

**EXPLANATORY MEMORANDUM TO**  
**THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES (TRANSFER**  
**VALUES) (AMENDMENT) REGULATIONS 2008**

**2008 No. 2450**

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 Pensions transfer values are calculated using a prescribed methodology. This Statutory Instrument provides that where public service pension schemes are calculating transfer values they must use guidance prepared by the Treasury as part of that methodology.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Background**

4.1 This Statutory Instrument amends the Occupational Pension Schemes (Transfer Values) Regulations 1996 (SI 1996/1847) (the “Transfer Values Regulations”); the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006 (SI 2006/33) (the “Early Leavers Regulations”); and the Personal Pension Schemes (Transfer Values) Regulations 1987 (SI 1987/1112).

4.2 The Committee should note that amendments were made to all of the Regulations referred to in paragraph 4.1 by the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 (SI 2008/1050) (the “Transfer Values (Amendment) Regulations”). The amendments made by the Transfer Values (Amendment) Regulations came into force on 1 October 2008. In effect this new Statutory Instrument contains additional requirements to the provisions that came into effect on 1 October 2008.

4.3 When a member of a pension scheme wants to transfer to another pension scheme, a cash value is put on their pension rights (the cash equivalent transfer value – “cash equivalent”) and that amount is paid from the transferring scheme to the receiving scheme. It is then converted into pension rights in the receiving scheme. A new methodology for the calculation of cash equivalents was introduced by amendments contained in the Transfer Values (Amendment) Regulations.

4.4 For unfunded public service pension schemes, including Local Government pension schemes, a key component of the methodology is guidance issued by the Treasury. However the guidance had not been published when the Transfer Values (Amendment) Regulations were laid, so provisions about that guidance could not be included in those Regulations

4.5 It would have been inappropriate to delay the Transfer Values (Amendment) Regulations until the guidance was published, because pension schemes needed time to get ready for the new arrangements. However the guidance has now been published. This Statutory Instrument therefore inserts the requirement to comply with the guidance into the Transfer Values Regulations and the Early Leavers Regulations.

## **5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 A new methodology for the calculation of pensions transfer values was introduced by amendments contained in the Transfer Values (Amendment) Regulations. Very broadly a cash equivalent is based on the amount of money a pension scheme estimates it will need at a member's retirement in order to fund their pension benefits. This amount is discounted to present day values. The discounted amount is then the member's cash equivalent.

7.2 The discount rates which private sector pension schemes are required to use are based on their investment strategy. However public service pension schemes, apart from Local Government Pension Schemes, are not funded and do not therefore have investment strategies. In order that cash equivalents for members of public service pension schemes can be calculated on a consistent basis with private sector schemes, proxy discount rates have to be used in the calculation. These discount rates are set out in guidance produced by Treasury.

7.3 Although Local Government Pension Schemes are funded, the Government has decided that they should use discount rates set out in guidance rather than based on their investment strategies.

7.4 This issue was previously brought to the attention of the Joint Committee in the Explanatory Memorandum that was prepared for the Transfer Values (Amendment) Regulations (SI 2008/1050). Paragraph 7.11 of the Memorandum said:

*Public service pension schemes* The discount rates to be used for public service pension schemes will not be calculated under these Regulations. They will be calculated in accordance with guidance prepared by the Treasury or the Secretary of State. The guidance is being prepared now. When it is published a further instrument will be made to refer to it. The guidance will be made available to the Committee when they are considering the instrument. The intention is to make the instrument before October 2008.

7.5 **“Realisable value”** The opportunity is also being taken to clarify the phrase “realisable value”. The Transfer Values (Amendment) Regulations inserted the phrase into the Transfer Values Regulations, the Early Leavers Regulations and the Personal Pension Schemes (Transfer Values) Regulations 1987. The intention is that the phrase should refer to the value at the date of calculation. Some commentators are concerned that this is not totally clear and have asked that this should be set out explicitly in the regulations. This Statutory Instrument amends the phrase so that it reads “realisable value at the date of calculation”.

7.6 **Regulation 3(5)** Inadvertently, when the Transfer Values (Amendment) Regulations amended the Early Leavers Regulations, references to “cash transfer value” were included. This Statutory Instrument amends the references so that they refer to “cash transfer sum”.

7.7 **Consultation** The consultation on the Transfer Values (Amendment) Regulations covered the subject matter of this Statutory Instrument. There were thirty-nine responses to that consultation. The comments made in that consultation were largely technical points about those regulations. The Transfer Values (Amendment) Regulations were however generally well received because they maintained the status quo in terms of amounts of transfer values.

7.8 **Guidance** In addition to the guidance mentioned above on discount rates, the Pensions Regulator also is publishing much wider guidance on the new arrangements introduced by the Transfer Values (Amendment) Regulations.

7.9 **Consolidation** The Government accepts the need for consolidation of some pensions legislation in due course. However most users of pensions legislation are pensions professionals who will have access to their own online resource materials. In addition the Department for Work and Pensions publishes the “Blue Volumes”, which can be accessed by members of the public. The Blue Volumes contain the legislation for which the Department is responsible. The legislation is presented in a consolidated format and is updated regularly. The weblink is [http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/pdf/c\\_0031.pdf](http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/pdf/c_0031.pdf)

## 8. Impact

8.1 An assessment of the impact of these regulations on the private and voluntary sectors was included in the Impact Assessment which was produced for the Transfer Values (Amendment) Regulations.

8.2 The impact on the public sector of these changes is negligible. Nevertheless an assessment of the impact of the provisions in this instrument was included in the Impact Assessment that accompanied the Transfer Values (Amendment) Regulations. Copies of that Assessment are available in the libraries of both Houses of Parliament, and may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, level 4, The Adelphi, 1-11 John Adam Street, London WC2N 6HT, or from the DWP website<sup>1</sup>.

---

<sup>1</sup> Impact Assessment of the calculation of pensions transfer values <http://www.dwp.gov.uk/resourcecentre/ia-cptv.pdf>

## 9. Contact

Mike Rochford at the Department for Work and Pensions Tel: 020 7962 8126 or e-mail: [mike.rochford@dwp.gsi.gov.uk](mailto:mike.rochford@dwp.gsi.gov.uk) can answer any queries regarding the instrument.

---