

1988 No. 1014

**INCOME TAX**

**The Personal Pension Schemes  
(Transfer Payments) Regulations 1988**

<i>Made</i> - - - -	<i>9th June 1988</i>
<i>Laid before the House of Commons</i>	<i>9th June 1988</i>
<i>Coming into force</i>	<i>1st July 1988</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 638(2) of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Personal Pension Schemes (Transfer Payments) Regulations 1988 and shall come into force on 1st July 1988.

**Interpretation**

2. In these Regulations, unless the context otherwise requires –

“the Act” means the Income and Corporation Taxes Act 1988;

“appropriate personal pension scheme” shall be construed in accordance with sections 1(8) and 84(1) of the Social Security Act 1986(b);

“Board” means the Commissioners of Inland Revenue;

“cash equivalent” in relation to benefits means the actuarial value of benefits which have accrued to, or in respect of, an individual at the relevant date;

“controlling director” means a director within the meaning of section 612(1) of the Act to whom subsection (5)(b) of section 417 of the Act (read with subsections (3), (4) and (6) of that section) applies;

“guaranteed minimum pension” shall be construed in accordance with section 26(2) of the Social Security Pensions Act 1975(c);

“personal pension scheme” means a personal pension scheme approved, or provisionally approved, by the Board under Chapter IV of Part XIV of the Act;

“personal pension protected rights premium” means a premium payable under section 5(4) of the Social Security Act 1986;

“protected rights” shall be construed in accordance with Schedule 1 to the Social Security Act 1986(d);

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(a) 1988 c.1. (b) 1986 c.50 (c) 1975 c.60; section 26(2) was amended by the Social Security Act 1986 (c.50), section 86(1) and Schedule 10, paragraph 12. (d) 1986 c.50; Schedule 1 was modified by the Social Security Pensions Act 1975 (c.60), section 32(2B) inserted by 1986 c.50, section 6 and Schedule 2, paragraph 5.

“the relevant date” shall be construed in accordance with paragraph 12 of Schedule 1A to the Social Security Pensions Act 1975(a);  
“remuneration” shall be construed in accordance with section 612(1) of the Act;  
“retirement annuity contract or trust scheme” means a retirement annuity contract or trust scheme approved by the Board under Chapter III of Part XIV of the Act;  
“retirement benefits scheme” means a retirement benefits scheme approved by the Board under Chapter I of Part XIV of the Act;  
“statutory scheme” has the meaning given to it by section 612(1) of the Act.

#### **Requirements as to the making of transfer payments**

3.—(1) Subject to paragraph (2), the administrator of a personal pension scheme if requested so to do in writing by an individual who is a member of the scheme shall make a transfer payment to –

- (a) another personal pension scheme,
- (b) a retirement benefits scheme to which an employer of the individual makes or has made contributions, or
- (c) a statutory scheme.

(2) A transfer payment shall compromise the whole of the accumulated fund unless, and to the extent that, the fund –

- (a) includes protected rights, or
- (b) has been, or will be, used to pay a personal pension protected rights premium.

4. If a transfer payment is made to another personal pension scheme, the administrator of the personal pension scheme from which the payment is made shall, within the period of 30 days after the date on which it is made, notify in writing the administrator of the scheme which receives it of any part of the payment which represents a transfer from –

- (a) a retirement benefits scheme, or
- (b) a statutory scheme.

#### **Requirements as to the acceptance of transfer payments**

5. Subject to regulation 6, a personal pension scheme shall accept a transfer payment from –

- (a) another personal pension scheme,
- (b) a retirement benefits scheme,
- (c) a statutory scheme, or
- (d) a retirement annuity contract or trust scheme.

6.—(1) A personal pension scheme shall not accept a transfer payment from –

- (a) a retirement benefits scheme, or
- (b) a statutory scheme

(in this regulation referred to as “the paying scheme”) in the circumstances specified in paragraph (2) unless the administrator of the personal pension scheme has obtained the certificate specified in paragraph (3) from the individual referred to in paragraph (2).

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(a) 1975 c. 60; Schedule 1A was inserted by the Social Security Act 1985 (c. 53), section 2 and Schedule 1, paragraph 3; paragraph 12 of the Schedule was amended by the Social Security Act 1986 (c. 50), section 86(1) and Schedule 10, paragraph 30, was modified by the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116), regulation 3(10) and Schedule 4, paragraph 8, and was amended by the Social Security Act 1988 (c. 7), section 9 and Schedule 2, Part II and by the Occupational Pension Schemes (Transfer Values) Amendment Regulations 1988 (S.I. 1988/523), regulation 2(3).

(2) The circumstances specified in this paragraph are circumstances where, in respect of any employment to which the proposed transfer payment, or any part of it, relates –

- (a) an individual is, or has been at any time during the period of ten years prior to the date on which a right to a cash equivalent arose, a controlling director, or
- (b) an individual's annual remuneration is, or was for any year during the period of ten years prior to the date on which the right to a cash equivalent arose, £100,000 or in excess of that amount.

