 6 April 2012 in all cases (removing the references to whether effect has been given to protected rights before death).

^a These regulations are intended to be revoked by the Equality Act 2010, and the provisions they contain will be replicated in regulations made under that Act, in October 2010. Amendments consequential on the abolition of protected rights proposed here will, in the final version of this Order made in February 2011, be made to the corresponding regulations made under the Equality Act 2010.

Amendments to the Occupational Pension Schemes (Contracting-Out) Regulations 1996

Article 8(6) provides an exception to Section 42A(3) of the Pension Schemes Act 1993 where the earner is no longer a member of the former contracted-out money purchase scheme (COMP) (post 2012). In this case, the age-related payment can be made to the former contracted-out scheme, if that scheme is able to forward the payment to a new scheme that the earner is a member of, or to that new scheme directly, if known to HMRC, or, if not, to the individual. Payments can continue to be made to the former COMP scheme where the earner is still a member of that scheme during the transitional period which is from 6 April 2012 to 5 April 2015.

Amendments to the Personal Pension Schemes (Appropriate Schemes) Regulations 1997

Article 17(2) makes similar provision in relation to payments of minimum contributions for earners who are no longer a member of the former Appropriate Personal Pension (APP) scheme (the earner's chosen scheme) from 2012.

In Part 3, the amendments in articles 8(6) and 17(2) above are then revoked from 5 April 2015, and are replaced by amendments to primary legislation (Pensions Act 1993) from 6 April 2015 which provides for payments to be made to earners in all cases (see article 8 of the Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments No.2) Order 2008).

The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes)(Consequential Amendments No. 2) Regulations 2011

This draft Statutory Instrument amends:

- **The Social Security Administration Act 1992;** and
- **The Pensions Act 2008.**

The amendments have the effect of removing or amending the references to contracted-out money purchase terms. These amendments are in addition to amendments already provided for in Schedule 4 of the Pensions Act 2007, but see also amendments made to the provisions of that schedule by the following Pensions Act 2008 Order.

The Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments No. 2) Order 2011

This Order is in two parts. Part 1 contains amendments which will come into force immediately before, or on, 6 April 2012. In addition to amending various Pensions Acts, the Order amends a number of provisions in primary legislation that provide for judicial pensions and that deal with bankruptcy and

insolvency. Part 2 then further amends the Pensions Schemes Act 1993 with effect from 6 April 2015.

The draft Order seeks to remove money purchase terms (“protected rights”) from the following legislation;

- **The Bankruptcy (Scotland) Act 1985;**
- **The Insolvency Act 1986;**
- **The Judicial Pensions and Retirement Act 1993^a;**
- **The Pension Schemes Act 1993;**
- **The Pensions Act 1995.**
- **The Pensions Act 2004**
- **The Pensions Act 2007.**

Amendments to **the Pension Schemes Act 1993** - Article 5(6) and (7) introduce a de minimis limit for rebates of age-related payments and payments of minimum contributions due to be paid by HMRC, where such payments are due to be paid to the earner, rather than the scheme (as provided for by regulations made under section 42A(3) and 43(1)). Rebate payments due which cost more to administer than the payment is worth will not be required to be paid; HMRC will have discretion as to whether to make those payments.

Part 2 contains amendments to the PSA 1993 which come into force on 6 April 2015 - these include (at Articles 9(4) and (5)) changes to whom age-related payments and minimum contributions are made, so that from this date, payments are made to the earner in **all** cases (with no exceptions in prescribed regulations) (see the proposed amendments in articles 8(6) and 17(2) of the draft Pensions Act 2008 (Abolition of Protected rights) (Consequential Amendments) Order 2011, which are subsequently removed from 6 April 2015 by articles 27 and 28 of that Order).

Amendments to **the Pensions Act 2007** – Article 8 repeals some of the provisions in Part 2 Schedule 4 to the Pensions Act 2007 which amend the Pension Schemes Act 1993. This is because some of the changes made by the Pensions Act 2007 to provide for the abolition of DC contracting-out did not consider at that time the effect of the removal of the rules on protected rights, and some amendments made by that Act are no longer appropriate in the context of the abolition of protected rights. Alternative amendments to some of those provisions are contained within article 5 of this Order.

Question 5

^a Amendments proposed here remove references to ‘protected rights’ as defined by the Pension Schemes Act 1993. It is intended that corresponding provision is made under Northern Ireland legislation to remove references to ‘protected rights’ as defined in the Pension Schemes (Northern Ireland) Act 1993, also from 6 April 2012.

You are asked to comment on whether you consider that the draft Statutory Instruments set out in the Annexes will end contracting-out on a defined contribution basis, whilst still allowing for any rebate payments/recoveries to be made after 6 April 2012.

In addition to the legislation set out in the Annexes, do you consider that there is further legislation which needs to be revoked or amended?

**Annex A –
The Pensions Act 2007 (Abolition of Contracting-out for
Defined Contribution Pension Schemes)(Consequential
amendments) Regulations 2011**

STATUTORY INSTRUMENTS

2011 No.

PENSIONS

**The Pensions Act 2007 (Abolition of Contracting-out for
Defined Contribution Pension Schemes) (Consequential
Amendments) Regulations 2011**

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1(2)

The Secretary of State for Work and Pensions, in exercise of the powers conferred by section 15(5) of the Pensions Act 2007(a), makes the following Regulations.

The Secretary of State has consulted such persons as the Secretary of State considers appropriate in accordance with section 25(3) of that Act.

Citation and Commencement

1.—(1) These Regulations may be cited as the Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011.

(2) These Regulations shall come into force—

- (a) for the purposes of Part 1, on 6th April 2012,
- (b) for the purposes of Part 2, on 6th April 2013, and
- (c) for the purposes of Part 3, on 6th April 2015.

PART 1

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987(b) are amended as follows.

(2) In regulation 1(2) (interpretation)(c), omit the definition of “contracted-out employment”.

(3) For regulation 3(4) (constitution of scheme)(d), substitute—

“(4) The categories of persons mentioned in paragraphs (1) to (3) are

- (a) members of the scheme, and

(a) 2007 c.22.

(b) S.I. 1987/1110.

(c) The definition of “contracted-out employment” was inserted by S.I. 2002/1383.

(d) Regulation 3(4) was amended by S.I. 2005/2877.

- (b) beneficiaries under the scheme.”.
- (4) For regulation 4(3) (basic information about the scheme)(a), substitute—
- “(3) The information specified in Schedule 1 shall be given to—
- (a) members of the scheme, and
- (b) beneficiaries under the scheme,
- on request (not being a request made by a person within 3 years of the last occasion on which the same person was furnished with the information in accordance with paragraph (2) or this paragraph) as soon as practicable after he requests it.”.
- (5) In regulation 5 (information to be made available to individuals)(b)—
- (a) omit paragraphs (6) and (7),
- (b) in paragraph (8)—
- (i) omit “the scheme is not an appropriate scheme and”, and
- (ii) for “wind it up”, substitute “wind up the scheme”.
- (c) for paragraph (9) substitute—
- “(9) Where a scheme ceases to be an appropriate scheme by virtue of section 15(1) of the Pensions Act 2007, the trustees shall—
- (a) inform each member, except an excluded person, that the scheme has ceased to be an appropriate scheme, as soon as practicable and in any event not more than 4 weeks after the date on which the scheme ceased to be an appropriate scheme,
- (b) furnish each member, except an excluded person, as soon as practicable and in any event not more than 4 months after the date on which the scheme ceased to be an appropriate scheme, with the information mentioned in paragraph 9 of Schedule 2, and
- (c) where the scheme is unable to meet in full its liabilities to its members, furnish each member as soon as practicable, and in any event not more than 4 months after the scheme ceased to be an appropriate scheme, with the information mentioned in paragraph 8 of Schedule 2.”.
- (6) In Schedule 1 (basic information about the scheme)(c)—
- (a) omit paragraph 5, and
- (b) in paragraph 6, for “(if the scheme is an appropriate scheme)” substitute “(if the scheme was an appropriate scheme)”.
- (7) In Schedule 2 (information to be made available to individuals)(d)—
- (a) in paragraph 1, for “for the whole or any part of that period” substitute “at any time before the abolition date”,
- (b) in paragraph 2A—
- (i) in sub-paragraph 3(b)(i), at the end insert “and”,
- (ii) omit sub-paragraph (3)(b)(iii), and the word “and” immediately preceding it, and
- (iii) in sub-paragraph (6)(i), for “sub-paragraphs (3)(b)(iii) and (4)” substitute “sub-paragraph (4)”,
- (c) in paragraph 9—
- (i) paragraph 9 is renumbered as sub-paragraph (1) of that paragraph,
- (ii) after sub-paragraph (1) as so renumbered, add—

(a) Regulation 4(3) was amended by S.I. 2005/2877.

