

1987 No.1118

PENSIONS

The Protected Rights (Transfer Payment) Regulations  
1987

<i>Made</i> - - - -	<i>25th June 1987</i>
<i>Laid before Parliament</i>	<i>6th July 1987</i>
<i>Coming into force</i>	
<i>For the purposes of all of the regulations to the extent that they relate to personal pension schemes</i>	<i>27th July 1987</i>
<i>For all other purposes</i>	<i>6th April 1988</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 2, 17(1)(b) and 84(1) of, and paragraph 9(1)(b) of Schedule 1 to, the Social Security Act 1986(a), 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, commencement and interpretation**

1.—(1) These Regulations may be cited as the Protected Rights (Transfer Payment) Regulations 1987 and shall come into force —

- (a) for all purposes in relation to personal pension schemes on 27th July 1987; and
- (b) for all other purposes on 6th April 1988.

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

“the Act” means the Social Security Act 1986;

“the Pensions Act” means the Social Security Pensions Act 1975(b);

“the Abatement of Benefit Regulations” means the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987(c);

“appropriate personal pension scheme” shall be construed in accordance with Part I of the Act;

“the Board” means the Occupational Pensions Board;

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(a) 1986 c.50. See definitions of “prescribed” and “regulations” in section 84(1). (b) 1975 c.60.  
(c) S.I. 1987/1113

“money purchase contracted-out scheme” and “occupational pension scheme” have the meaning given to those expressions by section 66(1) of the Pensions Act;

“overseas scheme” means an occupational pension scheme which is neither one contracted-out by virtue of section 32 of the Pensions Act nor one which the Board is under a duty to supervise in accordance with section 49 of that Act, and which is administered wholly or primarily outside the United Kingdom;

“paying scheme” means a scheme which is, or was formerly –

- (a) an appropriate personal pension scheme; or
- (b) a money purchase contracted-out scheme,

and which gives effect to the protected rights of a member of it by making a transfer payment in respect of those rights;

“personal pension scheme” has the same meaning as in section 84(1) of the Act;

“protected rights” has the meaning given to that expression by Schedule 1 to the Act, or where the rights are under a money purchase contracted-out scheme, or a section 49 money purchase scheme, that Schedule as modified by section 32(2B) of the Pensions Act(a);

“salary related contracted-out scheme” means an occupational pension scheme which is contracted-out by virtue of section 32(2) of the Pensions Act;

“scheme” means occupational pension scheme or personal pension scheme;

“section 49 money purchase scheme” means a scheme, which was formerly a money purchase contracted-out scheme, and which the Board are under a duty to supervise in accordance with section 49 of the Pensions Act(b);

“section 49 salary related scheme” means a scheme, which was formerly a salary related contracted-out scheme, and which the Board are under a duty to supervise in accordance with section 49 of the Pensions Act;

“receiving scheme” means a scheme to which a transfer payment is, or is to be, made;

and other expressions have the same meaning as in the Act.

- (3) In these Regulations, unless the context otherwise requires, any reference –
  - (a) to a numbered regulation or Schedule is to the regulation in, or as the case may be, Schedule to, these Regulations bearing that number;
  - (b) in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number; and
  - (c) in a paragraph to a lettered sub-paragraph is to the sub-paragraph of that paragraph bearing that letter.

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(a) Section 32(2B) is inserted in the Social Security Pensions Act 1975 (c.60) by the Social Security Act 1986 (c.50), section 6 and Schedule 2, paragraph 5(b). (b) Section 49 is amended by the Social Security Act 1986 (c.60), section 6 and Schedule 2, paragraph 9, and see section 86 and Schedule 10, paragraph 24.

### **Transfer payments giving effect to protected rights**

2.—(1) Subject to regulation 3 (requirements to be satisfied by certain specified receiving schemes), a paying scheme may give effect to the protected rights of a member by the making of a transfer payment –

- (a) to an appropriate personal pension scheme; or
- (b) to an occupational pension scheme,

in the circumstances and subject to the conditions mentioned in paragraphs (2) to (7), and in these Regulations a “transfer payment” means a transfer payment such as is described in this paragraph.

