

STATUTORY INSTRUMENTS

2007 No. 1398

SOCIAL SECURITY

The Transfer of State Pensions and Benefits Regulations 2007

Made - - - - *4th May 2007*
Laid before Parliament *11th May 2007*
Coming into force - - *1st June 2007*

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972 ^{M1} in relation to rights in respect of State pensions and benefits of members of the pension scheme provided for officials and servants of Community institutions and bodies ^{M2}.

Accordingly, the Secretary of State, in exercise of the power conferred by section 2(2) of that Act, makes the following Regulations:

Marginal Citations

M1 1972 c.68.

M2 S.I.2006/1461.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Transfer of State Pensions and Benefits Regulations 2007 and shall come into force on 1st June 2007.

(2) In these Regulations—

^{F1}
...

^{F1}
...

[^{F2}“the 1992 Acts” means—

(a) the Social Security Contributions and Benefits Act 1992; and

(b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“active employment” has the same meaning as in Article 36 of the Council Regulation;

“the Council Regulation” means Council Regulation (EEC , Euratom, ECSC) No.259/68 laying down staff regulations of officials and the conditions of employment of other servants of the European Union;

“the EU scheme” means the pension scheme provided for officials of EU institutions in accordance with Articles 77 to 84 of, and Annex VIII to, the Council Regulation;]

“guarantee date” means the date—

- (a) by reference to which the cash equivalent value of transferable rights is calculated; and
- (b) which falls within a period of three months beginning with the date on which the transfer application is received by the Secretary of State;

[^{F3}“leave on personal grounds” has the same meaning as in Article 40 of the Council Regulation;

“relevant benefit” means—

- (a) graduated retirement benefit under—
 - (i) sections 36 and 37 of the National Insurance Act 1965; and
 - (ii) sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966;
- (b) any benefit under Parts 2 to 5 and 10 of the 1992 Acts;
- (ba) [^{F4}a state pension under Part 1 of the Pensions Act 2014 or Part 1 of the Pensions Act (Northern Ireland) 2015;]
- (bb) [^{F5}bereavement support payment under section 30 of the Pensions Act 2014 or section 29 of the Pensions Act (Northern Ireland) 2015;]
- (c) [^{F6}a jobseeker’s allowance under the Jobseekers Act 1995 as amended by the provisions of Part 1 of Schedule 14 to the Welfare Reform Act 2012 that remove references to an income-based allowance, and a contribution-based allowance under the Jobseekers Act 1995 as it has effect apart from those provisions;]
- (ca) [^{F7}a jobseeker’s allowance under the Jobseekers (Northern Ireland) Order 1995 as amended by the provisions of Part 1 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015 that remove references to an income-based allowance, and a contribution-based allowance under the Jobseekers (Northern Ireland) Order 1995 as it has effect apart from those provisions;]
- (d) [^{F8}employment and support allowance under Part 1 of the Welfare Reform Act 2007 as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance, and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from those provisions;]
- (da) [^{F9}employment and support allowance under Part 1 of the Welfare Reform Act 2007 as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the Welfare Reform (Northern Ireland) Order 2015 that remove references to an income-related allowance, and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from those provisions;]

“secondment” has the same meaning as in Articles 37 to 39 of the Council Regulation;]

^{F1} ...

“statement of entitlement” means a written statement—

- (a) of the amount of the cash equivalent at the guarantee date of the transferable rights which have accrued to, or in respect of, the transferor; and
- (b) which contains details of the basis of how that amount has been calculated;

“transfer application” means an application referred to in regulation 3(1);

“transferor” means the person who has applied to the Secretary of State to transfer his transferable rights into [^{F10}the EU scheme].

^{F11}(2A)

^{F12}(3)

F1	Words in reg. 1(2) omitted (1.11.2010) by virtue of The Transfer of State Pensions and Benefits (Amendment) Regulations 2010 (S.I. 2010/1825) , regs. 1, 3(2)(a)
F2	Words in reg. 1(2) inserted (1.11.2010) by The Transfer of State Pensions and Benefits (Amendment) Regulations 2010 (S.I. 2010/1825) , regs. 1, 3(2)(b)
F3	Words in reg. 1(2) inserted (1.11.2010) by The Transfer of State Pensions and Benefits (Amendment) Regulations 2010 (S.I. 2010/1825) , regs. 1, 3(2)(c)
F4	Reg. 1(2)(ba) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985) , arts. 1(2)(b), 30(2)
F5	Words in reg. 1(2) inserted (6.4.2017 coming into force in accordance with art. 1-3) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422) , arts. 1(2), 28(2)
F6	Words in reg. 1(2) substituted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630) , regs. 1(2), 74(2)(a)
F7	Words in reg. 1(2)(ca) substituted (coming into force in accordance with reg. 1(1) of the amending Rule) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236) , regs. 1(1), 53(a)
F8	Words in reg. 1(2) substituted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630) , regs. 1(2), 74(2)(b)
F9	Words in reg. 1(2)(da) substituted (coming into force in accordance with reg. 1(1) of the amending Rule) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236) , regs. 1(1), 53(b)
F10	Words in reg. 1(2) substituted (1.11.2010) by The Transfer of State Pensions and Benefits (Amendment) Regulations 2010 (S.I. 2010/1825) , regs. 1, 3(2)(d)
F11	Reg. 1(2A) omitted (31.7.2021) by virtue of The Social Security (Reciprocal Agreements) (Miscellaneous Amendments) (EU Exit) Regulations 2021 (S.I. 2021/811) , regs. 1(2), 6(2)
F12	Reg. 1(3) omitted (1.11.2010) by virtue of The Transfer of State Pensions and Benefits (Amendment) Regulations 2010 (S.I. 2010/1825) , regs. 1, 3(4)