(b) The relevant amending instruments are S.I. 1992/1531, 1994/1062, 1996/143, 1997/786 and 2002/1383.

(c) The relevant amending instrument is S.I. 1997/786.

(d) The relevant amending instruments are S.I. 1988/474, 1992/1531, 1993/519, 1994/1062, 2006/744 and 2007/814. Paragraph 2A was inserted by S.I. 2002/1383 and amended by S.I. 2005/2877 and 2006/744.

“(2) A statement that, as a result of no longer being a member of a contracted-out scheme, the member will build up entitlement to an additional state pension from that date”.

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

3. In regulation 11A (further alternative to short service benefit – transfer to an overseas arrangement) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(a), in paragraph (2), omit sub-paragraph (b), but not the word “and” immediately following that sub-paragraph.

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

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996(b) are amended as follows.

(2) In regulation 1(2) (interpretation)(c) in the definition of “overseas scheme” omit “or (3)”.

(3) In regulation 3(2)(g)(i) (notices by employers of intended election)(d), omit “whether the employment would be contracted-out by reference to a salary-related or money purchase contracted-out scheme and”.

(4) Omit regulation 6(4) (information to be included in an election).

(5) In regulation 9(3)(b) (making of elections by employers for the variation or surrender of contracting-out certificates)(e), omit “in the case of a money purchase contracted-out scheme, the protected rights under, or in the case of any other scheme,”.

(6) In regulation 10(1)(a) (special provision with regard to elections for the issue, variation or surrender of certificates where the employment remains contracted-out)(f), omit “or for protected rights, as the case may be,”.

(7) In regulation 16 (requirement to confirm relevant requirements are satisfied), omit paragraph (1)(b).

(8) Omit regulation 30 (further contracting-out requirements for money purchase contracted-out schemes).

(9) In regulation 31(3)(a) (deduction of minimum payments from earnings)(g) after “section 42B of the 1993 Act” insert “as it had effect immediately prior to the abolition date”.

(10) In regulation 32(1) (minimum payments to be made by employers to trustees)—

(a) after “section 8(1) of the 1993 Act” insert “as it had effect immediately prior to the abolition date”, and

(b) for “employment is contracted-out” substitute “employment was contracted-out”.

(11) Omit regulations 39 (circumstances in which schemes may change mode of contracting-out) and 40 (schemes which may not be contracted-out under section 9(3) of the 1993 Act).

(12) In regulation 42 (alteration of rules of contracted-out schemes)(h)—

(a) omit paragraph (2A), and

(b) omit paragraph (2B)(c)(ii), and the word “or” immediately preceding it.

(13) In regulation 43 (termination of periods of contracted-out employment)(i)—

(a) in paragraph (3)(a)(iii), omit from the words “or, as the case may be” to the end, and

(a) S.I.1991/167. Regulation 11A was inserted by S.I. 1996/2131.

(b) S.I. 1996/1172.

(c) The definition of “overseas scheme” was substituted by S.I. 2007/814, and amended by S.I. 2007/3014.

(d) The relevant amending instrument is S.I. 2002/681.

(e) Regulation 9(3) was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).

(f) Regulation 10(1) was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).

(g) The relevant amending instruments are S.I. 2002/681.

(h) Paragraphs (2A) and (2B) were inserted by S.I. 1997/786.

(i) Paragraphs (3) and (5) were amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).

- (b) in paragraph (5)(a), omit “or protected rights”.
- (14) In regulation 45(2) (approval of arrangements for schemes ceasing to be contracted-out)(a), omit “section 28(2)(b) and (3) of that Act (transfer of protected rights)”.
- (15) Omit regulation 48(6) (special provision for overseas schemes).
- (16) In regulation 49 (insolvent schemes)(b)—
 - (a) omit paragraph (3)(a), and
 - (b) omit paragraph (4)(a)(ii), and the word “or” immediately preceding it.
- (17) In regulation 62(3) (fixed rate revaluation of guaranteed minimum pensions for early leavers), omit “or section 28 (ways of giving effect to protected rights)”.

Revocation of the Protected Rights (Transfer Payment) Regulations 1996

5. The Protected Rights (Transfer Payment) Regulations 1996(c) are revoked.

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

6.—(1) The Contracting-out (Transfer and Transfer Payments) Regulations 1996(d) are amended as follows.

- (2) In regulation 1(2) (interpretation)—
 - (a) omit the definitions of “appropriate personal pension scheme” and “money purchase contracted-out scheme”, and
 - (b) in the definition of “overseas arrangement”, omit paragraph (b), but not the word “and” immediately following that paragraph.
- (3) In regulation 2 (transfers of and transfer payments in respect of guaranteed minimum pensions – general)—
 - (a) in paragraphs (1) and (4), for “regulations 3 to 6” substitute “regulations 3, 4 or 6”, and
 - (b) in paragraph (2), for “regulations 3, 5 or 6” substitute “regulations 3 or 6”.
- (4) Omit regulation 5 (transfer payments in respect of guaranteed minimum pensions to money purchase contracted-out schemes and appropriate personal pension schemes).
- (5) In regulation 7 (transfer of liability in respect of section 9(2B) rights – general)(e), in paragraphs (2)(a) and (3) for “8 to 11” substitute “8, 9 and 11”.
- (6) Omit regulation 10 (transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes in respect of section 9(2B) rights).

Revocation of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

7. In the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(f), the following regulations are revoked—

- (a) regulation 2 (manner of calculation and verification of protected rights),
- (b) regulation 4 (conditions applying to pensions and annuities which give effect to protected rights),
- (c) regulation 5 (circumstances in which and period for which pension or annuity is to be paid to widow, widower or surviving civil partner),

(a) Regulation 45(2) was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).
 (b) The relevant amending instrument are S.I. 2005/3377 and 2008/1903.
 (c) S.I. 1996/1461.
 (d) S.I. 1996/1462.
 (e) The relevant amending instrument is S.I. 1997/786.
 (f) S.I. 1996/1537.

- (d) regulation 6 (interim arrangements),
- (e) regulation 8 (giving effect to protected rights by provision of a lump sum),
- (f) regulation 10 (choice of insurance company by annuitant),
- (g) regulation 11 (insurers that may provide protected rights by way of annuities),
- (h) regulation 12 (death of member before effect is given to his protected rights),
- (i) regulation 13 (death before effect given to protected rights: interim arrangements for widow, widower or surviving civil partner),
- (j) regulation 14 (enforceable entitlement after death of member),
- (k) regulation 15 (further requirements in respect of giving effect to protected rights), and
- (l) regulation 17 (tax registration).

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

8.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996^(a) are amended as follows.

