STATUTORY INSTRUMENTS

1988 No. 474

PENSIONS

The Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988

Made - - - -	*10th March 1988*
Laid before Parliament	*16th March 1988*
Coming into force	
Regulations 1 to 4 and 6 to 9	*6th April 1988*
Regulation 5	
For the purposes of occupational pension schemes	*6th April 1988*
For the purposes of personal pension schemes	*1st July 1988*

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 168(1) of, and Schedule 20 to, the Social Security Act 1975(**a**), sections 52C(5) and 56A(1) (as modified by Schedule 3 to the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987(**b**)) and (3) of, and paragraph 13 (as modified by Schedule 4 to the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987) of Schedule 1A to, the Social Security Pensions Act 1975(**c**), and sections 17(1) and 84(1) of, and paragraphs 3 and 7(2) (both as modified by section 32(2B) of the Social Security Pensions Act 1975(**d**)) and 9(8) of Schedule 1 to the Social Security Act 1986(**e**), and of all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988.

(2) Subject to paragraph (3), these Regulations shall come into force as follows–

(a) regulations 1 to 4 and 6 to 9 on 6th April 1988; and

(b) regulation 5–

(i) for the purposes of occupational pension schemes on 6th April 1988; and

(ii) for the purposes of personal pension schemes on 1st July 1988.

(**a**) 1975 c.14. *See* definitions of "prescribe" and "regulations" in Schedule 20. Section 168(1) applies, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c.60), to the exercise of certain powers conferred by that Act.
(**b**) S.I. 1987/1116.
(**c**) 1975 c.60. Section 52C and Schedule 1A were inserted by paragraphs 2 and 3 of Schedule 1, and section 56A by Schedule 2 to the Social Security Act 1985 (c.53).
(**d**) Section 32(2B) was inserted by the Social Security Act 1986, Schedule 2, paragraph 5.
(**e**) 1986 c.50.

[SS88/1829]

(3) Regulation 2 shall come into force on 6th April 1988 immediately after regulation 7(5) of the Personal and Occupational Pension Schemes (Consequential Provisions) Regulations 1987(a) comes into force and regulation 4 and, for the purposes of occupational pension schemes, regulation 5 and, for all purposes, regulation 9 shall come into force on 6th April 1988 immediately after the provisions which they amend come into force.

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985

2. In regulation 5(a) of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985(b) the words "or her widower" shall be omitted.

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1985

3. The Occupational Pension Schemes (Transfer Values) Regulations 1985(c) shall be amended as follows–

(a) in regulation 2(1)(b) of those Regulations for "either" there shall be substituted "any" and for "(a) and (b)" there shall be substituted "(a), (b) or (e)";

(b) in regulation 2(3) of those Regulations–

(i) the word "and" at the end of sub-paragraph (c) shall be omitted;

(ii) for the full-stop at the end of sub-paragraph (d) there shall be substituted "; and" and

(iii) after sub-paragraph (d) there shall be inserted–

"(e) a scheme which is approved by the Commissioners of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(d).".

Amendment of the Money Purchase Contracted-out Schemes Regulations 1987

4. For paragraph 4 of the Schedule to the Money Purchase Contracted-out Schemes Regulations 1987(e) there shall be substituted the following paragraph–

"**4.** An interest-bearing account (including, in the case of a building society, a share or deposit account) with–

(a) a building society as defined in the Building Societies Act 1986(f);

(b) a Pension Company within the meaning of the Building Societies (Designation of Pension Companies) Order 1987(g) which is an associated body of a building society within the meaning of section 18(17) of the Building Societies Act 1986;

(c) an institution authorised under Part I of the Banking Act 1987(h).".

Amendment of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations 1987

5. The Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations 1987(i) shall be amended by inserting after regulation 2 the following regulation–

"**Provisions of the Income and Corporation Taxes Act 1988 under which tax-exemption or tax-approval may be given for the purposes of section 12**

2A. For the purposes of section 12 of the Act (which exempts scheme rules from the need to comply with that section to the extent necessary to qualify for tax-exemption or tax-approval) "tax-exemption" and "tax-approval" mean respectively exemption from tax and approval of the Inland Revenue under either Chapter I or Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.".