Transferable rights

2.—(1) In these Regulations, “transferable rights” means, subject to ^{F13}paragraphs (2) to (2B)], any rights to relevant benefits, which, at the guarantee date, have accrued to, or in respect of, a person by virtue of—

- (a) the payment by that person of Class 1, 2 or 3 contributions under ^{F14}the 1992 Acts];
 - (b) that person having been credited with such contributions or with earnings; or
 - (c) contributions of any class paid under the National Insurance Act 1965 ^{F15}and the National Insurance Act (Northern Ireland) 1966].
- (2) Paragraph (1) does not include—
- (a) any rights under—
 - (i) section 48 of ^{F16}the 1992 Acts] (use of former spouse's contributions); or
 - (ii) sections 82 to 86A of ^{F17}those Acts] (adult dependency increases); or
 - (b) the cash equivalent of the value of the appropriate national health service allocation under section 162 of the Social Security Administration Act 1992 ^{M3}^{F18}and section 142 of the Social Security Administration (Northern Ireland) Act 1992].

[^{F19}(2A) Paragraph (1) does not include any such rights which are referable to the period specified in paragraph (2B).

(2B) The period referred to in paragraph (2A) is the period commencing on the date on which the person begins active employment as an official of the EU and ending on the date on which the person ceases such employment, excluding any period of—

- (a) secondment; or
- (b) leave on personal grounds.]

(3) In determining a person's rights to relevant benefits for the purposes of this regulation, regulation 6(1) of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979 ^{M4}[^{F20}and regulation 6(1) of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979] (benefit at reduced rates for those who do not satisfy contribution conditions in full) shall have effect as if the words from “provided” to the end of [^{F21}each of those paragraphs] were omitted.

[^{F22}(4) In determining a person's rights to relevant benefits for the purposes of this regulation, regulation 13 of the State Pension Regulations 2015 (minimum number of qualifying years), and any provisions in Northern Ireland which correspond to that regulation, shall not have effect.]

- F13** Words in reg. 2(1) substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(2)(a)**
- F14** Words in reg. 2(1)(a) substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(2)(b)**
- F15** Words in reg. 2(1)(c) inserted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(2)(c)**
- F16** Words in reg. 2(2)(a)(i) substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(3)(a)**
- F17** Words in reg. 2(2)(a)(ii) substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(3)(b)**
- F18** Words in reg. 2(2)(b) inserted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(3)(c)**
- F19** Reg. 2(2A)(2B) inserted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(4)**
- F20** Words in reg. 2(3) inserted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(5)(a)**
- F21** Words in reg. 2(3) substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **4(5)(b)**
- F22** Reg. 2(4) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **30(3)**

Marginal Citations

- M3** Section 162 is amended by the [Social Security \(Contributions\) Act 1994 \(c.1\)](#), **section 2(1)** and (2), the [Social Security Administration \(Fraud\) Act 1997 \(c.47\)](#), **Schedule 2**, the [Social Security Act 1998 \(c.14\)](#), **Schedule 7**, paragraph 99(4), the [Social Security \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#), **Schedule 1**, paragraph 28(2) and (3), [Schedule 3](#), paragraph 52(2) to (11) and [Schedule 5](#), paragraph 12, the [Welfare Reform and Pensions Act 1999 \(c.30\)](#), **Schedule 9**, paragraph 9(2) and (3), the [Child Support, Pensions and Social Security Act 2000 \(c.19\)](#), **section 74(7)**, the [National Insurance Contributions Act 2002 \(c.19\)](#), section 4, **Schedule 1**, paragraph 19 and [Schedule 2](#), the [Income Tax \(Earnings and Pensions\) Act 2003 \(c.1\)](#), **Schedule 6**, paragraph 189 and the [National Insurance Contributions and Statutory Payments Act 2004 \(c.3\)](#), **Schedule 1**, paragraph 3(3).
- M4** [S.I.1979/642](#); the relevant amending instruments are [S.I.1990/2642](#) and [2000/1483](#).