(2) In regulation 5 (information to be made available to individuals)—

(a) for paragraph (7) substitute—

“(7) Where a scheme ceases to be a money purchase contracted-out scheme by virtue of section 15(1) of the Pensions Act 2007, the trustees of the scheme shall inform each member (including each pension credit member), as soon as practicable, and in any event not more than 1 month after the date on which it ceased to be such a scheme, that the scheme is no longer a money purchase contracted-out scheme and furnish the member, as soon as practicable and in any event not more than 4 months after the date on which it ceased to be such a scheme with—

- (a) the information mentioned in paragraph 8 of Schedule 2, and
 - (b) except where the scheme is able to meet in full its liabilities to the member or pension credit member, the information mentioned in paragraph 10 of Schedule 2.”
- , and

(b) omit paragraph (7A)^(b).

(3) In Schedule 1 (basic information about the scheme), in paragraph 10, omit the words from “, and whether the scheme is contracted-out” to the end.

(4) In Schedule 2 (information to be made available to individuals)—

(a) in paragraph 5(a), for “for the whole or any part of the period” substitute “at any time before the abolition date”,

(b) in paragraph 6ZA^(c)—

- (i) in sub-paragraph (3)(b)(i), at the end insert “and”,
- (ii) omit sub-paragraph (3)(b)(iii), and the word “and” immediately preceding it, and
- (iii) in sub-paragraph (6)(i) for “sub-paragraphs (3)(b)(iii) and (4)” substitute “sub-paragraph (4)”,

(c) in paragraph 8—

- (i) paragraph 8 is renumbered as sub-paragraph (1) of that paragraph,
- (ii) in sub-paragraph (1) as so renumbered, omit “in relation to the member’s employment”, and
- (iii) after sub-paragraph (1) as so renumbered, add—

^(a) S.I. 1996/1655.

^(b) Regulation 5(7A) was inserted by S.I. 2000/2691.

^(c) Paragraph 6ZA was inserted by S.I. 2002/1383 and amended by S.I. 2005/2877.

- “(2) A statement that, as a result of no longer being a member of a contracted-out scheme, the member will build up entitlement to an additional state pension from that date”, and
- (d) omit paragraph 8A(a).

Amendment of the Occupational and Personal Pension Schemes (Contracting-out etc: Review of Determinations) Regulations 1997

9. In regulation 2 (application of regulations) of the Occupational and Personal Pension Schemes (Contracting-out etc: Review of Determinations) Regulations 1997(b), omit “or appropriate schemes certificates”.

Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997

10.—(1) The Personal Pension Schemes (Appropriate Schemes) Regulations 1997(c) are amended as follows.

(2) In regulation 1 (interpretation), omit the definitions of “administrators” and “overseas scheme”.

(3) The following regulations are omitted—

- (a) regulation 2 (forms of schemes which may be appropriate schemes),
- (b) regulation 4 (requirements in respect of an application for an appropriate schemes certificate),
- (c) regulation 5 (issue of appropriate scheme certificates),
- (d) regulation 6 (requirements to give the Commissioners of Inland Revenue information),
- (e) regulation 6A (provision of information for purposes of contracting-out),
- (f) regulation 7 (cancellation, variation and surrender of an appropriate scheme certificate),
- (g) regulation 8 (applications for the variation of, and to surrender, appropriate scheme certificates),
- (h) regulation 9 (cancellation of an appropriate scheme certificate),
- (i) regulation 10 (notice under section 44(1) of the 1993 Act,
- (j) regulation 11 (notice under section 44(2) of the 1993 Act), and
- (k) regulation 14 (allocation of minimum contributions).

Revocation of the Occupational Pension Schemes (Age-related Payments) Regulations 1997

11. The Occupational Pension Schemes (Age-related Payments) Regulations 1997(d) are revoked.

Amendment of the Pension Sharing (Valuation) Regulations 2000

12. In regulation 2 (rights under a pension arrangement which are not shareable) of the Pension Sharing (Valuation) Regulations 2000(e), in paragraph (1), omit sub-paragraph (b)(iii), but not the word “or” immediately following that sub-paragraph.

(a) Paragraph 8A was inserted by S.I. 2000/2691.
(b) S.I. 1997/358. Regulation 2 was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).
(c) S.I. 1997/470. Regulation 6A was inserted by S.I. 2002/681.
(d) S.I. 1997/946.
(e) S.I. 2000/1052. The relevant amending instruments are S.I. 2005/2677 and 2006/744.

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000

13. In regulation 1(2) (interpretation) of the Pension Sharing (Pension Credit Benefit) Regulations 2000(a), omit the definitions of “appropriate scheme” and “money purchase contracted-out scheme”.

Amendment of the Stakeholder Pension Scheme Regulations 2000

14. In the Stakeholder Pension Scheme Regulations 2000(b)—

- (1) In regulation 1(3) (interpretation), omit the definition of “contracted-out employment”(c).
- (2) In regulation 18 (disclosure of information to members)—
 - (a) omit paragraph (5D)(b)(iii)(d) and the word “and” immediately preceding it, and
 - (b) in paragraph (5G)(i), for “paragraphs (5D)(b)(iii) and (5E) substitute “paragraph (5E)”.

PART 2

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987

15. In the Personal Pension Schemes (Disclosure of Information) Regulations 1987(e)—

- (a) omit regulation 5(9) (information to be made available to individuals)(f), and
- (b) in Schedule 2, omit paragraphs 9(1) and (2)(g).

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

16. In the Occupational Pension Schemes (Disclosure of Information) Regulations 1996(h)—

- (a) omit regulation 5(7) (information to be made available to individuals)(i), and
- (b) in Schedule 2, omit paragraphs 8(1) and (2)(j).

PART 3

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987

17. In the Personal Pension Schemes (Disclosure of Information) Regulations 1987(k)—

- (1) In regulation 5(2), for paragraphs 1, 2 and 12” substitute “paragraphs 1 and 2”.
- (2) In Schedule 2—
 - (a) in paragraph 1(I), omit from the words “and, where the scheme was at any time” to the end, and

-
- (a) S.I. 2000/1054.
 - (b) S.I. 2000/1403.
 - (c) The definition of “contracted-out employment” was inserted by S.I. 2002/1383.
 - (d) Regulation 18(5D) was inserted by S.I. 2002/1383 and amended by S.I. 2006/744.
 - (e) S.I. 1987/1110.
 - (f) Regulation 5(9) is substituted by regulation 2(5)(d) of this instrument.
 - (g) Paragraph 9 is amended by regulation 2(7)(c) of this instrument and by article 2(5)(d) of the [Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendment) Order 2011].
 - (h) S.I. 1996/1655.
 - (i) Regulation 5(7) is substituted by regulation 7(2)(a) of this instrument.
 - (j) Paragraph 8 is amended by regulation 7(4)(c) of this instrument and article 11(5)(d) of the Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendment) Order 2011. [Insert SI no.]
 - (k) Paragraph 1 of Schedule 2 is amended by regulation 2(7)(a) of this instrument.
 - (l) Paragraph 1 of Schedule 2 is amended by regulation 2(7)(a) of this instrument.

(b) omit paragraph 12.

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

18. Omit regulations 31 (deduction of minimum payments from earnings), 32 (minimum payments to be made by employers to trustees) and 33 (calculation of minimum payments) of the Occupational Pension Schemes (Contracting-out) Regulations 1996**(a)**.

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

19. In paragraph 5(a) of Schedule 2 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996**(b)**, omit from the words “and, where the scheme was at any time” to the end.

Amendment of the Stakeholder Pension Schemes Regulations 2000

20. In the Stakeholder Pension Scheme Regulations 2000**(c)**—

(1) In regulation 1(3) (interpretation), omit the definitions of “minimum contributions” and “minimum payments”.

(2) In regulation 17(2) (restrictions on contributions), omit from the words “, minimum contributions” to the end.