(a) S.I. 1987/1114.
(b) S.I. 1985/1929. The words omitted by regulation 2 were inserted by S.I. 1987/1114, regulation 7(5).
(c) S.I. 1985/1931. The relevant amending instrument is S.I. 1986/2171.
(d) 1988 c.1.
(e) S.I. 1987/1101.
(f) 1986 c.53.
(g) S.I. 1987/1871.
(h) 1987 c.22.
(i) S.I. 1987/1108.

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

6. The Personal Pension Schemes (Disclosure of Information) Regulations 1987(**a**) shall be amended as follows–

(a) in regulation 4(5) of those Regulations after the reference to "4" there shall be inserted a reference to ", 5A";

(b) in regulation 4(6) of those Regulations after the reference to "3," there shall be inserted a reference to "5B,";

(c) in regulation 5(3) of those Regulations for the words "Where the scheme is not" there shall be substituted the words "Whether or not the scheme is or has been";

(d) in Schedule 1 after paragraph 5 there shall be inserted the following paragraph–

"5A. Whether the scheme is approved by the Commissioners of Inland Revenue either–

(a) as a personal pension scheme under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988; or

(b) as a retirement benefits scheme under Chapter I of that Part of that Act by reference to section 591(2)(h) of that Act,

and if not whether an application for such approval is under consideration by the Commissioners.

5B. How tax relief on members' contributions is effected.";

(e) in paragraph 1(a) of Schedule 2 after the words "the 1986 Act" there shall be inserted the words "(identifying separately that part of the contributions which is attributable to tax relief on the employee's share of minimum contributions, being the difference between that share and the grossed-up equivalent of that share; the expressions 'employee's share' and 'grossed-up equivalent' having the meanings given to them by section 649(2) of the Income and Corporation Taxes Act 1988)".

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

7. In regulation 2(a) of the Personal Pension Schemes (Transfer Values) Regulations 1987(**b**) there shall be inserted after head (ii)–

"(ii)(aa) is a scheme which is approved by the Commissioners of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988, or".

Amendment of the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987

8. The Personal and Occupational Pensions Schemes (Modification of Enactments) Regulations 1987(**c**) shall be amended as follows–

(a) in regulation 3(4) for "the Personal Pension Schemes (Appropriate Schemes) Regulations 1987" there shall be substituted "the Personal Pension Schemes (Appropriate Schemes) Regulations 1988";

(b) after paragraph (3) of regulation 4 there shall be inserted–

"(4) Paragraphs 9(2)(a) and 15(3)(b) of Schedule 16 shall have effect as if "scheme" included a personal pension scheme.";

(c) in paragraph 16 of Schedule 4 after the words "section 41E(2)(a), (b) and (d)" there shall be inserted the words "but as if in paragraph (d) of that subsection the words 'or prospective member' were omitted".

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987

9. The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987(**d**) shall be amended as follows–

(a) in regulation 3–

(**a**) S.I. 1987/1110. (**b**) S.I. 1987/1112. (**c**) S.I. 1987/1116.
(**d**) S.I. 1987/1117.

(i) the word "and" at the end of paragraph (b) shall be omitted;

(ii) in paragraph (c) for the words "the Personal Pension Schemes (Appropriate Schemes) Regulation 1987" there shall be substituted the words "the Personal Pension Schemes (Appropriate Schemes) Regulations 1988(a)" and for the full stop at the end there shall be substituted "; and";

(iii) after paragraph (c) of regulation 3 there shall be inserted the following paragraph–

"(d) in the case of a personal pension scheme, a payment attributable to tax relief on the employee's share of minimum contributions, being the difference between that share and the grossed-up equivalent of that share; the expressions "employee's share" and "grossed-up equivalent" having the meanings given to them by section 649(2) of the Income and Corporation Taxes Act 1988.".

