

Statutory Document No. 0141/13

*Pension Schemes Act 1995*

PENSION SCHEMES LEGISLATION (APPLICATION) ORDER 2013

Approved by Tynwald: 18 June 2013
Coming into Operation: 9 July 2013

The Department of Social Care makes the following Order under sections 1(1) and (2)(d) and 2(1), (2) and (3)(b) of the Pension Schemes Act 1995.

1 Title

This Order is the Pension Schemes Legislation (Application) Order 2013.

2 Commencement and effect

- (1) If approved by Tynwald, this Order comes into operation on 9 July 2013¹.
- (2) The applied legislation has effect as follows –
 - (a) the Occupational Pensions (Revaluation) Order 2012² is deemed to have had effect on and after 1 January 2013; and
 - (b) the Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013³ and the Guaranteed Minimum Pensions Increase Order 2013⁴ are deemed to have had effect on and after 6 April 2013.

3 Interpretation

- (1) In this Order “the applied legislation” means –
 - (a) the Occupational Pensions (Revaluation) Order 2012;
 - (b) the Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013; and
 - (c) the Guaranteed Minimum Pensions Increase Order 2013.

¹ As required by section 1(4) of the Pension Schemes Act 1995.

² SI 2012/2952.

³ SI 2013/459.

⁴ SI 2013/573.

- (2) Unless the context otherwise requires or it is expressly provided, a reference in the applied legislation to a provision of any such legislation or of any other legislation applied to the Island by an order under section 1 of the Pension Schemes Act 1995 shall be construed as a reference to that legislation as it has effect in the Island.

4 Application to the Island of the applied legislation

- (1) The applied legislation, incorporating the exceptions, adaptations and modifications subject to which it applies to the Island, is set out in the Schedules and applies to the Island as part of the law of the Island.
- (2) The applied legislation mentioned in –
- (a) article 3(1)(a) is set out in Schedule 1;
 - (b) article 3(1)(b) is set out in Schedule 2; and
 - (c) article 3(1)(c) is set out in Schedule 3.

MADE 8TH MAY 2013

C R ROBERTSHAW
Minister for Social Care

SCHEDULE 1

[Article 4(2)(a)]

This Schedule sets out the text of the Occupational Pensions (Revaluation) Order 2012 (SI 2012/2952) as applied by this Order, with such exceptions, adaptations and modifications made where necessary, which appear in *bold italic* type.

STATUTORY INSTRUMENTS

2012 No. 2952

PENSIONS

The Occupational Pensions (Revaluation) Order 2012

<i>Made</i> - - - -	<i>26th November 2012</i>
<i>Laid before Parliament</i>	<i>29th November 2012</i>
<i>Coming into force</i> - -	<i>1st January 2013</i>

The Secretary of State for Work and Pensions makes the following Order in exercise of the power conferred by paragraph 2(1) of Schedule 3 to the Pension Schemes Act 1993⁵.

Citation [...]

1. (1) This Order may be cited as the Occupational Pensions (Revaluation) Order 2012.

(2) *Omitted.*

The higher and lower revaluation percentages for each revaluation period

2. For the purposes of paragraph 2(1) of Schedule 3 (methods of revaluing accrued pension benefits) to the Pension Schemes Act 1993, for each revaluation period specified in column 1 below, the higher revaluation percentage is the percentage specified in column 2, and the lower revaluation percentage, if any, is the percentage specified in column 3, in relation to that period.

<i>Column 1</i> <i>Revaluation period</i>	<i>Column 2</i> <i>Higher revaluation percentage</i>	<i>Column 3</i> <i>Lower revaluation percentage</i>
1st January 1986 - 31st December 2012	150.4%	-
1st January 1987 - 31st December 2012	142.9%	-
1st January 1988 - 31st December 2012	133.1%	-
1st January 1989 - 31st December 2012	120.6%	-
1st January 1990 - 31st December 2012	105.0%	-
1st January 1991 - 31st December 2012	84.8%	-
1st January 1992 - 31st December 2012	77.6%	-
1st January 1993 - 31st December 2012	71.4%	-

⁵ 1993 c. 48; paragraph 2(1) of Schedule 3 was amended by the Pensions Act 2008 (c. 30), section 101 and Schedule 2, paragraphs 1 and 3(1) and (2).

