

**2010 No. 1825**

**SOCIAL SECURITY**

**The Transfer of State Pensions and Benefits (Amendment)  
Regulations 2010**

<i>Made</i> - - - -	<i>15th July 2010</i>
<i>Laid before Parliament</i>	<i>20th July 2010</i>
<i>Coming into force</i> - -	<i>1st November 2010</i>

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to—

- (a) rights in respect of state pensions and benefits of members of the pension scheme provided for officials and servants of the EU(b); and
- (b) changes in terminology or numbering arising out of the Treaty of Lisbon amending the Treaty on European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December 2007(c).

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for a reference to an Article of, or an Annex to, Council Regulation (EEC, Euratom, ECSC) No. 259/68(d) to be construed as a reference to that Article or Annex as amended from time to time.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, that Act(e).

**Citation and commencement**

**1.** These Regulations may be cited as the Transfer of State Pensions and Benefits (Amendment) Regulations 2010 and shall come into force on 1st November 2010.

**Amendment of the Transfer of State Pensions and Benefits Regulations 2007**

**2.** The Transfer of State Pensions and Benefits Regulations 2007(f) are amended as follows.

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- (a) 1972 c. 68.
  - (b) S.I. 2006/1461. By virtue of section 3(6) of the European Union (Amendment) Act 2008 (c. 7) a reference in an Act or instrument made under an Act to all or any of the Communities is treated as including a reference to the EU.
  - (c) S.I. 2009/3214.
  - (d) O.J. No. L 56, 04.03.1968 p. 1 (O.J./S.E. 1968 (I) p. 30); frequently amended.
  - (e) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and amended by S.I. 2007/1388 and by the Schedule to the European Union (Amendment) Act 2008 (c. 7).
  - (f) S.I. 2007/1398.

**3.—**(1) Regulation 1 (citation, commencement and interpretation) is amended in accordance with this regulation.

(2) In paragraph (2) (interpretation)—

(a) omit the definitions of “the Communities’ scheme”, “the 1992 Act” and “relevant benefit”;

(b) before the definition of “guarantee date” insert—

““the 1992 Acts” means—

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

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

“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;”;

(c) after the definition of “guarantee date” insert—

““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(c); and

(ii) sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966(d);

(b) any benefit under Parts 2 to 5 and 10 of the 1992 Acts;

(c) contribution-based jobseeker’s allowance under—

(i) Part 1 of the Jobseekers Act 1995(e); and

(ii) Part 2 of the Jobseekers (Northern Ireland) Order 1995(f);

(d) contributory employment and support allowance under—

(i) Part 1 of the Welfare Reform Act 2007(g); and

(ii) Part 1 of the Welfare Reform Act (Northern Ireland) 2007(h);

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

(d) in the definition of “transferor”, for “the Communities’ scheme” substitute “the EU scheme”.

(3) After paragraph (2) insert—

“(2A) References in these Regulations to an Article of, or an Annex to, the Council Regulation are references to that Article or Annex as amended from time to time.”.

(4) Omit paragraph (3).

**4.—**(1) Regulation 2 (transferable rights) is amended in accordance with this regulation.

(2) In paragraph (1)—

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(a) 1992 c. 4.

(b) 1992 c. 7.

(c) 1965 c. 51.

(d) 1966 c. 6 (N.I.).

(e) 1995 c. 18.

(f) S.I. 1995/2705 (N.I. 15).

(g) 2007 c. 5.

(h) 2007 c. 2 (N.I.).

- (a) for “paragraph (2)” substitute “paragraphs (2) to (2B)”;
  - (b) in sub-paragraph (a), for “the 1992 Act” substitute “the 1992 Acts”;
  - (c) in sub-paragraph (c), after “Act 1965” insert “and the National Insurance Act (Northern Ireland) 1966”(a).
- (3) In paragraph (2)—
- (a) in sub-paragraph (a)(i), for “the 1992 Act” substitute “the 1992 Acts”;
  - (b) in sub-paragraph (a)(ii), for “that Act” substitute “those Acts”;
  - (c) in sub-paragraph (b), after “Act 1992” insert “and section 142 of the Social Security Administration (Northern Ireland) Act 1992”(b).
- (4) After paragraph (2) insert—
- “(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.”.
- (5) In paragraph (3)—
- (a) after “Regulations 1979” insert “and regulation 6(1) of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979”(c); and
  - (b) for “the paragraph” substitute “each of those paragraphs”.
5. In regulations 3 and 6 to 9, for “the Communities’ scheme”, wherever those words occur, substitute “the EU scheme”.
6. In regulation 8, for “the 1992 Act”, wherever those words occur, substitute “the 1992 Acts”.

