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STATUTORY INSTRUMENTS

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**2000 No. 1054**

**The Pension Sharing (Pension Credit Benefit) Regulations 2000**

**PART II**

**PENSION CREDIT BENEFIT UNDER OCCUPATIONAL PENSION SCHEMES**

**[<sup>F1</sup>Pension credit benefit in lump sum form**

**3.** For the purposes of section 101C(2) of the 1993 Act (basic principle as to pension credit benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of pension credit benefit in the form of a lump sum before normal benefit age are—

- (a) those which permit payment of a lump sum in accordance with paragraph (a), (b), [<sup>F2</sup>(ba),] (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004 (lump sum rule); or
- (b) that the lump sum payment is—
  - (i) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”));
  - (ii) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009; and
  - (iii) made to or in respect of a member.]

**Textual Amendments**

- F1** Reg. 3 substituted (1.12.2009) by [The Occupational and Personal Pension Schemes \(Authorised Payments\) Amendment Regulations 2009 \(S.I. 2009/2930\)](#), regs. 1, **9**
- F2** Word in reg. 3(a) inserted (6.4.2016) by [The Pension Sharing \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/289\)](#), regs. 1(2), **5(3)**

**Commutation of part of pension credit benefit**

**<sup>F3</sup>4.** .....

**Textual Amendments**

- F3** Reg. 3 substituted reg. 4 omitted (6.4.2009) by [The Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **15(3)**

**Means of assuring pension credit benefit**

**5.—(1)** The prescribed means by which a person’s pension credit benefit under a scheme must be assured for the purposes of section 101D(1)(b) of the 1993 Act (form of pension credit benefit and its

alternatives) is by means of a transaction to which section 19 of the 1993 Act (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts) applies.

(2) A transaction referred to in paragraph (1) must satisfy the requirements of regulation 12, 13 or 14 (discharge of liability where pension credit benefit or alternative benefits are secured by insurance policies or annuity contracts, conditions on which insurance policies and annuity contracts may be commuted, or other requirements applying to insurance policies and annuity contracts).

(3) Where a transaction referred to in paragraph (1) applies, the insurance policy must be taken out, or the annuity contract must be entered into, with an insurance company which is—

[<sup>F4</sup>(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; <sup>F5</sup>...

<sup>F5</sup>(b) .....]

[<sup>F6</sup>(4) Paragraph (3)(a) <sup>F7</sup>... must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

#### Textual Amendments

- F4** Reg. 5(3)(a)(b) substituted for 5(3)(a)-(c) (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **593(1)**
- F5** Reg. 5(3)(b) and word omitted (31.12.2020) by virtue of [The Occupational and Personal Pension Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/192\)](#), regs. 1, **14(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Reg. 5(4) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **593(2)**
- F7** Words in reg. 5(4) omitted (31.12.2020) by virtue of [The Occupational and Personal Pension Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/192\)](#), regs. 1, **14(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Alternatives to pension credit benefit

6.—(1) The prescribed alternatives to pension credit benefit which a scheme may provide for the purposes of section 101D(2) of the 1993 Act are described in regulations 7 to 9.

(2) For the purposes of section 101D(4)(b) of the 1993 Act, the cases in which the alternatives described in regulations 7 to 9 may be provided without the consent of the person entitled to the benefit are described in regulations 7(4) and 8(4).

#### Early retirement or deferred retirement

7.—(1) Subject to paragraph (2), the scheme may provide benefits which are different from those required to constitute pension credit benefit in respect of the—

- (a) amount;
- (b) recipient; and
- (c) time at which the benefits are payable.

[<sup>F8</sup>(2) The benefits referred to in paragraph (1) must include a benefit that is both—

- (a) payable to the person entitled to the pension credit benefit; and

- (b) not payable before normal benefit age except where the person entitled to the benefit has either—
  - (i) met the ill-health condition in accordance with paragraph 1 of Schedule 28 to the Finance Act 2004 (registered pension schemes – defined benefits and money purchase arrangements – ill-health condition) immediately before that person became entitled to the benefit; or
  - (ii) attained normal minimum pension age as defined in section 279(1) of that Act (other definitions).]

<sup>F8</sup>(3) .....