Transfer application

3.—(1) Except where paragraph (2) applies, a person who wishes to transfer his transferable rights to [^{F23}the EU scheme] must make an application to the Secretary of State.

(2) The transferor shall be treated as having made an application under paragraph (1) where the Secretary of State receives a copy of the transferor's application to become a member of [^{F23}the EU scheme].

(3) An application under paragraph (1) shall be in such form as the Secretary of State may from time to time approve.

F23 Words in reg. 3 substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, 5

Statement of entitlement

4.—(1) The Secretary of State shall, subject to paragraph (4), provide the transferor with a statement of entitlement before the end of the period of 14 days beginning with the guarantee date.

(2) A statement of entitlement shall remain valid for a period of seven months beginning with the day on which it is issued by the Secretary of State.

(3) Where the transferor is not satisfied as to the accuracy of any of the information contained in the statement of entitlement, he shall notify the Secretary of State accordingly within one month of receiving it.

(4) The Secretary of State need not provide a statement of entitlement to a transferor if he has provided a statement of entitlement to that transferor in the previous twelve months.

Calculation of the cash equivalent of transferable rights

5.—(1) The cash equivalent of the transferor's transferable rights is to be calculated and verified in such manner as may be approved by, or on behalf of, the Government Actuary.

(2) Where, at the guarantee date, the transferor is in receipt of one or more relevant benefits, the cash equivalent of any amounts paid in respect of that benefit or those benefits shall be deducted from the total cash equivalent of his transferable rights.

Notice of intention to complete transfer

6. A transfer of a transferor's transferable rights to [^{F24}the EU scheme] may only take place where the Secretary of State has been notified in writing, before the expiry of the period referred to in regulation 4(2), that the transferor wishes the transfer to take place.

F24 Words in regs. 6-9 substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, 5

Action to be taken by the Secretary of State

7.—(1) Paragraphs (2) and (3) apply where the Secretary of State receives a notice under regulation 6.

(2) Where the Secretary of State is satisfied that the cash equivalent of the transferor's transferable rights is correct, he must transfer into [^{F24}the EU scheme]—

- (a) an amount in respect of that cash equivalent; and

(b) interest accruing on that amount by virtue of regulation 10, before the end of the period of ten months beginning with the guarantee date.

(3) Where the Secretary of State is not satisfied as to the accuracy of the cash equivalent of the transferor's transferable rights, he shall notify the transferor accordingly and issue a revised statement of entitlement.

(4) Where—

(a) the Secretary of State receives a notice from a transferor indicating that he wishes to complete a transfer of his transferable rights to ^{F24}the EU scheme]; and

(b) that notice is received after the expiry of the period referred to in regulation 4(2),

he shall notify the transferor that his application is invalid and that a new application must be made and a new statement of entitlement obtained in accordance with the provisions of these Regulations.

F24 Words in regs. 6-9 substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, 5

Effect of making a cash equivalent transfer payment

8.—(1) This regulation applies where the cash equivalent of the transferor's transferable rights has been transferred into ^{F24}the EU scheme].

(2) Section 22(4) of ^{F25}the 1992 Acts]^{M5} (earnings factors) shall be read as if it included the following—

“or

(c) in a case where the cash equivalent of a person's transferable rights has been transferred in accordance with the Transfer of State Pensions and Benefits Regulations 2007, for the tax year in which that payment was made and any earlier tax year—

(i) in the case of 1987-88 or any subsequent tax year, from so much of his earnings as did not exceed the upper earnings limit and upon which primary Class 1 contributions have been paid, treated as paid or credited and from Class 2 and Class 3 contributions; and

(ii) in the case of any earlier tax year, from any of his Class 1, 2 or 3 contributions.”

(3) Nothing in ^{F25}the 1992 Acts][^{F26}, Part 1 [^{F27}or Part 5] of the Pensions Act 2014, Part 1 [^{F27}or Part 5] of the Pensions Act (Northern Ireland) 2015] or in regulations made under ^{F28}those Acts] shall operate—

(a) to entitle the transferor to payment of a relevant benefit from the day on which the transfer takes place;

(b) to credit a transferor with any earnings or contributions which accrue from his transferable rights; or

(c) to enable the transferor to reduce the number of years in his working life for the purposes of satisfying the second condition in paragraph 5 of Schedule 3 to ^{F25}the 1992 Acts]^{M6} by reference to those rights.

(4) Where the transferor returns to work in the United Kingdom, he shall not be entitled to credits under—

(a) regulation 4 of the Social Security (Credits) Regulations 1975 ^{M7} (starting credits); or

(b) regulation 4 of the Social Security (Credits) Regulations (Northern Ireland) 1975 ^{M8} (starting credits).

