

**S.I. 2015 No. 91**

Occupational Pension Benefits Act

CAP. 350B

**OCCUPATIONAL PENSION BENEFITS (AMENDMENT)  
REGULATIONS, 2015**

The Minister, in exercise of the powers conferred on him by section 94 of the *Occupational Pension Benefits Act*, makes the following Regulations:

1. These Regulations may be cited as the *Occupational Pension Benefits (Amendment) Regulations, 2015*.

2. *The Occupational Pension Benefits Regulations, 2011 (S.I. 2011 No. 11), hereinafter called the principal Regulations, are amended in regulation 2 by inserting the following definitions in the appropriate alphabetical order:*

“ “draw-down account” means an account relating to a defined contribution plan that permits the withdrawal, at prescribed intervals, of pension benefits that do not exceed a stipulated sum;

“draw-down percentage” means the percentage of the balance of a draw-down account that may be withdrawn by the owner of the account in one year;

“owner of a draw-down account” means a member or former member of a pension plan who has established a draw-down account;”.

3. *The principal Regulations are amended by deleting the word “Supervisor” wherever it occurs and substituting the words “Financial Services Commission”.*

4. *The principal Regulations are amended by inserting immediately after regulation 21 the following new regulations:*

**“Establishment of draw-down account**

**21A.** A plan may provide as a form of pension payment that a member or deferred member who retires under a defined contribution plan may elect to have the defined contribution account balance transferred to a draw-down account in the plan.

**Determination and publication of draw-down percentages**

**21B.(1)** The Financial Services Commission shall determine the minimum and maximum draw-down percentages on the basis of the age of the owner of a draw-down account.

(2) The Financial Services Commission may change the minimum and maximum draw-down percentages, after giving notice of the proposed change to persons entitled to an occupational pension under the Act not less than 90 days before the date of the change.

**Mandatory minimum and maximum draw-down**

**21C.** The owner of a draw-down account may, in each fiscal year, withdraw from the draw-down account, an amount of money that is

- (a) not less than the minimum draw-down percentage multiplied by the owner’s draw-down account balance, existing at the beginning of the fiscal year; and
- (b) not more than the maximum draw-down percentage multiplied by the owner’s draw-down account balance at the beginning of the fiscal year.

**Purchase of annuity from draw-down account**

**21D.(1)** The owner of a draw-down account may elect to use the balance in the draw-down account to purchase an annuity from an insurance company at any time if

- (a) the annuity is in the form of a joint and survivor pension; and
- (b) the spouse of the owner, on the date of retirement, does not deliver a waiver in respect of the joint and survivor pension.

(2) The notice

- (a) shall be in the form prescribed; and
- (b) shall be given prior to the date on which the annuity payments are to commence.

(3) The owner of a draw-down account may at any time elect to transfer the balance in the draw-down account to the pension fund of a new employer or into a registered retirement savings plan in accordance with the provisions of section 35 of the Act.

(4) Where the owner of a draw-down account predeceases his or her spouse, the surviving spouse, on the date of his or her retirement, shall receive the proceeds of the draw-down account in a lump sum, unless the spouse has delivered a waiver of that benefit in Form 14 in the First Schedule.

(5) Where

- (a) the owner of a draw-down account dies leaving no surviving spouse;
- (b) the spouse of the owner has died before or on the date of the owner's retirement; or
- (c) the spouse has waived the benefit under paragraph (4),

the proceeds of the draw-down account shall be paid

- (i) to the beneficiaries named in writing by the owner and filed with the administrator; and
- (ii) where
  - (A) no beneficiary has been named; or
  - (B) the beneficiaries appointed by the owner have predeceased the owner,

to the estate of the owner.

(6) Where the plan so provides, the administrator of a draw-down account shall pay to the owner of the account, a lump sum that constitutes the balance of the draw-down account, if the account balance at the beginning of the fiscal year is less than 20 per cent of the maximum annual insurable earnings, determined in accordance with section 19 of the *National Insurance and Social Security Act, Cap. 47*, in the year in which the owner terminated employment.

(7) The draw-down account shall be closed when the balance of that account is zero, and the administrator shall be discharged where the payments from the draw-down account have been made in compliance with the Act, these Regulations and the provisions of the pension plan.

**Administrator to provide annual statement of draw-down account**

21E.(1) The administrator shall provide an annual statement to the owner of a draw-down account not less than 60 days after the end of each fiscal year.