1st January 1994 - 31st December 2012	68.4%	-
1st January 1995 - 31st December 2012	64.7%	-
1st January 1996 - 31st December 2012	58.5%	-
1st January 1997 - 31st December 2012	55.3%	-
1st January 1998 - 31st December 2012	49.9%	-
1st January 1999 - 31st December 2012	45.2%	-
1st January 2000 - 31st December 2012	43.7%	-
1st January 2001 - 31st December 2012	39.1%	-
1st January 2002 - 31st December 2012	36.7%	-
1st January 2003 - 31st December 2012	34.5%	-
1st January 2004 - 31st December 2012	30.8%	-
1st January 2005 - 31st December 2012	26.9%	-
1st January 2006 - 31st December 2012	23.5%	-
1st January 2007 - 31st December 2012	19.2%	-
1st January 2008 - 31st December 2012	14.8%	-
1st January 2009 - 31st December 2012	9.3%	9.3%
1st January 2010 - 31st December 2012	10.8%	7.7%
1st January 2011 - 31st December 2012	7.5%	5.1%
1st January 2012 - 31st December 2012	2.2%	2.2%

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

Steve Webb
Minister of State,
Department for Work and Pensions

26th November 2012

SCHEDULE 2

[Article 4(2)(b)]

This Schedule sets out the text of the Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013 (SI 2013/ 459) as applied by this Order, with such exceptions, adaptations and modifications made where necessary, which appear in *bold italic* type.

STATUTORY INSTRUMENTS

2013 No. 459

PENSIONS

The Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013

<i>Made</i>	-	-	-	-	<i>28th February 2013</i>
<i>Laid before Parliament</i>					<i>5th March 2013</i>
<i>Coming into force</i>	-	-			<i>6th April 2013</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 12C(1), 20(1) and (2), 37(1) and (2), 73(2)(b) and (4)(b), 93(1)(a), 181(1), 182(2) and (3), 183(1) and 185 of the Pension Schemes Act 1993⁶, sections 68(2)(e), 120(1), 124(1) and 174(2) of the Pensions Act 1995⁷ and sections 1(1)(b) and (5), 2(2), 3(1) and (5), 8(1), 40(1) and 83(4), (6)(a) and (11) of the Welfare Reform and Pensions Act 1999⁸.

Secretary of State has consulted with such persons as he considers appropriate in accordance with section 185(1) of the Pension Schemes Act 1993⁹, section 120(1) of the Pensions Act 1995 and section 83(11) of the Welfare Reform and Pensions Act 1999.

Citation [...]

1. These Regulations may be cited as the Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013 [...].

⁶ 1993 c. 48. Section 12C was inserted by section 136(5) of the Pensions Act 1995 (c. 26). Section 20(1) was amended by section 56 of, and paragraph 2(1) of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000 (c. 19). Section 37 was substituted by section 151 of, and paragraph 39 of Schedule 5, to the Pensions Act 1995, and amended by S.I. 2005/2050, article 2(1) and paragraph 12 of Schedule 1, and by S.I. 2011/1730, article 5(1) and (5)(b). Section 93(1)(a) was substituted by section 152(2) of the Pensions Act 1995 (c. 26). Section 181(1) is cited for the meaning it gives to “prescribed” and “regulations”. Section 183(1) was amended by paragraph 79 of Schedule 5, paragraph 15(a) of Schedule 6 and Schedule 7 to the Pensions Act 1995.

⁷ 1995 c. 26. Section 124(1) is cited for the meaning it gives to “prescribed” and “regulations”.

⁸ 1999 c. 30. Section 1(5) was amended by section 285(3) of the Pensions Act 2004 (c. 35), section 2(2) was amended by paragraph 38 of Schedule 4 to the Pensions Act 2007 (c. 22), section 3 was amended by section 87 of the Pensions Act 2008 (c. 30), section 8(1) is cited for the meaning it gives to “prescribed” and section 40(1) was amended by section 280(1) and (2) of the Pensions Act 2004 and section 19(9) and (10) of the Pensions Act 2011 (c. 19).

⁹ Section 185(1) was amended by paragraph 46 of Schedule 3, paragraph 80(a), (d) and (f) of Schedule 5 and Schedule 7 to the Pensions Act 1995.

