

Changes to legislation: Courts and Legal Services Act 1990, SCHEDULE 13 is up to date with all changes known to be in force on or before 15 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

PROSPECTIVE

SCHEDULE 13

Section 81.

TRANSFER OF ACCRUED BENEFITS

The following are the provisions which are inserted in the ^{M1}Judicial Pensions Act 1981, as Schedule 1A—

“SCHEDULE 1A

TRANSFER OF ACCRUED BENEFITS

PART I

GENERAL

Interpretation

1^{F1}(1)] In this Schedule—

[^{F2}“authorised insurer” means—

- (i) 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, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;]

“disregarded service”, in relation to any member of a scheme, means any period of service in judicial office during which an election under section 14A(9) above is in force in respect of the qualifying member;

“normal pension age” means the earliest age at which, if his service had continued until retirement at that age, a member of a scheme might have been entitled to receive a pension under the scheme;

“prescribed” means prescribed by regulations;

“protected rights” has the same meaning as in the Social Security Pensions Act 1975 and, in relation to Northern Ireland, the Social Security Pensions (Northern Ireland) Order 1975;

“qualifying member” means a person to whom Part II of this Schedule applies;

“qualifying service” means the service, or relevant service, by reference to which a qualifying member’s entitlement to benefit under the scheme is calculated; and

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“scheme” means the relevant occupational pension scheme constituted by this Act or the Sheriffs’ Pensions (Scotland) Act 1961.

- [^{F3}(2) The definition of “authorised insurer” in sub-paragraph (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section;
 - (c) Schedule 2 to that Act.]

Regulations

- 2 Regulations for the purposes of this Schedule—
- (a) may be made, with the concurrence of the Treasury, by the Lord Chancellor or, in relation to Scotland, the Secretary of State;
 - (b) shall be made by statutory instrument;
 - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament;
 - (d) may make different provision for different cases; and
 - (e) may make provision for consequential, transitional and incidental matters.

Other provisions about transfer values

- 3 Part II of Schedule 1A to the Social Security Pensions Act 1975 (transfer values) and Part II of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975 (corresponding Northern Ireland provisions) shall not apply in relation to those schemes to which this Schedule applies.

PART II

TRANSFERS OUT

Qualifying members

- 4 (1) Where the conditions mentioned in sub-paragraph (2) are satisfied, this Part of this Schedule applies to any person—
- (a) to or in respect of whom benefits are payable under a scheme; and
 - (b) whose qualifying service ends after this Schedule comes into force.
- (2) The conditions are that—
- (a) his qualifying service ends at least one year before he reaches normal pension age; and
 - (b) on the date on which it ends—
 - (i) he has accrued rights to benefit under the scheme; or
 - (ii) he would have such rights if his service in judicial office had also ended on that date.

Qualifying member’s right to a transfer payment

- 5 (1) When his qualifying service ends, a qualifying member acquires a right to the cash equivalent at the relevant date of any benefits—
- (a) which have accrued to, or in respect of him, under the scheme; or

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- (b) where service of his in judicial office is disregarded service, which would have so accrued if his service in judicial office had ended on the same date as that on which his qualifying service ended.
- (2) In this paragraph “the relevant date” means—
- (a) the date when the qualifying member’s qualifying service ends; or
 - (b) the date of any application which he has made under paragraph 6 and which has not been withdrawn,
- whichever is the later.

Method of taking cash benefit

- 6 (1) A qualifying member who acquires a right to a cash equivalent under paragraph 5 may only take it by exercising the option conferred by this paragraph.
- (2) The option is that of requiring the Treasury to use the cash equivalent in whichever of the following ways the qualifying member chooses—
- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
 - (i) whose trustees or managers are able and willing to accept him; and
 - (ii) which satisfies prescribed requirements;
 - (b) for acquiring rights allowed under the rules of a personal pension scheme—
 - (i) whose trustees or managers are able and willing to accept him; and
 - (ii) which satisfies prescribed requirements;
 - (c) for purchasing from one or more authorised [^{F4}insurers]—
 - (i) chosen by the qualifying member; and
 - (ii) willing to accept payment on his account from the Treasury, one or more annuities which satisfy prescribed requirements;
 - (d) for subscribing to other pension arrangements which satisfy prescribed requirements.
- (3) Without prejudice to the generality of the power to prescribe requirements under sub-paragraph (2), such requirements may provide that pension arrangements or a scheme or annuity must satisfy such requirements of the Inland Revenue as may be prescribed.
- (4) A qualifying member may exercise his option in different ways in relation to different portions of his cash equivalent.
- (5) A qualifying member who exercises his option must do so in relation to the whole of his cash equivalent or, where sub-paragraph (6) applies, in relation to the whole of the reduced cash equivalent.
- (6) Where—
- (a) the trustees or managers of—
 - (i) an occupational pension scheme which is not a contracted-out scheme, or
 - (ii) a personal pension scheme which is not an appropriate scheme under section 2 of the Social Security Act 1986, Article 4 of the Social Security (Northern Ireland) Order 1986 or under any prescribed provision, or

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(iii) a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985, regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987 or any other prescribed provision,

are able or willing to accept a transfer payment only in respect of a qualifying member's rights other than his accrued rights to a guaranteed minimum pension or his protected rights; and

(b) the member has not required the Treasury to use the portion of his cash equivalent which represents a guaranteed minimum pension or protected rights in any of the ways specified in sub-paragraph (2),

paragraph 5, this paragraph and paragraph 7 are to be read as conferring on the member an option only in respect of the reduced cash equivalent.