**Revocation of the Transfer of State Pensions and Benefits Regulations (Northern Ireland) 2007**

7. The Transfer of State Pensions and Benefits Regulations (Northern Ireland) 2007(d) are revoked.

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

*Steve Webb*  
Minister of State,  
Department for Work and Pensions

15th July 2010

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(a) 1966 c. 6 (N.I.).  
 (b) 1992 c. 8.  
 (c) S.R. 1979 No. 243; regulation 6(1) was amended by S.R. 1990 No. 452 and S.R. 2001 No. 108.  
 (d) S.R. (N.I.) 2007 No. 286.

## EXPLANATORY NOTE

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

Articles 77 to 84 of, and Annex VIII to, Council Regulation (EEC, Euratom, ECSC) No. 259/68 (O.J. No. L 56, 4.3.1968 p. 1 (O.J./S.E. Series I Chapter 1968(I) p. 30)) make provision in respect of the pension scheme for officials of EU institutions. Article 11(2) and (3) of Annex VIII provides for the transfer of pension rights into that scheme.

The Transfer of State Pensions and Benefits Regulations 2007 (S.I. 2007/1398) (“the 2007 Regulations”) are made under section 2(2) of the European Communities Act 1972 (c. 68). Those Regulations make provision enabling the United Kingdom to transfer rights accrued by virtue of a person’s National Insurance contributions to the EU scheme.

These Regulations are also made under section 2(2) of the European Communities Act 1972. They amend the 2007 Regulations in order to:

- make additional provision as to which accrued rights may be transferred into the EU scheme;
- make full provision in respect of Northern Ireland legislation;
- update existing references to the European Communities to refer to the European Union in accordance with changes in terminology resulting from amendments to the Treaty on European Union and the Treaty Establishing the European Community by the Treaty of Lisbon, signed at Lisbon on 13th December 2007.

Regulation 3 amends regulation 1 of the 2007 Regulations. It inserts definitions which relate to the additional provisions dealing with the transfer of accrued rights, and to provide definitions that include reference to Northern Ireland legislation. Regulation 3 also amends regulation 1 of the 2007 Regulations to provide for definitions which use terminology appropriate to the European Union.

The definition of “relevant benefit”, inserted by regulation 3(2)(c), also adds contributory employment and support allowance under Part 1 of the Welfare Reform Act 2007 (c. 5) and Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) as a benefit relevant for the purposes of transferable rights under regulation 2 of the 2007 Regulations.

Regulation 3(3) adds a provision to regulation 1 of the 2007 Regulations which provides that references to an Article of, or an Annex to, Council Regulation (EEC, Euratom, ECSC) No. 259/68 are references to that Article or Annex as amended from time to time.

Regulation 4 amends regulation 2 of the 2007 Regulations. Regulation 4(2)(a) and (4) makes amendments which provide that rights accrued, by virtue of a person’s National Insurance contributions, in respect of any period during which a person is in active employment with an EU institution may not be transferred to the EU pension scheme. However, this does not apply to a period during which a person is on secondment from the EU institution or to periods during which a person is on leave from an EU institution on personal grounds.

The remaining provisions of regulation 4 insert references to Northern Ireland legislation equivalent to that already provided by the 2007 Regulations in respect of Great Britain and make consequential provision.

Regulation 5 updates references in regulations 3 and 6 to 9 of the 2007 Regulations in respect of the change in terminology appropriate to the European Union.

Regulation 6 makes amendments consequential to the addition of references to Northern Ireland legislation.

Regulation 7 revokes the Transfer of State Pensions and Benefits Regulations (Northern Ireland) 2007 (S.R. (N.I.) 2007 No. 286.); the 2007 Regulations apply to the whole of the United Kingdom.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.







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STATUTORY INSTRUMENTS

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£4.00