(5) Where, at the date on which the cash equivalent of his transferable rights was transferred, a transferor's former spouse or civil partner is treating the contributions of the transferor as if they were his own contributions in accordance with section 48 of [F25 the 1992 Acts] (use of former spouse's contributions), that transfer shall not have the effect of causing the former spouse's or civil partner's Category A pension to be re-calculated.

- F24** Words in regs. 6-9 substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **5**
- F25** Words in reg. 8 substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **6**
- F26** Words in reg. 8(3) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **30(4)(a)**
- F27** Words in reg. 8(3) inserted (6.4.2017 coming into force in accordance with art. 1-3) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **28(3)**
- F28** Words in reg. 8(3) substituted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **30(4)(b)**

Marginal Citations

- M5** Section 22(4) is amended by the [Social Security Act 1998 \(c.14\)](#), [Schedule 7](#), paragraph 61.
- M6** Paragraph 5 of Schedule 3 is amended by the [Pensions Act 1995 \(c.26\)](#), [section 129](#).
- M7** [S.I.1975/556](#); the relevant amending instruments are [S.I.1988/1545](#) and 2000/1483.
- M8** [S.R.1975 No.113](#); the relevant amending regulations are [S.R.1988 No.326](#) and [2001 No.108](#).

Incorrect amount transferred

9.—(1) Paragraph (2) applies where—

- (a) an amount in respect of the cash equivalent of the transferor's transferable rights has been transferred into [F24 the EU scheme] (“the transferred amount”); and
- (b) it subsequently transpires that the cash equivalent of the transferor's transferable rights was greater than the transferred amount.

(2) The Secretary of State shall transfer into [F24 the EU scheme] an amount equal to the difference between—

- (a) the cash equivalent of the transferor's transferable rights and the transferred amount; and
- (b) the interest accrued under regulation 10 on the cash equivalent of the transferor's transferable rights and the interest accrued under that regulation on the transferred amount.

- F24** Words in regs. 6-9 substituted (1.11.2010) by [The Transfer of State Pensions and Benefits \(Amendment\) Regulations 2010 \(S.I. 2010/1825\)](#), regs. 1, **5**

Interest

10.—(1) Interest shall accrue on the cash equivalent of the transferor's transferable rights in respect of the period beginning on the guarantee date and ending on the day on which an amount in respect of that cash equivalent is transferred by virtue of regulation 7(2).

(2) Interest shall accrue under paragraph (1) at an annual rate to be determined by the Secretary of State on the advice of the Government Actuary.

Time limits

11. The periods specified in regulations 4, 6 and 7 may be extended by the Secretary of State if he considers it reasonable to do so in any particular case.

Financial provision

12. Payments of cash equivalents of transferable rights made by the Secretary of State by virtue of these Regulations shall be paid out of monies provided by Parliament.

Signed by authority of the Secretary of State for Work and Pensions.

Department for Work and Pensions

Bill McKenzie
Parliamentary Under-Secretary of State,

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2(2) of the European Communities Act 1972 (c.68) in pursuance of Article 11(2) of Annex VIII to the Staff Regulations set out in Council Regulation 259/68 (OJ No.L 56, 4.3.1968 p.1-Special Edition 1968, 1 December 1972). This allows for a person's rights which have accrued by virtue of his National Insurance contributions, to be transferred to the pension scheme for officials and servants of Community institutions and bodies ("the Communities' scheme") if he so wishes.

Regulation 2 prescribes which rights are transferable to the Communities' scheme.

Regulation 3 prescribes that a person who wishes to transfer his transferable rights must make an application to the Secretary of State.

Regulation 4 requires the Secretary of State to provide the transferor with a statement of entitlement within 14 days of the guarantee date and provides that the statement shall remain valid for seven months. It also allows the transferor to challenge the statement within one month and prescribes that no statement of entitlement need be provided if one has been provided in the previous 12 months.

Regulation 5 prescribes how the cash equivalent of the transferable rights is to be calculated.

Regulation 6 prescribes that the transferor must notify the Secretary of State if he wishes to proceed with the transfer and regulation 7 prescribes the action to be taken by the Secretary of State when he receives that notice.

Regulation 8 prescribes the effect of the transfer on entitlement to state benefits.

Regulation 9 prescribes what is to happen if it transpires after the transfer that the cash equivalent value is greater than the amount transferred.

Regulation 10 allows for interest to accrue on the cash equivalent.

Regulation 11 allows for time limits to be extended by the Secretary of State.

Regulation 12 provides that transfer payments shall be paid out of monies provided by Parliament. A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Transfer of State Pensions and Benefits Regulations 2007.