(b) in regulation 9(a) after the words "defined in that Act" there shall be inserted the words "or is a friendly society which satisfies the conditions set out in regulation 3(2) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1988"; and

(c) after regulation 14 there shall be inserted the following regulation–

"Tax-exemption and tax-approval

15. For the purposes of paragraph 12 of Schedule 1 (nothing in Schedule 1 to be taken to prejudice any requirements with which a scheme must comply if it is to qualify for tax-exemption or tax-approval) tax-exemption and tax-approval mean respectively exemption from tax and approval of the Inland Revenue under Chapter I or Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.".

Signed by authority of the Secretary of State for Social Services.

Nicholas Scott
Minister of State,
Department of Health and Social Security

10th March 1988

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are all made under provisions of the Social Security Act 1986 ("the 1986 Act") or provisions inserted into the Social Security Pensions Act 1975 ("the 1975 Act") by the 1986 Act; and are made before the end of a period of 12 months from the commencement of those provisions. Consequently, by virtue of section 61(5) of the 1986 Act, the provisions of section 61(2) and (3) of the 1975 Act (as amended by paragraph 94 of Schedule 10 to the 1986 Act) which require reference to the Occupational Pensions Board of, and a report by the Board on, proposals to make regulations for certain purposes of both Acts do not apply to them.

The Regulations amend various other regulations about personal and occupational pension schemes to take account of the provisions of the Finance (No. 2) Act 1987 (c.51) (now consolidated in the Income and Corporation Taxes Act 1988) relating to the tax approval and tax exemption of such schemes and make other miscellaneous provisions.

Regulation 1 is formal.

Regulation 2 revokes the amendment made to regulation 5(a) of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985 by regulation 7(5) of the Personal and Occupational Pension Schemes (Consequential Provisions) Regulations 1987 so that before the guaranteed minimum pension of the widower of a pension scheme member can be bought out under section 52C of the 1975 Act he must make a written request or give written consent.

(a) S.I. 1988/137.

Regulation 3 adds a further category of tax approved pension scheme to those listed in regulation 2(3) of the Occupational Pension Schemes (Transfer Values) Regulations 1985 as being of a kind to which pension rights may be transferred, namely a scheme approved under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.

Regulation 4 replaces references in the Schedule to the Money Purchase Contracted-out Schemes Regulations 1987 to the Banking Act 1979 (c.37) with reference to the Banking Act 1987 and also adds shares in and deposits with a building society and investments with a pension company which is an associated body of a building society as permitted investments.

Regulation 5 amends the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations 1987 so as to specify the provisions of the Income and Corporation Taxes Act 1988 under which tax exemption or tax approval may be given for the purposes of section 12 of the 1986 Act permitting voluntary contributions to a pension scheme.

Regulation 6 amends the Personal Pension Schemes (Disclosure of Information) Regulations 1987 so as to add to the categories of information listed in Schedule 1 (basic information to be disclosed to members and other specified persons) information about whether the scheme is tax approved or an application for approval is pending and how tax relief on members' contributions is effected. It also amends paragraph 1(a) of Schedule 2 (information to be made available to individuals) so as to require information to be given about what part of the contributions credited to a member of a scheme is attributable to tax relief on his share of minimum contributions.

Regulation 7 adds to the categories of tax approved schemes permitted to receive transfers under regulation 2 of the Personal Pension Schemes (Transfer Values) Regulations 1987 those schemes approved under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.

Regulation 8 amends the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 so as to apply the provisions of Schedule 16 of the Social Security Act 1973 (preservation of benefit) relating to alternatives to and surrender of short-service benefit to personal pension schemes.

Regulation 9 amends the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987 by adding a further category of protected rights to those listed in regulation 3, namely rights to money purchase benefits derived from a payment attributable to tax relief on the employee's share of minimum contributions.