2. *Omitted.*

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

3. In regulation 42 of the Occupational Pension Schemes (Contracting-out) Regulations 1996 (alteration of rules of contracted-out schemes)¹⁰—

- (a) in paragraph (1), after “paragraph (2)” insert “, (2ZA)”;
- (b) in paragraph (2), for “section 9(2B) rights under the scheme” substitute “rights which are to accrue under the scheme in so far as such rights are attributable to an earner’s service in contracted-out employment on or after the date on which the alteration to the rules takes effect (other than rights attributable to the payment of voluntary contributions)”;
- (c) after paragraph (2) insert—

“(2ZA) The rules of a contracted-out salary-related scheme cannot be altered in relation to any section 9(2B) rights under the scheme unless—

- (a) following the alteration, the scheme provides benefits for the member and for that member’s widow, widower or surviving civil partner, in respect of the period of pensionable service to which the alteration relates and in which the member’s employment was contracted-out under section 9(2B) of the 1993 Act (requirements for certification of schemes: general) which are at least equal to the benefits that would be provided by a reference scheme (within the meaning of section 12B(2) of the 1993 Act (reference scheme)),
- (b) *omitted*,
- (c) *omitted*,
- (d) *omitted*.

(2ZB) *Omitted.*”

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

4. (1) The Contracting-out (Transfer and Transfer Payment) Regulations 1996¹¹ are amended as follows.

(2) In regulation 1(2) (interpretation), for the definition of ““connected employer transfer” and “connected employer transfer payment”” substitute—

““connected employer transfer” and “connected employer transfer payment” mean respectively a transfer of guaranteed minimum pensions from a salary-related contracted-out scheme to a salary-related contracted-out scheme and a transfer payment in respect of section 9(2B) rights from a salary-related contracted-out scheme to a salary-related contracted-out scheme where either—

- (a) the transferring scheme and the receiving scheme relate to persons who are or have been in employment with the same employer; or

¹⁰ S.I. 1996/1172 (see SD 651/97). Regulation 42 was amended by S.I. 1997/786 (see SD 207/00), regulation 3 and Schedule 1 paragraph 4(8) and S.I. 2011/1245 (see SD 0927/11), regulation 1(2)(a).

¹¹ S.I. 1996/1462 (see SD 23/98).

- (b) the transferring scheme and receiving scheme relate to persons who are or have been in employment with different employers, and the earner or person concerned is one of a group of persons in respect of whom transfers or transfer payments are being made from the transferring scheme to the receiving scheme and either—
- (i) the transfer or transfer payment is a consequence of a financial transaction between the employers, or
 - (ii) each of the employers is one of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 220 of the Companies Act 2006¹² (meaning of “subsidiary” *and* “holding company”),

and, in this definition, “salary-related contracted-out scheme” includes a scheme which was formerly a salary-related contracted-out scheme.”.

(3) In regulations 4 (connected employers transfers of guaranteed minimum pensions), 7(2)(b) (transfers of liability in respect of section 9(2B) rights: general) and 9 (connected employer transfer payments) omit “to a salary-related contracted-out scheme”.

5. *Omitted.*

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

6. In regulation 2(b) (pre-1986 leavers) of the Occupational Pension Schemes (Transfer Values) Regulations 1996¹³ for “the rate of inflation as measured by the retail price index” substitute “a rate that, in the opinion of the Secretary of State, maintains the value of pensions or other benefits by reference to the rise in the general level of prices in Great Britain”.

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

7. For regulation 32 (increase of relevant pension) of the Pension Sharing (Pension Credit Benefit) Regulations 2000¹⁴ substitute—

“Increase of relevant pension

32. (1) Subject to regulations 33 and 34, a relevant pension shall be increased each year by either the appropriate percentage, or, where the rules of an occupational pension scheme require the relevant pension to be increased at intervals of not more than 12 months, the relevant percentage.

(2) A relevant pension shall not be increased under paragraph (1) if, under the rules of the occupational pension scheme, it is for the time being increased, and since the relevant date has always been increased, at intervals of not more than 12 months by at least—

- (a) the percentage increase in the *UK* retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules of the scheme; or
- (b) if lower, the default percentage for that period.

(3) In paragraph (2), “the relevant date” means—

¹² AT 13 of 2006.

¹³ S.I. 1996/1847 (see SD 147/06).

¹⁴ S.I. 2000/1054 (see SD 381/01). Regulation 32 was amended by S.I. 2005/704 (see SD 437/05).

- (a) 1st January 2011 or, if later, the date on which the relevant pension became a pension in payment; or
- (b) if the relevant pension was transferred to the occupational pension scheme from another occupational pension scheme as a pension in payment after 1st January 2011, the date of the transfer.

