
 STATUTORY INSTRUMENTS

1985 No. 1931

PENSIONS

**The Occupational Pension Schemes (Transfer Values)
Regulations 1985**

Made - - - - - 10th December 1985
Laid before Parliament 11th December 1985
Coming into Operation 1st January 1986

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), and paragraphs 13, 14 and 20 of Schedule 1A to the Social Security Pensions Act 1975(b), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Occupational Pension Schemes (Transfer Values) Regulations 1985 and shall come into operation on 1st January 1986.

(2) In these regulations, unless the context otherwise requires—

“member” means a member of an occupational pension scheme to whom Part II of Schedule 1A to the Social Security Pensions Act 1975 applies;

“scheme” means an occupational pension scheme;

“trustees”, in relation to a scheme which is not set up or established under a trust, means the managers of the scheme;

and other expressions have the same meaning as in the Social Security Pensions Act 1975.

(3) Except so far as the context otherwise requires, any reference in these regulations to a numbered section or Schedule is to the section of, or Schedule to, the Social Security Pensions Act 1975 bearing that number, and any reference to a numbered paragraph is to the paragraph bearing that number of Schedule 1A.

(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) 1975 c. 60; Schedule 1A was inserted by section 2 of, and Part II of Schedule 1 to, the Social Security Act 1985 (c. 53).

Requirements to be satisfied by schemes and annuities

2.—(1) The prescribed requirements referred to in paragraph 13(2)(a) are that—

- (a) if the scheme from which rights are transferred is contracted-out, the scheme to which rights are transferred is one to which the member's accrued rights may be transferred under regulation 2 of the Contacting-out (Transfer) Regulations 1985(a);
- (b) if the scheme from which rights are transferred is of a kind described in any of sub-paragraphs (a) to (d) of paragraph (3) of this regulation, the scheme to which rights are transferred is of a kind described in either of sub-paragraphs (a) and (b) of that paragraph.

(2) The prescribed requirements referred to in paragraph 13(2)(b) are that—

- (a) the annuity is provided by a policy of insurance or an annuity contract which satisfies the requirements of regulations 2, 3 and 4 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985(b);
- (b) if the scheme from which rights are transferred is of a kind described in any of sub-paragraphs (a) to (d) of paragraph (3) of this regulation, the annuity is provided under a contract which is of the kind described in section 20(2)(g) of the Finance Act 1970(c).

(3) The kinds of scheme mentioned in paragraphs (1)(b) and (2)(b) of this regulation are—

- (a) a scheme which is approved by the Commissioners of Inland Revenue for the purposes of Chapter II of Part II of the Finance Act 1970;
- (b) a statutory scheme as defined in section 26(1) of the Finance Act 1970;
- (c) a scheme whose application for approval under Chapter II of Part II of the Finance Act 1970 is under consideration; and
- (d) a scheme to which section 36 of the Finance Act 1980(d) applies.

Manner of calculation and verification of cash equivalents

3.—(1) The cash equivalents mentioned in paragraph 12(1) are to be calculated and verified in such manner as may be approved in particular cases by—

- (a) a Fellow of the Institute of Actuaries; or
- (b) a Fellow of the Faculty of Actuaries; or
- (c) a person with other actuarial qualifications who is approved by the Secretary of State, at the request of the trustees of the scheme in question, as being a proper person to act for the purposes of these regulations in connection with that scheme,

(a) S.I. 1985/1323.

(b) S.I. 1985/1929.

(c) 1970 c. 24; paragraph (g) was inserted into section 20(2) by the Finance Act 1981 (c. 35), section 32.

(d) 1980 c. 48.

and in this regulation “actuary” means any person such as is referred to in subparagraph (a), (b) or (c) of this paragraph.

(2) The cash equivalents mentioned in paragraph 12(1) are to be calculated and verified by adopting methods and making assumptions which—

- (a) if not determined by the trustees of the scheme in question, are notified to them by an actuary; and
- (b) are certified by an actuary to the trustees of the scheme as being consistent—
 - (i) with the requirements of Schedule 1A,
 - (ii) with “Retirement Benefit Schemes—Transfer Values (GN11)” issued by the Institute of Actuaries and the Faculty of Actuaries, current on the date when these regulations come into operation, and
 - (iii) with the methods adopted and assumptions made, at the time when the certificate is issued, in calculating the benefits to which entitlement arises under the rules of the scheme in question for a person who is acquiring transfer credits under those rules.