(4) Benefits consisting of, or including, a benefit that becomes payable to the person entitled to the benefit before normal benefit age may be provided without that person’s consent where—

- (a) that person’s earning capacity is destroyed or seriously impaired by [<sup>F9</sup>physical or mental infirmity]; and
- (b) in the opinion of the trustees or managers of the scheme, the person entitled to the benefit is incapable of deciding whether it is in his interests to consent.

(5) Any scheme rule that allows the alternative described in this regulation must require the trustees or managers of the scheme to be reasonably satisfied that, when the benefit of the person entitled to the benefit becomes payable, the total value of the benefits to be provided under this regulation is at least equal to the amount described in regulation 11 (value of alternatives to pension credit benefit).

<sup>F10</sup>(6) .....

**Textual Amendments**

- F8** Reg. 7(2) substituted for reg. 7(2)(3) (6.4.2009) by [The Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **15(4)(a)**
- F9** Words in reg. 7(4)(a) substituted (6.4.2009) by [The Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **15(4)(b)**
- F10** Reg. 7(6) omitted (6.4.2009) by virtue of [The Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **15(4)(c)**

**Bought out benefits**

**8.—**(1) The scheme may provide for benefits different from those required to constitute pension credit benefit to be appropriately secured by a transaction to which section 19 of the 1993 Act applies (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts).

(2) Any scheme rule that allows the alternative described in this regulation must require the trustees or managers of the scheme to be reasonably satisfied that, except where paragraph (3) applies, the payment made to the insurance company is at least equal to the amount described in regulation 11.

(3) The exception to paragraph (2) is where the person entitled to the benefit is requiring the trustees or managers to provide the alternative by exercising his right to give a transfer notice under section 101F of the 1993 Act (power to give transfer notice).

(4) A scheme may allow the alternative described in this regulation to be provided without the consent of the person entitled to the pension credit where—

- (a) the person entitled to the pension credit will be able to assign or surrender the insurance policy or annuity contract on the conditions set out in regulation 3 of the Occupational

Pension Schemes (Discharge of Liability) Regulations 1997<sup>M1</sup> (conditions on which policies of insurance and annuity contracts may be assigned or surrendered); and

- (b) the requirements of paragraph (5) are satisfied.
- (5) The requirements of this paragraph are that—
  - (a) the scheme is being wound up; or
  - (b) the trustees or managers of the scheme consider that, in the circumstances, it is reasonable for the scheme to provide the alternative without the consent of the person entitled to the benefit and the requirements of paragraph (6) are satisfied.
- (6) The requirements of this paragraph are that all the conditions set out in sub-paragraphs (a) and (b) are satisfied, namely—
  - (a) the trustees or managers of the scheme give the person entitled to the benefit at least 30 days' written notice of their intention to take out the insurance policy or enter into the annuity contract unless the person entitled to the benefit exercises a right to give a transfer notice under section 101F of the 1993 Act (the first mentioned notice being [F11 given in accordance with regulations 26 to 28 (giving information and documents) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013] or delivered to that person personally); and
  - (b) when the trustees or managers of the scheme agree with the insurance company to take out the insurance policy or enter into the annuity contract, there is no outstanding transfer notice by the person entitled to the benefit under section 101F of the 1993 Act.
- (7) For the purposes of this regulation "appropriately secured" means secured by an insurance policy or annuity contract to which regulation 5 applies.

#### Textual Amendments

**F11** Words in reg. 8(6)(a) substituted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 8(2)**

#### Marginal Citations

**M1** [S.I. 1997/784](#).

### Money purchase benefits

**9.—(1)** The scheme may, with the consent of the person entitled to the benefit, provide money purchase benefits instead of all or any of the benefits that constitute pension credit benefit.

(2) Any scheme rule which allows this alternative must require the trustees or managers of the scheme to be reasonably satisfied that the amount allocated to provide money purchase benefits in respect of the person entitled to the benefit is at least equal to the amount described in regulation 11.

### Transfer of a person's pension credit rights without consent

**10.—(1)** For the purposes of section 101D(4) of the 1993 Act (form of pension credit benefit and its alternatives), the trustees or managers of an occupational pension scheme may provide for a person's pension credit rights under that scheme to be transferred to another occupational pension scheme without that person's consent where the conditions set out in paragraphs (2) and either (3) or (7), as the case may be, are satisfied.

(2) The condition set out in this paragraph is that the trustees or managers of the transferring scheme consider that, in the circumstances, it is reasonable for the transfer to be made without the person's consent and the requirements of paragraph (5) are satisfied.