(4) If the relevant pension was transferred to the occupational pension scheme as mentioned in paragraph (3)(b), paragraph (2) does not apply to the relevant pension unless, immediately before the transfer, paragraph (2) (read with this paragraph if relevant) applied to the relevant pension by reference to the scheme from which it was transferred.

(5) In this regulation the default percentage for a period is the percentage for that period which corresponds to—

- (a) 5 per cent. per annum in a case where—
 - (i) the relevant pension is in payment before 6th April 2005; or
 - (ii) the relevant pension is not in payment before 6th April 2005 but the entitlement to the relevant pension credit arose before that day;
- (b) 2.5 per cent. per annum in a case where the entitlement to the relevant pension credit arises on or after 6th April 2005.

(6) This regulation does not apply to a relevant pension provided to give effect to eligible pension credit rights of a member under a qualifying occupational pension scheme which—

- (a) is a cash balance benefit; and
- (b) first comes into payment on or after 6th April 2013.

(7) In this regulation—

“appropriate percentage” means—

- (a) in a case where entitlement to the relevant pension credit arose before 6th April 2005, the higher revaluation percentage; and
- (b) in a case where entitlement to the relevant pension credit arose on or after 6th April 2005, the lower revaluation percentage,

for the latest revaluation period specified in the order under paragraph 2 of Schedule 3 to the 1993 Act (revaluation of accrued pension benefits) which is in force at the time of the increase (expressions used in this definition having the same meaning as in that paragraph);

“cash balance benefit” has the same meaning as in section 51ZB of the 1995 Act;

“*UK* consumer prices index” means—

- (a) the general index of consumer prices (for all items) published by the Statistics Board; or
- (b) where that index is not published for a month, any substituted index or figures published by the Board;

“relevant percentage” means—

- (a) the percentage increase in the *UK* consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules of the scheme; or
- (b) if lower, the default percentage for that period;

“*UK* retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board; or
- (b) where that index is not published for a month, any substituted index or figures published by the Board.”.

8. *Omitted.*

9. *Omitted.*

Revocation

10. The following *provision is* revoked—

- (a) *omitted*;
- (b) *omitted*;
- (c) regulation 15 (indexation: changes to maximum percentage) of the Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Miscellaneous Amendments) Regulations 2005¹⁵.

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

Steve Webb
Minister of State
Department for Work and Pensions

28th February 2013

¹⁵ S.I. 2005/704 (see SD 437/05).

SCHEDULE 3

[Article 4(2)(c)]

This Schedule sets out the text of the Guaranteed Minimum Pensions Increase Order 2013 (SI 2013/573) as applied by this Order, with such exceptions, adaptations and modifications made where necessary, which appear in *bold italic* type.

STATUTORY INSTRUMENTS

2013 No. 573**PENSIONS****The Guaranteed Minimum Pensions Increase Order 2013**

Made - - - - 8th March 2013

Coming into force - - - 6th April 2013

The Secretary of State has reviewed the general level of prices in Great Britain for the period of 12 months commencing on 1st October 2011 as required by section 109(1) of the Pension Schemes Act 1993¹⁶, and it appears to the Secretary of State that the general level of prices was greater by 2.2 per cent. at the end of that period than it was at the beginning of that period.

A draft of the following Order was laid before Parliament in accordance with section 109(2) of that Act¹⁷ and approved by a resolution of each House.

Accordingly, the Secretary of State for Work and Pensions, in exercise of the power conferred by section 109(4) of that Act, makes the following Order.

Citation [...]

1. This Order may be cited as the Guaranteed Minimum Pensions Increase Order 2013 [...].

Increase of guaranteed minimum pensions

2. For the purposes of section 109(I) [...] of the Pension Schemes Act 1993¹⁸, the percentage by which there is to be an increase in the rate of that part of any guaranteed minimum pension which is attributable to earnings factors for the tax years in the relevant period¹⁹ shall be 2.2 per cent.

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

Steve Webb
Minister of State,
Department for Work and Pensions

8th March 2013

¹⁶ 1993 c.48.

¹⁷ Section 109(2) was amended by section 55(a) of the Pensions Act 1995 (c.26) and paragraph 22 of Schedule 1 to S.I. 2005/2050.

¹⁸ Section 109 was substituted by article 3 of SD 0614/12.

¹⁹ See section 109(3A) of the Pension Schemes Act 1993 (see SD 531/95).