Increases and reductions of cash equivalents

4.—(1) In a case where it is the established custom of the trustees of the scheme to award additional benefits at their discretion, the cash equivalent shall be increased to take account of any such additional benefits as will accrue to the member in question if the custom continues unaltered unless the trustees direct otherwise.

(2) If the whole or any part of the benefits referred to in paragraph 12(1) is or has been surrendered, commuted or forfeited before the trustees of the scheme do what is needed to comply with what the member requires, the cash equivalent shall be reduced in proportion to the reduction in the total value of the benefits.

(3) In a case where an actuary certifies that on the date of the certificate the scheme does not have sufficient assets to meet its liability in respect of the whole or any specified part of the accrued rights to benefit of members, the cash equivalent, or, as the case may be, the part of that cash equivalent which corresponds with that specified part of those accrued rights may be reduced by the percentage by which the scheme is so shown to be deficient.

(4) If the trustees of a scheme fail without reasonable excuse to do what is needed to carry out what a member of the scheme requires within 6 months of the relevant date, that member’s cash equivalent shall be increased by—

- (a) the interest on that cash equivalent, calculated on a daily basis over the period from the relevant date to the date on which the trustees carry out what the member requires, at the same rate as that payable for the time being on judgment debts by virtue of section 17 of the Judgment Act 1838(a); or, if it is greater,

(a) 1 & 2 Vic. c. 110; the rate of interest was amended by S.I. 1985/437.

- (b) the amount, if any, by which that cash equivalent falls short of what it would have been if the relevant date had been the date on which the trustees carry out what the member requires.

(5) Where a transfer value is being used in the manner described in paragraph 13(2)(a) and the receiving scheme has undertaken to provide benefits at least equal in value to the benefits described in paragraph 12(1) on payment of a lesser sum, including nil, than the cash equivalent referred to in paragraph 12(1), the cash equivalent shall be reduced to that lesser sum.

(6) In a case where 2 or more of the paragraphs of this regulation fall to be applied to a calculation, they shall be applied in the order in which they occur in this regulation.

(7) In this regulation “the relevant date” has the same meaning as in paragraph 12(2).

Cases where normal pension age is earlier than 60

5. In their application to a member of a scheme whose normal pension age is earlier than 60, paragraph 11(1)(a) shall have effect as if the words “at least one year” were omitted and paragraphs 15(2)(a) and (3)(a) and 16(3)(b) shall have effect as if the references in them to normal pension age were references to the age of 60.

Rights to exist in relation to the receiving scheme in certain cases of transfers

6. In a case where—

- (a) a member of a scheme (in this regulation called “the transferring scheme”) has acquired a right to a cash equivalent but has not exercised the option conferred by paragraph 13(2); and
- (b) the trustees of that scheme have, by virtue of regulation 2 of the Contracting-out (Transfer) Regulations 1985(a), transferred the whole or any part of his accrued rights to benefit under that scheme to another scheme (in this regulation called “the receiving scheme”) in the circumstances specified in paragraph 2 of Schedule 1 to those regulations,

Schedule 1A shall have effect as if the member’s rights to the cash equivalent of the benefits so transferred existed in relation to the receiving scheme instead of the transferring scheme.

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

Tony Newton,
Minister of State,
Department of Health and Social Security.

10th December 1985.

(a) S.I. 1985/1323.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations are made under paragraphs 13, 14 and 20 of Schedule 1A to the Social Security Pensions Act 1975 before the expiry of the period of 6 months beginning with the commencement (on 1st January 1986) of section 2 of the Social Security Act 1985. Consequently, by virtue of section 26(1)(a) of the latter Act, the provisions of section 61(2) and (3) of the former 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 that Act) do not apply to them.

Regulation 2 sets out the requirements which an occupational pension scheme must satisfy if a cash equivalent (within the meaning of Part II of Schedule 1A to the Social Security Pensions Act 1975) is to be used for acquiring transfer credits in it, and the requirements which an annuity must satisfy if a cash equivalent is to be used for purchasing it.

Regulation 3 provides for the manner in which a cash equivalent is to be calculated and verified: in particular, it must be such manner as may be approved by an actuary.

Regulation 4 sets out the circumstances in which a cash equivalent is to be increased or reduced to an amount greater or less than the exact equivalent of the benefits in question.

Regulation 5 modifies certain provisions of Schedule 1A in their application to a member of a scheme whose normal pension age is earlier than 60.

Regulation 6 provides that in certain cases where a member of a contracted-out scheme has acquired a right to a cash equivalent but his accrued rights to benefit has been transferred from that scheme to another contracted-out scheme in circumstances where his consent is not required, his right to the cash equivalent is to exist in relation to the second scheme instead of the first.

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