(3) In regulation 18(5) (disclosure of information to members), omit sub-paragraphs (g), (h) and (i).

(a) S.I. 1996/1172.

(b) S.I. 1996/1655. Paragraph 5(a) of Schedule 2 is amended by regulation 7(4)(a) of this instrument.

(c) S.I. 2000/1403.

**Annex B –
The Pensions Act 2008 (Abolition of Protected rights)
(Consequential Amendments) Order 2011**

STATUTORY INSTRUMENTS

2011 No.

PENSIONS

**The Pensions Act 2008 (Abolition of Protected Rights)
(Consequential Amendments) Order 2011**

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with article 1(2).

The Secretary of State for Work and Pensions makes the following Order in exercise of powers conferred by sections 145(1) and (2) of the Pensions Act 2008(a):

Citation and commencement

1.—(1) This Order may be cited as the Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011.

(2) This Order comes into force—

- (a) for the purposes of Part 1, on 6th April 2012,
- (b) for the purposes of Part 2, on 6th April 2013, and
- (c) for the purposes of Part 3, on 6th April 2015.

PART 1

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987(b) are amended as follows.

(2) In regulation 4(6) (basic information about the scheme)(c), for “, 11, 12 or 13” substitute “or 11”.

(3) In regulation 5 (information to be made available to individuals)(d)—

- (a) in paragraph (3), omit “Whether or not the scheme is or has been an appropriate scheme,” and “who has no protected rights under the scheme”, and
- (b) omit paragraph (4).

(a) 2008 c.30.

(b) S.I.1987/1110.

(c) Regulation 4(6) was amended by S.I. 1992/1531.

(d) Regulation 5(3) was amended by S.I. 1988/474, 1992/1531, 2000/2691 and 2009/598.

- (4) In Schedule 1 (basic information about the scheme)(a), omit paragraphs 9, 12 and 13.
- (5) In Schedule 2 (information to be made available to individuals)(b)—
- (a) for paragraph 2(a), substitute—

“(a) As at a specified date, the value of the member’s accrued rights under the scheme.”
 - (b) omit paragraph 4,
 - (c) in paragraph 5(c), omit from the words “, including where the scheme is an appropriate scheme” to the end,
 - (d) for paragraph 8, substitute—

“8 An account of the amount by which the member’s accrued rights have been reduced, and of the arrangements which have been made by the scheme, or are open to the member, to restore the value of his accrued rights under the scheme.”
 - (e) in paragraph 9, after sub-paragraph (2)(d) add—

“(3) A statement that the member’s protected rights will become ordinary scheme rights from that date, and that where the member is married or has a civil partner, there is no longer a requirement for the scheme to provide a survivor’s pension or annuity.”
 - (f) omit paragraphs 10 and 11.

Amendment of the Personal Pension Schemes (Transfer Value) Regulations 1987

3.—(1) The Personal Pension Schemes (Transfer Value) Regulations 1987(e) are amended as follows.

- (2) In regulation 1(2) (interpretation)(f), omit the definition of “protected rights”.
- (3) In regulation 2 (requirements to be satisfied)(g), omit paragraph (1)(b).

Amendment of the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987

4.—(1) The Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987(h) are amended as follows.

- (2) In regulation 1(2) (interpretation)(i) after the definition of “the Act” insert—

““protected rights” has the meaning in section 10 of the Act as it had effect immediately prior to the abolition date;”.
- (3) For regulation 3(1) (guaranteed minimum pension to which earner’s widow, widower, or surviving civil partner is treated as entitled after minimum contributions have been paid) substitute—

“(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum contributions have been paid in respect of an earner, section 46 of the Act shall, in the circumstances specified in paragraph (2), have effect in relation to the earner’s widow, widower or surviving civil partner, as if the widow, widower or surviving civil partner were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate described in regulation 2(2).”.

(a) Paragraph 9 was substituted by S.I.2001/3649.
 (b) Relevant amending instruments are S.I. 1988/474, 1992/1531, 1993/519, 1994/1062, 2006/744, 2007/814. Paragraph 2A was inserted by S.I. 2002/1383 and amended by S.I. 2005/2877 and 2006/744.
 (c) The relevant amending instrument is S.I. 2007/814.
 (d) Paragraph 9 is amended, and sub-paragraph (2) inserted by regulation 2(7)(c) of the Pensions Act 2007 (Abolition of Contracting-Out for Defined Contribution Pension Schemes)(Consequential Amendments) Regulations 2011. [Insert SI no]
 (e) S.I. 1987/1112.
 (f) The relevant amending instrument is S.I. 1994/1062.
 (g) Regulation 2 was substituted by S.I. 2006/744.
 (h) S.I. 1987/1113.
 (i) The relevant amending instrument is S.I. 1994/1062.

(4) For regulation 5(1) (guaranteed minimum pension to which earner's widow, widower, or surviving civil partner is treated as entitled after minimum payments have been made) substitute—

“(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum payments have been paid in respect of an earner, section 46 of the Act shall, in the circumstances specified in paragraph (2), have effect in relation to the earner's widow, widower or surviving civil partner, as if the widow, widower or surviving civil partner were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate described in regulation 4(2).”.

Revocation of the Personal Pension Schemes (Compensation) Regulations 1988

5. The Personal Pension Schemes (Compensation) Regulations 1988(a) are revoked.

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

6. In regulation 9(6) (bought out benefits)(b) of the Occupational Pensions Schemes (Preservation of Benefit) Regulations 1991—

- (a) for “sub-paragraphs (a) to (d)” substitute “sub-paragraphs (b), (c) and (d)”, and
- (b) omit sub-paragraph (a).

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

7. The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996(c) are revoked.

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

8.—(1) The Occupational Pension Schemes (Contracting-Out) Regulations 1996(d) are amended as follows.

(2) In regulation 1(2) (interpretation)(e), in the definition of “section 9(2B) rights”, omit sub-paragraph (b)(ii) and the word “or” immediately preceding it.

(3) In regulation 3(1)(c) (notices by employers of intended election), omit “the protected rights.”.

(4) In regulation 10(1)(b) (special provision with regard to elections for the issue, variation or surrender of certificates where the employment remains contracted-out)(f), omit “or to protected rights, as the case may be.”.

(5) In regulation 16 (requirement to confirm relevant requirements are satisfied)(g), omit paragraph (1)(d).

(6) In regulation 37 (circumstances in which the age-related payments are not to be paid)—

(a) after paragraph (1) insert—

“(1A) Subject to paragraph (2), where the earner is no longer a member of the scheme which before the abolition date was a money purchase contracted-out scheme, an age-related payment shall be paid—

(a) S.I. 1988/2238.

(b) S.I. 1991/167. The relevant amending instrument is S.I. 1994/1062.

(c) S.I. 1996/775.

(d) S.I. 1996/1172.

(e) The definition of “section 9(2B) rights” was substituted by S.I. 1997/786 and amended by S.I. 1999/3198.

(f) Regulation 10(1) was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).

(g) Regulation 16 was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2) and S.I. 2002/681.