- [<sup>F12</sup>(3) The condition set out in this paragraph is that, subject to paragraph (6)—
- (a) the relevant actuary gives a certification, by completing the certificate in the Schedule, in relation to the person’s pension credit rights in the receiving scheme;
  - (b) the relevant actuary sends that certificate to the trustees or managers of the transferring scheme;
  - (c) the transfer takes place within 3 months of the date of the relevant actuary’s signature in the certificate; and
  - (d) there are no significant changes to the benefits, data and documents used in making the certificate (see the benefits, data and documents specified in the certificate) by the date on which the transfer takes place.]
- (4) For the purpose of [<sup>F13</sup>making the certification in paragraph 2 of the certificate in the Schedule], the relevant actuary shall, in considering whether there is good cause, have regard to all the circumstances of the case and in particular—
- (a) to any established custom of the receiving scheme with regard to the provision of discretionary benefits or increases in benefits; and
  - (b) to any announcements made with regard to the provision of such benefits under the receiving scheme.
- (5) The requirements of this paragraph are that all the conditions set out in sub-paragraphs (a) and (b) are satisfied, namely—
- (a) the trustees or managers of the scheme give the person with pension credit rights at least 30 days’ written notice of their intention to transfer those rights to another occupational pension scheme unless the person with those rights exercises a right to give a transfer notice under section 101F of the 1993 Act (the first mentioned notice being [<sup>F14</sup>given in accordance with regulations 26 to 28 (giving information and documents) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013] or delivered to that person personally); and
  - (b) when the trustees or managers of the scheme agree with the trustees or managers of the receiving scheme to transfer those rights, there is no outstanding transfer notice by the person with pension credit rights under section 101F of the 1993 Act.
- (6) Paragraph (3) does not apply where the whole of the pension credit rights to be transferred are derived from rights accrued in a money purchase scheme.
- (7) The condition set out in this paragraph is that any scheme rule which allows the transfer of a person’s pension credit rights derived from rights accrued in a money purchase scheme without the consent of the person with those rights must require the trustees or managers of the scheme to be reasonably satisfied that the amount transferred is at least equal to the amount described in regulation 11.
- (8) In this regulation—  
“relevant actuary” means—
- (a) where the transferring scheme is a scheme for which an actuary is required under section 47 of the 1995 Act (professional advisers) to be appointed, the individual for the time being appointed in accordance with subsection (1) of that section as actuary for that scheme;
  - (b) <sup>M2</sup>in any other case, a Fellow of the [<sup>F15</sup>Institute and Faculty of Actuaries] or a person with other actuarial qualifications who is approved by the Secretary of State, at the request of the trustees or managers of the scheme, as being a proper person to act for the purposes of this regulation in connection with the scheme.

<sup>F16</sup>(9) .....

#### Textual Amendments

- F12** Reg. 10(3) substituted (6.4.2011) by [The Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/672\)](#), regs. 1(2)(b), **6(2)(a)**
- F13** Words in reg. 10(4) substituted (6.4.2011) by [The Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/672\)](#), regs. 1(2)(b), **6(2)(b)**
- F14** Words in reg. 10(5)(a) substituted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 8(3)**
- F15** Words in reg. 10(8) substituted (6.4.2012) by [The Pensions \(Institute and Faculty of Actuaries and Consultation by Employers Amendment\) Regulations 2012 \(S.I. 2012/692\)](#), regs. 1(2), **10**
- F16** Reg. 10(9) omitted (6.4.2009) by virtue of [The Pensions Act 2008 \(Abolition of Safeguarded Rights\) \(Consequential\) Order 2009 \(S.I. 2009/598\)](#), arts. 1, **8(3)**

#### Marginal Citations

- M2** The Institute of Actuaries is at Staple Inn Hall, High Holborn, London WC1V 7QJ. The Faculty of Actuaries is at Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP.

### Value of alternatives to pension credit benefit

**11.** The amount referred to in regulations 7, 8 and 9 is an amount equal to the value of the benefits (or, where the alternative is provided by way of partial substitute for pension credit benefit, the relevant part of the benefits) that have accrued to or in respect of the person entitled to the benefit.

