
STATUTORY INSTRUMENTS

1996 No. 1462

**The Contracting-out (Transfer and
Transfer Payment) Regulations 1996**

PART III

TRANSFERS OF LIABILITY IN RESPECT OF SECTION 9(2B) RIGHTS

General

7.—(1) A transfer of liability—

- (a) from a salary-related contracted-out scheme (or a scheme which was formerly a salary-related contracted-out scheme) or from an appropriate policy in respect of the accrued section 9(2B) rights of an earner; or
- (b) from a salary-related contracted-out scheme (or a scheme which was formerly a salary-related contracted-out scheme) for the payment to or in respect of a person who has become entitled to them of pensions under that scheme deriving from section 9(2B) rights

may be made in accordance with arrangements which satisfy paragraph (2) and no such transfer may be made otherwise.

(2) The arrangements referred to in paragraph (1) must result in there being made—

- (a) in the case of a transfer referred to in paragraph (1)(a), a transfer payment to the receiving scheme or overseas arrangement, in accordance with whichever of regulations 8 to 11 is applicable, of at least the cash equivalent of the accrued section 9(2B) rights in respect of which the transfer is being made, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act; and
- (b) in the case of a transfer referred to in paragraph (1)(b), a connected employer transfer payment to a salary-related contracted-out scheme in accordance with regulation 9.

(3) In this regulation and regulations 8 to 11 “transfer payment” means a payment to effect a transfer of liability such as is referred to in paragraph (1).

Transfer payments to salary-related contracted-out schemes in respect of section 9(2B) rights

8. A transfer payment in respect of an earner’s accrued section 9(2B) rights may be made to a salary-related contracted-out scheme if—

- (a) the earner consents in writing;
- (b) the earner—
 - (i) is employed by an employer who is a contributor to the receiving scheme, or
 - (ii) has previously been a member of the receiving scheme; and
- (c) the transfer payment is applied to provide rights for the earner or person concerned which, had they accrued in the receiving scheme, would be provided in accordance with the rules of the receiving scheme relating to earners who are in employment which is contracted-out

in relation to the receiving scheme or have been in employment which was so contracted-out.

Connected employer transfer payments

9. A connected employer transfer payment may be made to a salary-related contracted-out scheme subject to—

- (a) the condition set out in regulation 8(c); and
- (b) the condition set out in regulation 12(3) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(1) (requirement for actuarial certificate).

Transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes in respect of section 9(2B) rights

10. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to a money purchase contracted-out scheme or an appropriate personal pension scheme if—

- (a) the earner consents in writing;
- (b) if the transfer payment is to a money purchase contracted-out scheme, the earner—
 - (i) is employed by an employer who is a contributor to the receiving scheme, or
 - (ii) has previously been a member of the receiving scheme; and
- (c) the transfer payment is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the earner.

Transfer payments to overseas schemes or arrangements in respect of section 9(2B) rights

11. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to an overseas scheme or overseas arrangement if—

- (a) the earner consents in writing;
- (b) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the earner has emigrated on a permanent basis and, where the receiving scheme is an occupational pension scheme, that he has entered employment to which the receiving scheme applies;
- (c) the earner has acknowledged in writing that he accepts that the scheme or arrangement to which the transfer payment is to be made may not be regulated in any way by the law of the United Kingdom and that as a consequence there may be no obligation under that law on the receiving scheme or arrangement or its trustees or administrators to provide any particular value or benefit in return for the transfer payment; and
- (d) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the earner has received a statement from the receiving scheme or arrangement showing the benefits to be awarded in respect of the transfer payment and the conditions (if any) on which these could be forfeited or withheld.