- (a) to the trustees or managers of the scheme, if the earner has become a member of another scheme, and the scheme is able to transfer the payment to that other scheme,
 - (b) to the trustees or managers of another scheme of which the earner is a member, if known to HMRC, or
 - (c) in all other circumstances, to the earner.”,
- (b) in paragraph (2), after “(ways of giving effect to protected rights)”, insert “as it had effect immediately prior to the abolition date.”.
- (c) in paragraph (7), after “insurance policies)”, insert “as it had effect immediately prior to the abolition date”.
- (7) In regulation 43(1) (termination of periods of contracted-out employment)(a), in each of sub-paragraphs (c), (d) and (e), omit “or his protected rights”.
- (8) In regulation 44 (notifications to the Commissioners of the Inland Revenue)(b)—
- (a) omit paragraphs (5) and (6), and
 - (b) in paragraph (7), for the words “, any entitlement arising in respect of section 9(2B) rights” to the end, substitute “and any entitlement arising in respect of section 9(2B) rights”.
- (9) In regulation 45 (approval of arrangements for schemes ceasing to be contracted-out)(c)—
- (a) in paragraph (2), omit “or section 32A of that Act (discharge of protected rights on winding-up)”,
 - (b) in paragraph (3), for “paragraphs (a) or (b) as the case may be”, substitute “paragraph (a)”, and omit sub-paragraph (b), and
 - (c) omit paragraph (4).
- (10) In regulation 46 (supervision of schemes that have ceased to contract out)(d)—
- (a) in paragraph (1), omit “or (b)” and for “paragraphs (2), (3) and (4)” substitute “paragraphs (2) and (4)”,
 - (b) omit paragraph (3), and
 - (c) in paragraph (4), omit “protected rights,”.
- (11) In regulation 50(a) (member to be informed of the option to restore state scheme rights)(e), omit “or under section 32A of the 1993 Act (discharge of protected liabilities on winding up: insurance policies);”.
- (12) In regulation 63(2)(aa) (provision of information about guaranteed minimum pensions)(f), omit “or protected rights”.
- (13) In regulation 68 (additional modifications relating to transfers and increases of earnings factors by 12 per cent)—
- (a) in paragraph (1), omit “or have arisen in such a scheme by reason of a transfer payment giving effect to his protected rights in accordance with regulations made under section 28(2)(b) of the 1993 Act,” and
 - (b) omit paragraph (3).

(a) Regulation 43(1) was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).

(b) Regulation 43(7) was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).

(c) Regulation 45 was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2), and by S.I. 1997/819.

(d) Regulation 46 was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).

(e) Regulation 50 was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).

(f) Regulation 63(2)(aa) was inserted by S.I. 2002/681.

Amendment of the Contracting-Out (Transfer and Transfer Payments) Regulations 1996

9.—(1) The Contracting-Out (Transfer and Transfer Payments) Regulations 1996(a) are amended as follows.

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

- (a) omit the definition of “protected rights”, and
- (b) in the definition of “section 9(2B) rights”(b) omit sub-paragraph (b)(ii), and the word “or” immediately preceding it.

(3) In regulation 12(b) (modifications of Part III of the 1993 Act on transfers of and transfers payments in respect of guaranteed minimum pensions from occupational pension schemes), omit “and protected rights payments”.

(4) In regulation 13A (modifications of section 12C of the 1993 Act where transfer payments are made to salary-related contracted-out schemes)(c), omit sub-paragraph (b), and the word “or” immediately preceding it.

Revocation of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

10. In the Personal and Occupational Pensions Schemes (Protected Rights) Regulations 1996(d), the following regulations are revoked—

- (a) regulation 3 (options under section 10(2) and (3) of the 1993 Act for schemes to designate which rights are protected rights),
- (b) regulation 9 (suspension and forfeiture of payments giving effect to protected rights), and
- (c) regulation 16 (personal pension schemes – notifications to Commissioners of Inland Revenue).

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

11.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996(e) are amended as follows.

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

- (a) omit the definition of “mixed benefit contracted-out scheme”, and
- (b) in the definition of “protected rights” insert at the end “as it had effect immediately prior to the abolition date”.

(3) In regulation 5 (information to be made available to individuals)(g), omit sub-paragraph (5A).

(4) In Schedule 1 (basic information about the scheme)(h), omit paragraphs 12A and 14.

(5) In Schedule 2 (information to be made available to individuals)(i)—

(a) in paragraph 6—

(i) for sub-paragraph (a) substitute—

“(a) The value of the member’s accrued rights under the scheme at the same or another specified date.”, and

(a) S.I. 1996/1462.

(b) The definition of “section 9(2B) rights” was substituted by S.I. 1997/786.

(c) Regulation 13A was inserted by S.I. 1997/786.

(d) S.I. 1996/1537.

(e) S.I. 1996/1655.

(f) The definition of “mixed benefit contracted-out scheme” was inserted by S.I. 1997/786.

(g) Regulation 5(5A) was inserted by S.I. 1997/786.

(h) Paragraph 12A was inserted by S.I. 1997/786.

(i) Paragraph 6A was inserted by S.I. 1997/786.

- (ii) in sub-paragraph (b) omit “(i) or (ii) or both”,
- (b) omit paragraph 6A,
- (c) in paragraph 8, after sub-paragraph (2)(a) add—
 - “(3) A statement that the member’s protected rights will become ordinary scheme rights from that date, and that where the member is married or has a civil partner, there is no longer a requirement for the scheme to provide a survivor’s pension or annuity.”,
- (d) omit paragraph 9, and
- (e) for paragraph 10, substitute—
 - “10 An account of the amount by which the member’s accrued rights have been reduced, and of the action taken by the trustees, or which is open to the member to take, in order, so far as may be possible, to restore the value of his accrued rights under the scheme.”

Amendment of the Occupational Pension Schemes (Indexation) Regulations 1996

12. In regulation 1(2) (interpretation)(b) of the Occupational Pension Schemes (Indexation) Regulations 1996 in the definition of “section 9(2B) rights”, omit subparagraph (b)(ii), and the word “or” immediately preceding it.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996

13. In regulation 12 (requirements for trustees to keep books and records) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996(c), omit paragraph (1)(b)(vii).

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996

14.—(1) The Occupational Pension Schemes (Transfer Values) Regulations 1996(d) are amended as follows.

- (2) In regulation 1(2) (interpretation), omit the definition of “post-97 protected rights”.
- (3) In regulation 12 (requirements to be met by receiving schemes, annuities and arrangements), omit paragraph (1)(c).
- (4) In Schedule 1A (reductions in initial cash equivalents)(e), omit paragraph 9.

Revocation of the Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996

15. The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996(f) are revoked.

Amendment of the Occupational Pension Schemes (Winding-up) Regulations 1996

16. In the Occupational Pension Schemes (Winding-up) Regulations 1996(g), omit regulation 9 (relationship of these regulations and requirements under section 32A of the Pension Schemes Act 1993).

(a) Paragraph 8 is amended, and sub-paragraph (2) inserted, by regulation 8(4)(c) of the Pensions Act 2007 (Abolition of Contracting-Out for Defined Contribution Pension Schemes)(Consequential Amendments) Regulations 2011. [Insert S.I. no]

(b) S.I. 1996/1679. The definition of “section 9(2B) rights” was inserted by S.I. 2005/704.

(c) S.I. 1996/1715.

(d) S.I. 1996/1847.

(e) Schedule 1A was inserted by S.I. 2008/1050.

(f) S.I. 1996/1977.

(g) S.I. 1996/3126.

Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997

17.—(1) The Personal Pension Schemes (Appropriate Schemes) Regulations 1997^(a) are amended as follows.

(2) In regulation 12 (circumstances in which minimum contributions are not to be paid)—

(a) after paragraph (1) insert—

“(1A) Subject to paragraph (2), where the earner is no longer a member of the earner’s chosen scheme, minimum contributions in respect of that earner shall be paid—

(a) to the trustees or managers of the earner’s chosen scheme, if the earner has become a member of another scheme, and the earner’s chosen scheme is able to transfer the payment to that other scheme,

(b) to the trustees or managers of another scheme of which the earner is a member, if known to HMRC, or

(c) in all other circumstances, to the earner.”,

(b) in paragraph (2), after “(ways of giving effect to protected rights)”, insert “as it had effect immediately prior to the abolition date,”,

(c) in paragraphs (3), at the end insert “, except where the earner is no longer a member of that scheme, in which case the minimum contributions shall instead be paid to the earner”, and

(d) in paragraphs (4), at the end insert “, except where the earner is no longer a member of that scheme, in which case the additional amount of minimum contributions shall instead be paid to the earner”.