EXPLANATORY NOTE

(This note is not part of the Order)

Section 1 of the Pension Schemes Act 1995 (an Act of Tynwald) enables the Department of Social Care by order to apply to the Island, as part of the law of the Island and incorporating such exceptions, adaptations and modifications as may be specified by the order, any legislation to which that section applies.

Section 1 of that Act applies to (inter alia) the Pension Schemes Act 1993²⁰, the Pensions Act 1995²¹ and the Welfare Reform and Pensions Act 1999²² (all Acts of the United Kingdom Parliament) and to any statutory instrument made or having effect as if made under any of those Acts.

This Order applies to the Island the legislation referred to in article 3(1) of the Order, the provisions of which are summarised in the following paragraphs. Each provision of the applied legislation is deemed to have had effect when it came into force in Great Britain.

Occupational Pensions (Revaluation) Order 2012 (SI 2012/2952)

This Order specifies the necessary revaluation percentages for the purpose of the revaluation on or after 1st January 2013 of benefits under occupational pension schemes, as required by section 84 of, and Schedule 3 to, the Pension Schemes Act 1993.

Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013 (SI 2013/459)

These Regulations amend a number of sets of Regulations having effect in the Island relating to occupational pension schemes.

Regulation 3 amends regulation 42 of the Occupational Pension Schemes (Contracting-out) Regulations 1996²³, to provide a new set of requirements that apply to the amendment of scheme rules in relation to accrued contracted-out rights (section 9(2B) rights). Regulation 42(2) is amended so that the conditions in that regulation now only apply to the alteration of rules in relation to contracted-out rights that are to accrue in the future under the contracted-out scheme. New regulation 42(2ZA) sets out new restrictions on the amendment of rules in relation to accrued contracted-out rights. Amendments to such rights are not allowed unless the benefits provided to members and survivors are at least as good as those provided by a reference scheme.

²⁰ 1993 c.48.

²¹ 1995 c.26.

²² 1999 c.30.

²³ SI 1996/1172 (see SD 651/97).

Regulation 4 amends the Contracting-out (Transfer and Transfer Payment) Regulations 1996²⁴ to allow connected employer transfers to take place where the transferring scheme and receiving scheme relate to persons who are employed, or have been employed, by the same employer, and where either scheme is a contracted-out or a former contracted-out scheme.

Regulation 6 changes the reference to the Retail Prices Index (“RPI”) in the Occupational Pension Schemes (Transfer Values) Regulations 1996²⁵ to a reference to a rise in the general level of prices in Great Britain. Chapter 4 of the Pension Schemes Act 1993²⁶ gives most members of occupational pension schemes rights to transfer preserved benefits (or a cash equivalent thereof) to another scheme, if that scheme will accept the transfer. Exceptions to this right are found in regulation 2 of those Regulations. One exception applies to members who left schemes before 1st January 1986 if the scheme fully revalues the preserved rights by the UK RPI.

Regulation 7 replaces the existing regulation 32 of the Pension Sharing (Pension Credit Benefit) Regulations 2000²⁷. Paragraphs (2) to (4) of new regulation 32 will permit schemes which have paid UK RPI-based increases to continue to do so without tracking the UK consumer prices index (“CPI”) levels as well. The definition of “appropriate percentage” at paragraph (7) will make it clear which of the two figures in the revaluation order should be used in which circumstances. The higher percentage is appropriate where the pension was shared prior to 6th April 2005 and the lower percentage for pensions shared after that date. The definition of “relevant percentage” replaces a reference to the Retail Prices Index with a reference to the UK Consumer Prices Index, reflecting how the requirement is prescribed for main scheme benefits in section 51 of the Pensions Act 1995.

Regulation 10 revokes regulation 15 of the Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Miscellaneous Amendments) Regulations 2005²⁸.

Guaranteed Minimum Pensions Increase Order 2013 (SI 2013/573)

This Order specifies 2.2 per cent. as the percentage by which that part of any guaranteed minimum pension attributable to earnings factors for the tax years 1988-89 to 1996-97 and payable by contracted-out, defined benefit occupational pension schemes is to be increased.

²⁴ SI 1996/1462 (see SD 23/98).

²⁵ SI 1996/1847 (see SD 147/06).

²⁶ 1993 c.48 (see SD 531/95).

²⁷ SI 2000/1054 (see SD 381/01).

²⁸ SI 2005/704 (see SD 437/05).