(2) The annual statement shall include, at a minimum, the following information:

- (a) the name of the pension plan and its registration number;

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- (b) the name and date of birth of the owner of the draw-down account;
  - (c) the date on which the draw-down account was established;
  - (d) the name of the spouse of the owner of the draw-down account;
  - (e) the balance of the draw-down account at the beginning and the end of the preceding fiscal year;
  - (f) the interest, gains and losses on the draw-down account balance during the preceding fiscal year;
  - (g) the investment holdings of the draw-down account at the end of the preceding fiscal year;
  - (h) the amount withdrawn from the draw-down account during the preceding fiscal year;
  - (i) the amount transferred to the draw-down account during the preceding fiscal year;
  - (j) the fees charged against the draw-down account during the preceding fiscal year;
  - (k) the minimum and maximum amounts that may be withdrawn in the current year;
  - (l) the procedure for selecting the withdrawal percentage;
  - (m) the procedure for changing investments under the pension plan;
  - (n) the amount to be paid and timing of payments for the current year in the case where the withdrawal amounts are not specified by the owner;

- (o) the maximum annual insurable earnings under the *National Insurance and Social Security Act*, Cap. 47 in the year in which the owner terminated employment;
- (p) a statement in writing that the spouse has either waived or not waived the joint and survivor pension.”.

5. *The First Schedule to the principal Regulations is amended by inserting immediately after Form 13, the form numbered 14 in the First Schedule to these Regulations .*

6. *The Second Schedule to the principal Regulations is deleted and the Second Schedule set out in the Second Schedule to these Regulations is substituted.*

**FIRST SCHEDULE***(Regulation 5)***Occupational Pension Benefits Act  
Cap. 350B****FORM 14***(Regulation 21D(4))***WAIVER OF RIGHT TO PROCEEDS FROM A DRAW-DOWN ACCOUNT**

I, \_\_\_\_\_, am/was the spouse of

\_\_\_\_\_  
*(Name of former member)*

who was a member of the \_\_\_\_\_  
*(Name of pension plan)*

and, in accordance with regulation 21D of the Regulations under the *Occupational Pension Benefits Act, Cap. 350B*, was entitled to a pension benefit held in a draw-down account.

I understand that regulation 21D(4) of the *Occupational Pension Benefits (Amendment) Regulations, 2014* provides that, if my spouse dies while owning a draw-down account within a pension plan, then I am entitled to receive the proceeds in the form of a lump sum cash payment.

I understand that I may waive my right to receive the proceeds of the draw-down account by signing this waiver.

I understand that if I sign this waiver, I will not receive the lump sum cash payment provided by regulation 21D(4) of the *Occupational Pension Benefits (Amendment) Regulations, 2014*.

Instead, payment of this benefit will be made to either,

- (a) a beneficiary designated by my spouse; or
- (b) the personal representative of my spouse for distribution as part of his or her estate.

I hereby waive my right to receive payment from the draw-down account provided for by regulation 21D(4) of the *Occupational Pension Benefits (Amendment) Regulations, 2014* by signing this waiver in the presence of a witness.

I certify that this waiver is being signed freely and voluntarily without any compulsion and in the absence of my spouse.

I understand that I may cancel this waiver at any time prior to the date of the death of my spouse.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Signature of spouse of member)

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
(Name of witness in capital letters)

\_\_\_\_\_  
(Address of witness in capital letters)



**IMPORTANT NOTE:**

**Prior to completing this form, you should consider obtaining independent legal advice concerning your individual rights and the effect of this waiver.**

*Rules respecting the determination of the minimum and maximum annual income payment from a draw-down account in accordance with regulation 21B*

This instruction describes how to calculate the minimum and maximum annual income payment by using minimum and maximum draw-down percentages that are set out in this instruction.

Maximum Annual Income Payment

Pursuant to regulation 21B(1) of the Regulations, the Financial Services Commission shall publish the maximum draw-down percentage, which must be applied to determine the maximum annual income amount that may be paid from a draw-down account for any fiscal year.

The maximum annual income payment is determined by applying the formula  $C * 1/F_{max}$

in which

"C" is the value of the account balance at the beginning of the fiscal year, and

"F<sub>max</sub>" is the present value, at the beginning of the fiscal year, of an annuity of \$1 payable annually in advance over the period commencing at the beginning of the fiscal year and ending on December 31 of the year in which the owner reaches 90 years of age.

"1/F<sub>max</sub>" represents the maximum draw-down percentage.

Minimum Annual Income Payment

Pursuant to regulation 21B(1) of the Regulations, the Financial Services Commission shall publish the minimum draw-down percentage, which is the minimum annual income amount that may be paid from a draw-down account for any fiscal year.

The minimum annual income payment is determined as:

$C * 1/F_{min}$

in which

"C" is the value of the account balance at the beginning of the fiscal year, and

"Fmin" is the present value, at the beginning of the fiscal year, of an annuity of \$1 payable annually in advance over the period commencing at the beginning of the fiscal year and ending on December 31 of the year in which the owner reaches 100 years of age.

"1/Fmin" is referred to as the minimum draw-down percentage.