### Discharge of liability where pension credit benefit or alternative benefits are secured by insurance policies or annuity contracts

**12.** The requirements which must be met for the purposes of section 101E(1)(c) of the 1993 Act (discharge of liability where pension credit or alternative benefits are secured by insurance policies or annuity contracts) are those described in regulations 13 and 14.

### Conditions on which pension credit benefit secured by insurance policies and annuity contracts may be commuted

**13.** Pension credit benefit secured by an insurance policy or an annuity contract may be commuted [<sup>F17</sup>in the circumstances described by regulation 3 (pension credit benefit in lump sum form)].

#### Textual Amendments

- F17** Words in reg. 13 substituted (6.4.2009) by [The Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **15(5)**

### Other requirements applying to insurance policies and annuity contracts

- 14.** The requirements described in this regulation are—
- (a) that the insurance company with which the insurance policy is taken out or the annuity contract is entered into assumes an obligation to the person entitled to the benefit or to the trustees of a trust for the benefit of the person entitled to the benefit and, if appropriate, dependants of his, to pay the benefits secured by that policy or contract to him or, as the case may be, to dependants of his, or to the trustees of such a trust; and

- (b) that the insurance policy or annuity contract contains, or is endorsed with, terms so as to provide for any increase, which would have been applicable as a consequence of section 40 of the 1999 Act (indexation: other pension schemes) had the discharge of liability of the pension credit benefit, or its alternative, not taken place, to apply to the benefits which have become secured or been replaced by that policy or contract.

### **Further conditions on which liability may be discharged**

**15.**—(1) Subsection (1)(b) of section 101E of the 1993 Act (transactions with the consent of the person entitled to the benefit which discharge liability where pension credit or alternative benefits secured by insurance policies or annuity contracts) shall not apply in the circumstances described in paragraph (2), (3), (4) or (5).

(2) The circumstances described in this paragraph are that—

- (a) the person entitled to the benefit is dead and the benefit is payable to a person other than his [<sup>F18</sup>widow, widower or surviving civil partner]; and
- (b) the arrangement for securing the pension credit benefit or its alternative was made at the request of the person entitled to it.

(3) The circumstances described in this paragraph are that the benefit is provided as an alternative to pension credit benefit by virtue of regulation 8(4) (bought out benefits without consent).

(4) The circumstances described in this paragraph are that—

- (a) the scheme is being wound up;
- (b) [<sup>F19</sup>the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act) and regulations made under those provisions do not apply;]
- (c) the person entitled to the benefit is able to assign or surrender the insurance policy or the annuity contract; and
- (d) the condition set out in section 101E(1)(a) of the 1993 Act is satisfied.

(5) The circumstances described in this paragraph are that—

- (a) the trustees or managers of the scheme consider that, in the circumstances, it is reasonable for the scheme to provide the alternative without the consent of the person entitled to the benefit;
- (b) the trustees or managers of the scheme give the person entitled to the benefit at least 30 days' written notice of their intention to take out the insurance policy or enter into the annuity contract, unless the person entitled to the benefit exercises a right to give a transfer notice under section 101F of the 1993 Act (power to give transfer notice) (the first mentioned notice being [<sup>F20</sup>given in accordance with regulations 26 to 28 (giving information and documents) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 ] or delivered to that person personally); and
- (c) when the trustees or managers of the scheme agree with the insurance company to take out the insurance policy or enter into the annuity contract, there is no outstanding transfer notice given by the person entitled to the benefit under section 101F of the 1993 Act.

(6) The payment made to the insurance company in the circumstances described in paragraph (5) must be at least an amount equal to the value of the pension credit benefit which has accrued to the person entitled to the benefit at the date the payment is made.

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**Changes to legislation:** There are currently no known outstanding effects for the The Pension Sharing (Pension Credit Benefit) Regulations 2000, PART II. (See end of Document for details)

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**Textual Amendments**

- F18** Words in reg. 15(2)(a) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 1 para. 5** (with art. 3)
- F19** Reg. 15(4)(b) substituted (6.4.2005) by [The Occupational Pension Schemes \(Winding up etc.\) Regulations 2005 \(S.I. 2005/706\)](#), regs. 1(2), **18(2)** (with reg. 18(11))
- F20** Words in reg. 15(5)(b) substituted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 8(4)**



**Changes to legislation:**

There are currently no known outstanding effects for the The Pension Sharing (Pension Credit Benefit) Regulations 2000, PART II.