(2) A transfer payment may be made to an appropriate personal pension scheme in the circumstances described in paragraph 1 of Schedule 1, and on the condition specified in paragraph 1 of Schedule 2.

(3) A transfer payment may be made to a money purchase contracted-out scheme in the circumstances described in paragraphs 1 and 2 of Schedule 1, and on the condition specified in paragraph 1 of Schedule 2.

(4) A transfer payment may be made to a section 49 money purchase scheme in the circumstances described in paragraphs 1 and 3 of Schedule 1, and on the conditions specified in paragraphs 1 and 2 of Schedule 2.

(5) A transfer payment may be made to a salary related contracted-out scheme in the circumstances described in paragraphs 1, 2 and 5 of Schedule 1, and on the condition specified in paragraph 1 of Schedule 2.

(6) A transfer payment may be made to a section 49 salary related scheme in the circumstances described in paragraphs 1, 3 and 5 of Schedule 1, and on the conditions specified in paragraphs 1 and 2 of Schedule 2.

(7) A transfer payment may be made to an overseas scheme in the circumstances described in paragraphs 1 and 4 of Schedule 1, and on the conditions specified in paragraphs 1 and 2 of Schedule 2.

(8) References in Schedules 1 to 3 to “the member” are references to a member referred to in paragraph (1).

### **Requirements to be satisfied by receiving scheme**

3. A transfer payment may be made by a paying scheme to –

- (a) an appropriate personal pension scheme, a money purchase contracted-out scheme or a section 49 money purchase scheme, where that scheme satisfies the requirement specified in paragraph 1 of Schedule 3; or
- (b) a salary related contracted-out scheme or a section 49 salary related scheme, where that scheme satisfies the requirement specified in paragraph 2 of Schedule 3.

### **Modifications of Part III of the Pensions Act where transfer payments are made to salary related contracted-out schemes or section 49 salary related schemes**

4.—(1) Where a transfer payment has been paid by a paying scheme to a salary related contracted-out scheme or to a section 49 salary related scheme in accordance with regulations 2 and 3, Part III of the Pensions Act shall have effect as modified by paragraphs (2) to (9).

(2) Section 26(2) shall have effect as if –

- (a) after “sections 33 and 36 below” there were inserted “or in compliance with the requirement set out in paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations 1987”; and
- (b) at the end there were added “or, as the case may be, of that requirement.”.

(3) Section 29(2) shall have effect as if there were inserted after the words added by paragraph 14(b)(ii) of Schedule 10 to the Act, "unless he is entitled to that guaranteed minimum pension by reason of paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations 1987."

(4) Section 35(1) shall have effect as if –

- (a) after "guaranteed minimum" there were inserted "both"; and
- (b) at the end there were added "and in relation to any pension provided by a scheme in compliance with the requirement set out in paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations 1987, (guaranteed minimum pension to be paid by a scheme by reason of receiving a transfer payment)."

(5) In a case to which regulation 2(1) of the Abatement of Benefit Regulations applies, section 35(5) shall have effect as if any earnings factor to which regulation 2(2)(b) of those Regulations applies were, before being increased as mentioned in section 35(5), equal to the amount mentioned in regulation 2(2)(b) of them.

(6) Section 35(7) shall have effect –

- (a) if the scheme from which the transfer payment was made was a personal pension scheme –
  - (i) in respect only of each relevant year after the year in which minimum contributions, within the meaning given to that expression by section 1 of the Act, were last payable, and
  - (ii) in a case to which regulation 2(1) of the Abatement of Benefit Regulations applies, as if any earnings factor to which regulation 2(2)(b) of those Regulations applies were, before being increased as mentioned in section 35(7), equal to the amount mentioned in regulation 2(2)(b) of them; or
- (b) if the scheme from which the transfer payment was made was a money purchase contracted-out scheme or a section 49 money purchase scheme, in respect only of each relevant year after the year in which contracted-out employment by reference to that scheme terminated.