Minimum and Maximum Annual Income Payment Table

The table at the end of this instruction identifies the minimum and maximum draw-down percentages for use in calculating the minimum and maximum annual income payment in the formulas above. For the table, the Financial Services Commission shall determine the interest rate assumption used in determining the value of "Fmin" and "Fmax" in the formula.

The maximum percentages shown in the table represent the value of "1/Fmax". The maximum amounts are therefore determined by multiplying the account balance by the appropriate maximum percentage from the table below.

The minimum percentages shown in the table represent the value of "1/Fmin". The minimum amounts are therefore determined by multiplying the account balance by the appropriate minimum percentage from the table below.

Percentages shown in the table must be prorated for the initial fiscal year if less than twelve months. Part of a month is treated as a full month.

(Please see table below).

STATUTORY INSTRUMENT

Age at Jan 1	Age at Dec 31	Yrs to Age 90	Maximum Percentage	Yrs to Age 100	Minimum Percentage
44	45	46	5.33%	56	5.09%
45	46	45	5.36%	55	5.11%
46	47	44	5.39%	54	5.13%
47	48	43	5.43%	53	5.15%
48	49	42	5.47%	52	5.17%
49	50	41	5.51%	51	5.19%
50	51	40	5.55%	50	5.22%
51	52	39	5.60%	49	5.24%
52	53	38	5.65%	48	5.27%
53	54	37	5.70%	47	5.30%
54	55	36	5.76%	46	5.33%
55	56	35	5.82%	45	5.36%
56	57	34	5.88%	44	5.39%
57	58	33	5.95%	43	5.43%
58	59	32	6.03%	42	5.47%
59	60	31	6.11%	41	5.51%
60	61	30	6.20%	40	5.55%
61	62	29	6.29%	39	5.60%
62	63	28	6.39%	38	5.65%
63	64	27	6.50%	37	5.70%
64	65	26	6.63%	36	5.76%
65	66	25	6.76%	35	5.82%
66	67	24	6.90%	34	5.88%
67	68	23	7.06%	33	5.95%
68	69	22	7.24%	32	6.03%
69	70	21	7.43%	31	6.11%
70	71	20	7.64%	30	6.20%
71	72	19	7.88%	29	6.29%

## STATUTORY INSTRUMENT

Age at Jan 1	Age at Dec 31	Yrs to Age 90	Maximum Percentage	Yrs to Age 100	Minimum Percentage
72	73	18	8.15%	28	6.39%
73	74	17	8.45%	27	6.50%
74	75	16	8.79%	26	6.63%
75	76	15	9.18%	25	6.76%
76	77	14	9.62%	24	6.90%
77	78	13	10.14%	23	7.06%
78	79	12	10.75%	22	7.24%
79	80	11	11.47%	21	7.43%
80	81	10	12.33%	20	7.64%
81	82	9	13.40%	19	7.88%
82	83	8	14.74%	18	8.15%
83	84	7	16.46%	17	8.45%
84	85	6	18.76%	16	8.79%
85	86	5	22.00%	15	9.18%
86	87	4	26.86%	14	9.62%
87	88	3	34.97%	13	10.14%
88	89	2	51.22%	12	10.75%
89	90	1	100.00%	11	11.47%
90	91	0	100.00%	10	12.33%
91	92	0	100.00%	9	13.40%
92	93	0	100.00%	8	14.74%
93	94	0	100.00%	7	16.46%
94	95	0	100.00%	6	18.76%
95	96	0	100.00%	5	22.00%
96	97	0	100.00%	4	26.86%
97	98	0	100.00%	3	34.97%
98	99	0	100.00%	2	51.22%
99	100	0	100.00%	1	100.00%

**SECOND SCHEDULE***(Regulation 6)***“SECOND SCHEDULE***(Regulations 3 and 5)***FEES**

The following fees set out in the second column shall be paid to the Financial Services Commission in respect of the matters set out in the first column.

<i>Matters</i>	<i>Fees</i>
Application for registration of pension plan	\$250
Registration of pension plan	\$5 per member, subject to a minimum of \$250
Annual registration fee	\$5 per member, subject to a minimum of \$250
Penalty for late submission of fee	10% of annual fee plus 1% of annual fee for each month or part of a month that the fee imposed remains unpaid
Registration of an amendment to a pension plan	\$250
Filing of annual returns with valuation	Nil
Filing of triennial returns with valuation	Nil
Filing of valuation separately	Nil
Filing of wind-up report	\$250

<i>Matters</i>	<i>Fees</i>	
Filing of notice of proposal to wind-up pension plan	\$250	
Penalty for late submission of actuarial reports and financial statements	\$500 plus \$100 for each month or part of a month that the fee imposed remains unpaid	
Reproduction of document filed with the Financial Services Commission	\$0.50 per page	
Certification of copy of document filed with Financial Services Commission	\$10.00	”

Made by the Minister this 6th day of November, 2015.

CHRISTOPHER SINCKLER

Minister Responsible for Occupational Pensions