Amendment of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998

18. In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998^(b), in the definition of “relevant employment” omit “or protected rights”.

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000

19. In regulation 1(2) (interpretation) of the Pension Sharing (Pension Credit Benefit) Regulations 2000^(c), omit the definition of “contracted-out rights”.

Amendment of the Stakeholder Pension Scheme Regulations 2000

20.—(1) The Stakeholder Pension Scheme Regulations 2000^(d) are amended as follows.

(2) In regulation 3 (requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes), omit paragraph (7).

(3) In regulation 13(4) (expenses, commission etc. – principles)^(e),

(a) omit sub-paragraph (a), and

(b) in sub-paragraph (b) omit the words “and protected rights payments”.

(a) S.I. 1997/470.

(b) S.I. 1998/1397.

(c) S.I. 2000/1054.

(d) S.I. 2000/1403.

(e) Regulation 13(4) was inserted by S.I. 2001/934.

Amendment of the Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005

21. For regulation 2(3) (modification of references to “transfer” in the 1993 Act) of the Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005(a) substitute—

“(3) The “relevant provisions” referred to in paragraph (2) are section 71 (basic principle as to short service benefit) and any regulations made under that section.”

Amendment of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006

22.—(1) The Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006(b) are amended as follows.

(2) In regulation 1(2) (interpretation), omit the definition of “appropriate personal pension schemes”.

(3) In regulation 7 (manner of discharge of liabilities in respect of money purchase benefits)—

(a) in paragraph (1),

(i) omit “(or in the case of protected rights, given effect to)”, and

(ii) for sub-paragraph (a) substitute—

“(a) a transfer payment to a personal pension scheme or an occupational pension scheme;”, and

(b) omit paragraphs (2) and (3).

(4) For regulation 8(5) (further provisions for discharge of liabilities in respect of money purchase benefits), substitute—

“(5) Where the money purchase beneficiary dies before the Board discharges those liabilities in relation to that beneficiary, the Board shall discharge those liabilities—

(a) where there is a widow, widower or surviving civil partner, under the rules of the scheme within the limits specified in regulation 7(1); or

(b) where there is no widow, widower or surviving civil partner, in accordance with paragraph 15 of Schedule 29 to the 2004 Act (uncrystallised funds lump sum death benefit).”

Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006

23.—(1) The Occupational Pension Schemes (Modification of Schemes) Regulations 2006(c) are amended as follows.

(2) In regulation 1(3) (interpretation), omit the definition of “protected rights”.

(3) In regulation 3 (non-application of the subsisting rights provisions), omit paragraph (d).

Amendment of the Employment Equality (Age) Regulations 2006

24. In paragraph 1(5) (interpretation) of Schedule 2 to the Employment Equality (Age) Regulations 2006(d)—

(a) in the definition of “contracted-out rights”(e)—

(a) S.I. 2005/992. The relevant amending instrument is S.I. 2009/598.

(b) S.I. 2006/580.

(c) S.I. 2006/759.

(d) S.I. 2006/1031.

(e) The definition of “contracted-out rights” was inserted by S.I. 2006/2931 and amended by S.I. 2009/598.

- (i) omit “or an appropriate scheme”, and
- (ii) omit paragraph (b),
- (b) omit the definition of “protected rights”(a), and
- (c) in the definition of “section 9(2B) rights”(b), omit paragraph (b)(ii) and the word “or” immediately preceding it.

PART 2

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987

25. In Schedule 2 of the Personal Pension Schemes (Disclosure of Information) Regulations 1987, omit paragraph 9(3)(c).

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

26. In the Occupational Pension Schemes (Disclosure of Information) Regulations 1996—

- (a) in regulation 1(2)(interpretation), omit the definition of “protected rights”, and
- (b) in Schedule 2, omit paragraph 8(3)(d).

PART 3

Amendments to the Occupational Pension Schemes (Contracting-Out) Regulations 1996

27. In regulation 37 (circumstances in which the age-related payments are not to be paid) of the Occupational Pension Schemes (Contracting-Out) Regulations 1996, omit paragraph (1A)(e), and paragraphs (2) to (7)(f).

Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997

28. In regulation 12 (circumstances in which minimum contributions are not to be paid) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997, omit paragraph (1A)(g), and paragraphs (2) to (9)(h).

-
- (a) The definition of “protected rights” was inserted by S.I. 2006/2931.
 - (b) The definition of “section 9(2B) rights” was inserted by S.I. 2006/2931
 - (c) Paragraph 9(3) is inserted by article 2(5)(e) of this instrument.
 - (d) Paragraph 8(3) is inserted by article 11(5)(d) of this instrument.
 - (e) Regulation 37(1A) is inserted by article 8(6)(a) of this instrument.
 - (f) Regulations 37(2) and (7) are amended by article 8(6)(b) and (c) of this instrument.
 - (g) Regulation 12(1A) is inserted by article 17(2)(a) of this instrument.
 - (h) Regulations 12(2), (3) and (4) are amended by article 17(2)(b) to (d) of this instrument.

**Annex C –
The Pensions Act 2007 (Abolition of Contracting-out for
Defined Contribution Pension Schemes)(Consequential
amendments No. 2) Regulations 2011**

(b) in the definition of “personal pension scheme”(a), for “section 7(4)” substitute “section 181A(6)”.

Amendments to the Pensions Act 2008

3.—(1) The Pensions Act 2008(b), omit sections 20(2) (quality requirement: UK money purchase schemes) and 26(8) (quality requirement: UK personal pension schemes).

(a) The definition of “personal pension scheme” was amended by section 190 of, and paragraph 31 of Schedule 8 to, the Pensions Schemes Act 1993.

(b) 2008 c.30.

**Annex D –
The Pensions Act 2008 (Abolition of Protected rights)
(Consequential Amendments No. 2) Order 2011**

Draft Order laid before Parliament under section 143(4) of the Pensions Act 2008, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2011 No.

PENSIONS

**The Pensions Act 2008 (Abolition of Protected Rights)
(Consequential Amendments No.2) Order 2011**

Made - - - - - *******

Coming into force in accordance with article 1(2).

The Secretary of State for Work and Pensions, in exercise of the powers conferred by section 145(1) and (2) of the Pensions Act 2008(a), makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments No. 2) Order 2011.

(2) This Order comes into force—

- (a) for the purposes of—
 - (i) article 8, immediately before 6th April 2012, and
 - (ii) the other provisions in Part 1, on 6th April 2012, and
- (b) for the purposes of Part 2, on 6th April 2015.

PART 1

Amendments to the Bankruptcy (Scotland) Act 1985

2. In section 32(2A) of the Bankruptcy (Scotland) Act 1985(b) (vesting of estate, and dealing of debtor, after sequestration)—

- (a) omit paragraph (b) and the word “and” immediately preceding it, and
- (b) for ““and protected rights” having the same meanings” substitute “having the same meaning”.

Amendments to the Insolvency Act 1986

3.—(1) Section 310 of the Insolvency Act 1986(a) (income payments orders) is amended as follows.

(a) 2008 c.30.

(b) 1985 c.66. Section 32(2A) was inserted by section 122 of, and paragraph 14 of Schedule 3 to, the Pensions Act 1995 (c. 26).

- (2) Omit subsection (8)(b) and the word “and” immediately preceding it.
- (3) In subsection (9), for “and “protected rights” have” substitute “has”.

Amendments to the Judicial Pensions and Retirement Act 1993

4. In Schedule 2 to the Judicial Pensions and Retirement Act 1993(**b**) (transfer of accrued benefits), in paragraph 1 (1) (interpretation), for the definition of “protected rights”(c), substitute—

““protected rights”, has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993”.