(3) The certificate specified in this paragraph is a certificate, signed by the administrator of the paying scheme, and which shows that –

- (a) the proposed transfer payment calculated in accordance with "Retirement Benefit Schemes – Transfer Values (GN11)" published by the Institute of Actuaries and the Faculty of Actuaries and current at the date of the calculation does not exceed the cash equivalent of the benefits under the paying scheme reflected in the transfer payment (together with, in circumstances where paragraph (4) is applicable, such cash equivalent as is not so reflected) based on the formula  $N/NS \times P$  where –

N is the number of actual years service in respect of which benefits have accrued to the member under –

- (i) the paying scheme, and
- (ii) where a transfer payment has been accepted by the paying scheme from a retirement benefits scheme or statutory scheme, the retirement benefits scheme or statutory scheme,

up to a maximum of 40,

NS is the number of years of potential service to normal retirement age under the rules of –

- (i) the paying scheme, and
- (ii) where a transfer payment has been accepted by the paying scheme from a retirement benefits scheme or statutory scheme, the retirement benefits scheme, or statutory scheme,

up to a maximum of 40, and

P is the maximum benefits which could have been provided under the rules of the paying scheme in respect of the number of potential years of service expressed in the denominator NS, taking into account the maximum benefits that the scheme could have provided for the individual and his dependants, and on the assumptions that –

- (i) had the individual remained a member of the scheme the benefits which would have accrued to him throughout the period between the end of his actual service and his normal retirement age under the rules of the paying scheme would have increased at the rate of 5 per cent. per annum, and
- (ii) that pensions payable thereafter would increase at the rate of 3 per cent. per annum; and

- (b) except in the circumstances and to the extent specified in paragraph (4), the proposed transfer payment represents the whole of the individual's accrued rights to benefits under the paying scheme.

(4) The circumstances specified in this paragraph are circumstances where, to the extent that any enactment requires or permits an occupational pension scheme to restrict the amount which may be transferred –

- (a) regulation 2A of the Occupational Pension Schemes (Transfer Values) Regulations 1985(a) applies and the transfer value provided by the occupational pension scheme does not include benefits which accrued to the individual as a member of the scheme in relation to the service before 6th April 1988, or

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(a) S.I. 1985/1931; regulation 2A was inserted by S.I. 1987/1107 and amended by S.I. 1988/523.

- (b) the individual's benefits include rights to a guaranteed minimum pension or protected rights and the personal pension scheme receiving the transfer payment is not an appropriate personal pension scheme.

**Requirements as to the application of transfer payments**

7. Where a personal pension scheme accepts a transfer payment the whole of the transfer payment shall be applied to a personal pension arrangement made in accordance with the scheme.

8.—(1) Subject to regulation 9, where a personal pension scheme accepts a transfer payment from –

- (a) a retirement benefits scheme, or
- (b) a statutory scheme,

the accumulated value arising from the transfer payment at the date of death of the individual (in this regulation and in regulation 9 referred to as “the accumulated value”) shall be applied in accordance with sub-paragraph (2).

(2) The accumulated value may be applied –

- (a) wholly to secure the payment of an annuity which satisfies the conditions contained in section 636 of the Act, or
- (b) as to not more than 25 per cent. to secure the payment of a lump sum and as to the balance to secure the payment of such an annuity as is referred to in paragraph (a).

9. Where the administrator of a personal pension scheme, having taken all reasonable steps, is satisfied that there is no surviving spouse to whom an annuity referred to in regulation 8(2)(a) can be paid, the whole of the accumulated value may be paid as a lump sum.

*A. J. G. Isaac*  
*T. J. Painter*

9th June 1988

Two of the Commissioners of Inland Revenue

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 638(2) of the Income and Corporation Taxes Act 1988 provides that the Board shall not approve a personal pension scheme unless it makes such provision for the making, acceptance and application of transfer payments as satisfies any requirements imposed by or under regulations made by the Board; and these Regulations, which come into force on 1st July 1988 impose such requirements.

Regulation 1 provides for citation and commencement and regulation 2 contains definitions.

Regulations 3 and 4 impose requirements as to the making of transfer payments to other personal pension schemes, certain retirement benefits schemes, and statutory schemes.

Regulations 5 and 6 impose requirements as to the acceptance by personal pension schemes of transfer payments from other personal pension schemes, retirement benefits schemes, statutory schemes and retirement annuity contract or trust schemes.

The publication "Retirement Benefit Schemes – Transfer Values (GN11)", referred to in regulation 6(3)(a), may be obtained from the Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ, and from the Faculty of Actuaries, 23 St Andrew Square, Edinburgh EH2 1AQ.

Regulations 7, 8 and 9 impose requirements as to application of transfer payments made to personal pension schemes.