(7) Section 35(8) shall have effect as if there were added at the end " , so however that separate provision may be made for members as regards any guaranteed minimum pensions which have accrued to them by reason of paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations 1987."

(8) In a case to which regulation 2(1) of the Abatement of Benefit Regulations applies –

- (a) section 44(6)(a) shall have effect as if any earnings factor to which regulation 2(2)(b) of those Regulations applies were, before being increased as mentioned in section 44(6)(a), equal to the amount mentioned in regulation 2(2)(b) of them; and
- (b) section 45(3)(a) shall have effect as if any earnings factor to which regulation 2(2)(b) of those Regulations applies were, before being increased as mentioned in section 45(3)(a), equal to the amount mentioned in regulation 2(2)(b) of them.

(9) Section 45(1) shall have effect as if after "accrued rights" there were inserted " ,including any such pensions which have accrued to him by reason of paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations 1987".

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

*Nicholas Scott*

Minister of State,

Department of Health and Social Security

25th June 1987

## **SCHEDULE 1**

Regulation 2

### **CIRCUMSTANCES IN WHICH A TRANSFER PAYMENT MAY BE MADE UNDER REGULATION 2**

1. The member consents to the transfer payment being made.
2. The member has entered employment with an employer who is a contributor to the receiving scheme.
3. The member has entered employment with an employer who is or was a contributor to the receiving scheme.
4. The member has entered employment to which the receiving scheme applies and that employment is outside the United Kingdom.
5. The transfer payment is made on or after 6th April 1990.

## **SCHEDULE 2**

Regulation 2

### **CONDITIONS ON WHICH A TRANSFER PAYMENT MAY BE MADE UNDER REGULATION 2**

1. The transfer payment made by the paying scheme (whether or not it forms part of a larger payment giving effect to both protected and other rights) is of an amount at least equal to the value of the protected rights of the member to which effect is being given.
2. The transfer payment is approved by the Board, whether or not subject to conditions.

## **SCHEDULE 3**

Regulation 3

### **REQUIREMENTS TO BE SATISFIED BY THE RECEIVING SCHEME UNDER REGULATION 3 FOR A TRANSFER PAYMENT TO BE MADE**

1. The transfer payment is applied by the receiving scheme to provide money purchase benefits for or in respect of the member.
2. In consequence of the transfer payment, and without prejudice to any other rights which the member receives under it, the receiving scheme provides for the member and the member's widow or widower to be entitled to guaranteed minimum pensions equal to those to which they would have been treated as entitled by virtue of section 4 of the Act, or section 29(2) or (2A) of the Pensions Act, as the case may be, if the transfer payment had not been made, except that the receiving scheme may make provision that any earnings factor of the member is to be revalued in accordance with section 35(7) of the Pensions Act, as modified by regulation 4(6).

## 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") before the end of the 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 Social Security Pensions Act 1975 (as amended by section 86(1) of, and 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.

They make provision for the protected rights of a member of a scheme which is or was an appropriate personal pension scheme or a money purchase contracted-out scheme to be given effect to by the making of a transfer payment.

Regulation 2, and Schedules 1 and 2, provide for the circumstances in which, and the conditions subject to which, such a transfer payment may be made.

Regulation 3 and Schedule 3 set out the requirements, if any, to be satisfied by an occupational pension scheme or personal pension scheme for a transfer payment to be made to it.

Regulation 4 provides for Part III of the Social Security Pensions Act 1975 to have effect, subject to modifications, where a transfer payment is made to a scheme which is or was contracted-out under section 32(2) of that Act (a salary related scheme) in order to accommodate the guaranteed minimum pensions to which a member of such a receiving scheme becomes entitled in consequence of that payment.

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