Amendments to the Pension Schemes Act 1993

5.—(1) The Pension Schemes Act 1993(**d**) is amended as follows.

(2) In section 20(3) (transfer of accrued rights), for “sections 26 to 33” substitute “sections 31 and 33”.

(3) In section 33 (tax requirements to prevail over certification requirements)(**e**)—

- (a) for “sections 26 to 32” substitute “section 31”, and
- (b) in the sidenote, for “certification requirements” substitute “requirements of section 31”.

(4) Omit section 38 (alteration of the rules of appropriate schemes).

(5) In section 39 (general powers to make regulations), omit “, and Part II of that Schedule as respects personal pension schemes”.

(6) In section 42A (reduced rates of Class 1 contributions, and rebates)(**f**)—

- (a) in subsection (3), at the beginning insert “Subject to subsection (5A),”, and
- (b) after subsection (5) insert—

“(5A) Where—

- (a) a payment under subsection (3) is due in respect of an earner, and
- (b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC is not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.”

(7) In section 43 (payment of minimum contributions to personal pension schemes), after subsection (6) insert—

“(6A) Where—

- (a) a payment under subsection (1) is due in respect of an earner, and
- (b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC is not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.”

(a) 1986 c.45. Subsections (8) and (9) were inserted by section 122 of, and paragraph 15(b) of Schedule 3 to, the Pensions Act 1995 (c. 26).

(b) 1993 c.8.

(c) The definition of “protected rights” was amended by section 190, and paragraph 46(5) to Schedule 8 of, the Pension Schemes Act 1993 (c.48), and by section 184 of, and Schedule 7 to, the Pension Schemes (Northern Ireland) Act 1993 (c.49).

(d) 1993 c.48.

(e) Section 33 was amended by S.I. 2006/745.

(f) Section 42A was inserted by section 137 of the Pensions Act 1995 (c.26) and subsections (3) and (5) were amended by section 1 of, and paragraph 46 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).

(8) In section 50 (powers of Inland Revenue to approve arrangements for scheme ceasing to be certified)(a)—

- (a) in subsection (1)(b)—
 - (i) omit “or a personal pension scheme”,
 - (ii) omit “or, as the case may be, an appropriate”,
 - (iii) after “ceasing to be such a scheme”, insert “otherwise than by virtue of section 15(1) of the Pensions Act 2007”, and
 - (iv) for paragraphs (a) and (b) substitute—
 - “(a) of earners’ accrued rights to guaranteed minimum pensions under the scheme or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day, and
 - (b) of the liability for the payment of such pensions in respect of persons who have then become entitled to receive them.”
- (b) in subsection (2), for the words from “or an appropriate” to “or otherwise)” substitute “(whether or not by being wound up, but otherwise than by virtue of section 15(1) of the Pensions Act 2007)”
- (c) in subsection (4)—
 - (i) omit “(other than a money purchase scheme)”, and
 - (ii) for “26 to 33” substitute “31 and 33”, and
- (d) in subsection (6), for “which is not a money purchase contracted-out scheme”, substitute “to which subsection (1) applies”.

(9) In section 52 (supervision of schemes which have ceased to be certified)—

- (a) in subsection (1) omit the words from “and section 54 shall apply” to the end,
- (b) in subsection (2)(a)(c), after “contracted-out scheme” insert “(otherwise than by virtue of section 15(1) of the Pensions Act 2007)”, and
- (c) omit subsections (2A)(b)(d) and (3).

(10) In section 53(3) (supervision: former contracted-out schemes)(e), omit “or (b)”.

(11) Omit section 54 (supervision: former appropriate personal pension schemes).

(12) In section 96 (further provisions concerning exercise of options under section 95)—

- (a) in subsection (2)(f)—
 - (i) in paragraph (a) omit “or his protected rights”, and
 - (ii) in paragraph (b) omit “or protected”, and
- (b) in subsection (3)(g)—
 - (i) in paragraph (a), omit “or the member’s protected rights; and”, and
 - (ii) omit paragraph (b).

(13) In section 99(1) (trustees’ duties after exercise of option), omit “or give effect to such protected rights”.

-
- (a) Section 50 was amended by section 1 of, and paragraph 51 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).
 - (b) Subsection (1) was amended by section 151 of, and paragraph 45 of Schedule 5 to, the Pensions Act 1995 (c.26).
 - (c) Subsection (2) was substituted by section 151 of, and paragraph 47(a) of Schedule 5 to, the Pensions Act 1995.
 - (d) Subsection (2A) was inserted by section 151 of, and paragraph 47(a) of Schedule 5 to, the Pensions Act 1995.
 - (e) Subsection (3) was substituted by section 151 of, and paragraph 48 of Schedule 5 to, the Pensions Act 1995, and subsequently amended by section 1 of, and paragraph 52 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).
 - (f) Subsection (2) was amended by section 151 of, and paragraph 63 of Schedule 5 to, the Pensions Act 1995, and by sections 18 and 88 of, and paragraph 3 of Schedule 2 to, and Part 1 of Schedule 13 to, the Welfare Reform and Pensions Act 1999 (c. 30).
 - (g) Subsection (3) was amended by section 151 of, and paragraph 63 of Schedule 5 to, the Pensions Act 1995 (c.26), and by S.I. 2005/2053.

(14) In section 155 (requirement to give information to the Secretary of State or the Board for the purposes of certain provisions)(a), for “section 117 and section 159 (so far as it relates to protected rights payments)”, substitute “and section 117”.

(15) In section 156(1) (information for purposes of contracting-out)(b), for “or appropriate scheme”, substitute “or a personal pension scheme which was an appropriate scheme before the abolition date”.

(16) In section 159 (inalienability of guaranteed minimum pension and protected rights payments)—

- (a) in the sidenote, omit “and protected rights payments”,
- (b) in subsection (1)(a), omit “or to payments giving effect to protected rights under such a scheme”,
- (c) omit subsection (4), and
- (d) in subsection (4A)(c)—
 - (i) omit paragraph (b) and the word “or” immediately preceding it, and
 - (ii) for “either of those subsections” substitute “that subsection”.

(17) In section 164 (Crown employment), for subsection (2) substitute—

“(2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of—

- (a) sections 31 and 33, so far as they relate to personal pension schemes,
- (b) sections 43 and 45,
- (c) section 48, so far as it relates to minimum contributions,
- (d) sections 117, 154 and 155, and
- (e) sections 160 and 166.”.

(18) In section 165(2)(a) (application of certain provisions to cases with foreign element)(d), omit “and section 159 (so far as it relates to protected rights payments)”.

(19) In section 170 (decisions and appeals), as substituted by paragraph 131 of Schedule 7 to the Social Security Act 1998(e), in subsection (3)(f), omit “or 54”.

(20) In section 170 (determination of questions by Secretary of State), as remaining in force for purposes other than those specified in article 2(1)(b) of the Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999(f), in subsection (7)(a)(g), omit “or appropriate scheme certificates”.

(21) In section 177 (general financial arrangements), in subsection (3)(b), for sub-paragraph (ii) substitute—

“(ii) sections 31, 33, 117, 154, 155, 160 and 166;”

(22) In section 181 (general interpretation)—

- (a) in subsection (1), in the definition of “protected rights”, at the end insert “, as it had effect prior to the abolition date”, and
- (b) in subsection (4)(h), omit “27, 28, 29,” and “32,”.

