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

DRAFT STATUTORY INSTRUMENTS

2012 No.

PENSIONS

The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) (Amendment) Order 2012

Made - - - - ***

Coming into force in accordance with article 1(2)

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

A draft of this Order has been laid before Parliament in accordance with section 143(4) of that Act and has been approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) (Amendment) Order 2012.

(2) This Order comes into force immediately before 6th April 2012.

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

2.—(1) The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No. 2) Order 2011(**b**) is amended as follows.

(2) For article 3 (amendments to the Insolvency Act 1986), substitute—

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

(2) Omit subsection (8)(b) and the word "and" immediately preceding it.

(3) In subsection (9), for "and "protected rights" have" substitute "has".".

(3) After article 5(15) (amendments to the Pension Schemes Act 1993), insert—

(**a**) 2008 c.30.
(**b**) S.I. 2011/1730.
(**c**) 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).

"(15A) 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".".

(4) For article 5(17), substitute—

"(17) 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) in subsection (1)(i) and (ii), omit "or those payments",

(d) omit subsection (4), and

(e) for subsection (4A)(**b**), substitute—

"(4A) Where a person is entitled or prospectively entitled as is mentioned in subsection (1), no order shall be made by any court the effect of which would be that he would be restrained from receiving anything the assignment of which is or would be made void by that subsection.".".

(5) For article 5(18), substitute—

"(18) 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.".".

(6) After article 5(18), insert—

"(18A) In section 165 (application of certain provisions to cases with foreign element), in subsection (2)(a)(**c**), omit "and section 159 (so far as it relates to protected rights payments).".".

(7) For article 5(21), substitute—

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

"(ii) sections 31, 33, 117, 154 and 155; and

(iii) sections 160 and 166.".".

(8) After article 6(2) (amendments to the Pensions Act 1995), insert—

"(2A) In section 91(7) (inalienability of occupational pension), omit "and protected rights payments".".

Signed by authority of the Secretary of State for Work and Pensions.

Name
Minister of State

Address

(**a**) Section 155 was amended by section 151 of, and paragraph 65 of Schedule 5 to, the Pensions Act 1995, and by section 1(1) of, and paragraph 59 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).
(**b**) Subsection (4A) was inserted by section 122 of, and paragraph 41 of Schedule 3 to, the Pensions Act 1995.
(**c**) Subsection (2)(a) was amended by section 151 of, and paragraph 68 of Schedule 5 to, the Pensions Act 1995.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 145 of the Pensions Act 2008 (c.30), which provides for amendments to be made in consequence of section 106 of that Act. Section 106 provides that pension schemes contracted-out on a defined contributions basis are not required to make special provision in relation to the protected rights of members, from the contracting-out abolition date (the date of the coming into force of section 15(1) of the Pensions Act 2007 (c.22)).

This Order amends the Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730) in relation to amendments to provisions which deal with protected rights payments, that is, pension payments which give effect to a member's protected rights, as they existed before the abolition date. The amendments remove the protection given to protected rights payments in bankruptcy proceedings and remove the prohibition on assigning protected rights payments, as such payments will no longer be identifiable after the abolition date.

This Order and S.I. 2011/1730 reduce the costs of administrative burdens on the private sector and civil society organisations. An assessment of the impact was included in the impact assessment for S.I. 2011/1730 which remains valid subsequent to amendment by this instrument; a copy is available from the libraries of both Houses of Parliament and is annexed to the Explanatory Memorandum of S.I. 2011/1730 which is available alongside that instrument at www.legislation.gov.uk.

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