-
- (a) Section 155 was amended by sections 151 and 177 of, and paragraph 65 of Schedule 5 to, and Part III of Schedule 7 to, the Pensions Act 1995 (c.26) and by section 1 of, and paragraph 59 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).
 - (b) Section 156 was substituted by section 56 of, and paragraph 9 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000 (c.19).
 - (c) Subsection 4A was inserted by section 122 of, and paragraph 41 of Schedule 3 to, the Pensions Act 1995 (c.26).
 - (d) Section 165(2)(a) was amended by section 151 of, and paragraph 68 of Schedule 5 to, the Pensions Act 1995.
 - (e) 1998 c.14. This substitution was brought into force for certain purposes only by S.I. 1999/1958. Subsections (2) to (4) were subsequently substituted by section 16 of the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2).
 - (f) S.I.1999/1958.
 - (g) Subsection (7) was inserted by section 151 of, and paragraph 70(c) of Schedule 5 to, the Pensions Act 1995 (c.26).
 - (h) Subsection (4) was amended by section 320 of, and Part 1 of Schedule 13 to, the Pensions Act 2004 (c.35).

- (23) In section 183(3) (sub-delegation)(a) omit “27(3),”.
- (24) In Schedule 2 (certification regulations), omit Part 2 (personal pension schemes).

Amendments to the Pensions Act 1995

- 6.**—(1) The Pensions Act 1995(b) is amended as follows.
- (2) In section 51A (restriction on increase where annuity tied to investments)(c), in subsection (1), omit paragraph (b) but not the word “and” immediately following that paragraph.
- (3) In section 91(7) (inalienability of occupational pension), omit “and protected rights payments”.
- (4) Omit section 149 (hybrid occupational pension schemes).
- (5) Omit sections 162 (annual increase in rate of personal pension) and 163 (section 162: supplementary).
- (6) In section 175 (Parliamentary control of orders and regulations), in subsection (2), omit paragraph (d) and the word “or” immediately preceding it.

Amendments to the Pensions Act 2004

- 7.** In section 170 (discharge of liabilities in respect of money purchase benefits) of the Pensions Act 2004(d)—
- (a) omit subsection (3), and
- (b) in subsection (4), omit the definition of “protected rights”.

Repeal of certain amending provisions of the Pensions Act 2007 before their commencement

- 8.**—(1) The following provisions of Part 1 of Schedule 4 to the Pensions Act 2007(e) are not to have any effect from the contracting-out abolition date (within the meaning of section 106(4) of the Pensions Act 2008) (in spite of section 15(4) of the Pensions Act 2007)—
- (a) paragraph 1 (in so far as it relates to the provisions specified in paragraph (b)), and
- (b) paragraphs 7, 24, 25, 30, 32, 33 and 36.
- (2) Accordingly, paragraphs 7, 24, 25, 30, 32, 33 and 36 of Schedule 4 to the Pensions Act 2007 are omitted.
- (3) In Part 2 of Schedule 4 to the Pensions Act 2007 (which is not yet in force)—
- (a) omit paragraph 55 (which would have amended section 50 of the Pension Schemes Act 1993), and
- (b) in paragraph 59(3), in the text to be inserted in paragraph 5(1) of Schedule 2 to the Pension Schemes Act 1993, omit “38,” and “(except as they apply to personal pension schemes, the members of such schemes or rights in respect of them)”.

PART 2

Amendments to the Pension Schemes Act 1993

- 9.**—(1) The Pension Schemes Act 1993 is amended as follows.

-
- (a) Subsection (3) was amended by section 173 of, and paragraph 15(b) of Schedule 6 to, the Pensions Act 1995 (c.26), by section 84 of, and paragraphs 28 and 42 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c.30), and by section 319 of, and paragraphs 9 and 32 of Schedule 12 to, the Pensions Act 2004 (c.35).
- (b) 1995 c.26.
- (c) Section 51A was inserted by section 51(2) of the Child Support, Pensions and Social Security Act 2000 (c.19).
- (d) 2004 c.35.
- (e) 2007 c.22.

- (2) In section 20(3) (transfer of accrued rights), omit “and sections 31 and 33”.
- (3) Omit section 33 (tax requirements to prevail over requirements of section 31).
- (4) In section 42A (reduced rates of class 1 contributions, and rebates)(a)—
- (a) in subsection (3)(b), for “trustees or managers of the scheme” substitute “earner”, and
 - (b) for subsection (5A)(c), substitute—

“(5A) Where a payment under subsection (3) is due in respect of an earner, HMRC is not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.”.
- (5) In section 43 (payment of minimum contributions to personal pension schemes)—
- (a) in subsection (2), for “trustees or managers of the earner’s chosen scheme” substitute “earner”, and
 - (b) for subsection (6A)(d), substitute—

“(6A) Where a payment under subsection (1) is due in respect of an earner, HMRC is not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.”.
- (6) In section 164(2) (Crown employment)(e), omit sub-paragraph (a).
- (7) In section 181 (general interpretation)—
- (a) in subsection (1), omit the definition of “protected rights”(f), and
 - (b) in subsection (4)(g), omit “31,”.

-
- (a) Section 42A was inserted by section 137 of the Pensions Act 1995 (c.26) and subsections (3) and (5) were amended by section 1 of, and paragraph 46 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2),..
 - (b) Subsection (3) was amended by article 6(6)(a) of this instrument.
 - (c) Subsection (5A) was inserted by article 6(6)(b) of this instrument.
 - (d) Subsection (6A) was inserted by article 6(7) of this instrument.
 - (e) Subsection (2) is substituted by article 6(17) of this instrument.
 - (f) The definition of “protected rights” is amended by article 5(22)(a) of this instrument.
 - (g) Subsection (4) was amended by section 320 of, and Part 1 of Schedule 13 to, the Pensions Act 2004 (c.35), and by article 6(22)(b) of this instrument.

**Annex E –
Written Ministerial Statement 12 March 2010 –
Contracting-out for Defined Contribution Pension Schemes**

The Minister for Pensions and the Ageing Society (Angela Eagle): I wish to announce to the House that I intend for contracting-out for defined contribution pension schemes to be abolished from 6 April 2012.

The Pensions Commission recommended abolition of contracting-out on a defined contribution (personal or occupational) basis, as part of a programme of pension reforms.

Abolition is a simplification measure: contracting-out for defined contribution schemes is a complex issue and it has become increasingly difficult to determine that a scheme member would be better off by contracting-out of the additional state pension.

Section 15 of the Pensions Act 2007 provides for the abolition of contracting-out from defined contribution pension schemes and, during its passage through Parliament, our stated objective was to abolish to this time scale. It is important to give pension schemes due notice and the pensions industry will welcome this certainty over the abolition date.

My officials will continue to work to implement the changes in line with the above announcement in liaison with HM Revenue and Customs, the pensions industry and relevant public bodies such as the Financial Services Authority and the Pensions Advisory Service.

Annex F – List of those consulted

Age Concern
Association of British Insurers
Association of Consulting Actuaries
Association of Independent Financial Advisers
Association of Member-Directed Pension Schemes
Association of Pension Lawyers
British Chambers of Commerce
Confederation of British Industry
Consumers Association
DBERR
EBS
Engineering Employers Federation
Equality and Human Rights Commission
Fawcett Society
Federation of Small Businesses
Financial Services Authority
Government Actuaries Dept
Help the Aged
Hewitt
HM Treasury
HMRC
HSBC
Institute and Faculty of Actuaries
Institute of Chartered Accountants
Institute of Chartered Accountants in Scotland
Institute of Directors
Lane Clark & Peacock
Law Society
Law Society of Scotland
Legal & General
Linklaters
Ministry of Justice
Northern Ireland
Norwich Union
NAPF
National Consumers Council
Office of Fair Trading
TPAS
Pensions Management Institute
Pensions Policy Institute
Pensions Ombudsman
Pension Protection Fund
Premier Pensions Management
Price Waterhouse Coopers
Prudential
Punter Southall

Resolution
Scottish Executive
Scottish Equitable
Scottish Life
Scottish Executive
Scottish Widows
Technical Connection
Society of Pension Consultants
Standard Life
The Pensions Regulator
Trades Union Congress
Watson Wyatt
Welsh Assembly