(7) In this paragraph "reduced cash equivalent" means a sum equal to the balance of the cash equivalent to which the qualifying member would be entitled if sub-paragraph (6) did not apply, after deduction of an amount sufficient for the Treasury to meet its liability in respect of the member's guaranteed minimum pension or protected rights or those of his widow, or her widower.

Calculation of cash equivalents

- 7 (1) Cash equivalents are to be calculated and verified in the prescribed manner.
- (2) Regulations made under sub-paragraph (1) may, in particular, provide—
- (a) that in calculating cash equivalents account shall be taken—
- (i) of any surrender or forfeiture of the whole or part of a qualifying member's pension which occurs before the Treasury does what is needed to comply with the choice made by him in exercising his option;
- (ii) in a case where paragraph 6(6) applies, of the need to deduct an appropriate amount to provide a guaranteed minimum pension or give effect to protected rights; and
- (b) that in prescribed circumstances a qualifying member's cash equivalent shall be increased or reduced.
- (3) Without prejudice to the generality of sub-paragraph (2), the circumstances that may be specified by virtue of paragraph (b) of that sub-paragraph include the length of time which elapses between the termination of a qualifying member's qualifying service and his exercise of the option conferred by paragraph 6.

Time within which option must be exercised

- 8 (1) A qualifying member may only exercise his option on or before the last option date.
- (2) The last option date is—
- (a) the date which falls one year before the date on which the qualifying member reaches normal pension age; or

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(b) the end of the period of six months beginning with the date on which his qualifying service ends,
whichever is the later.

- (3) A qualifying member loses the right to any cash equivalent under this Schedule if—
- (a) his pension becomes payable before he reaches normal pension age; or
 - (b) he fails to exercise his option on or before the last option date.

Option to be exercised in writing

- 9 (1) A qualifying member may only exercise his option by making an application in writing to the Treasury.

(2) In any case where—

- (a) a qualifying member has exercised his option; and
- (b) the Treasury has done what is needed to comply with the choice made by him in exercising his option,

the Treasury shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any such cases as are mentioned in paragraph 6(6), to the extent that an obligation to provide guaranteed minimum pensions or give effect to protected rights continues to subsist.

- (3) If the Treasury receives an application under this paragraph, it shall be its duty, subject to the following provisions of this paragraph, to do what is needed to comply with the choice made by the qualifying member in exercising his option—
- (a) within twelve months of the date on which it receives his application; or
 - (b) by the date on which he attains normal pension age,
- whichever is the earlier.

Cancellation of exercise of option

- 10 (1) A qualifying member may cancel the exercise of his option by giving the Treasury notice in writing that he no longer wishes it to be exercised.

(2) No such notice shall have effect if it is given to the Treasury at a time when, in order to comply with the choice made by the qualifying member in exercising his option, the Treasury has entered into an agreement with a third party to use the whole or part of his cash equivalent in a way specified in paragraph 6(2)(a), (b), (c) or (d).

- (3) A qualifying member who withdraws an application may make another.

PART III

TRANSFERS IN

Application to accept payment into scheme

- 11 (1) Where a member of a scheme has asked the appropriate Minister to accept a payment representing the cash equivalent of his accrued rights in any other qualifying scheme, that Minister may—

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- (a) to the extent to which it does not exceed the prescribed limit, accept the payment or any part of it; or
 - (b) refuse to accept the payment or any part of it.
- (2) A request under sub-paragraph (1) must be made—
- (a) in writing;
 - (b) before the person making it has reached normal pension age; and
 - (c) not less than one year before he becomes entitled to a pension on retirement from his qualifying service.
- (3) In this paragraph—
- “the prescribed limit” means the limit prescribed by regulations made by virtue of paragraph 13(a);
- “qualifying scheme” means—
- (a) an occupational pension scheme, a personal pension scheme, or an annuity purchased from an authorised [^{F5}insurer], which satisfies prescribed requirements; or
 - (b) other prescribed pension arrangements; and
- “the appropriate Minister” means the Lord Chancellor, or, in relation to a member serving in an office existing only in Scotland, the Secretary of State.

Cancellation of request

- 12 (1) A member may, by notice in writing given to the appropriate Minister, cancel a request made by him under paragraph 11, at any time before it has been accepted.
- (2) A transferring member who withdraws an application may make another.

Regulations

- 13 Regulations may—
- (a) prescribe limits on the amounts which the appropriate Minister may accept under paragraph 11(1) above;
 - (b) make provision as to the manner in which payments are to be accepted into a scheme under this Part of this Schedule;
 - (c) make provision as to the benefits which are to be provided to a member to reflect any such payment accepted with respect to him;
 - (d) prescribe formulae, based on tables of factors provided by the Government Actuary, to be used when performing any calculation relating to the acceptance of transfer payments or the provision of benefits.”

Textual Amendments

- F1** Sch. 13: Para. 1 of inserted Sch. 1A renumbered para. 1(1) (1.12.2001) by S.I. 2001/3649, arts. 1, 326(2)
- F2** Sch. 13: Definition of “authorised insurer” substituted for definition of “authorised insurance company” in para. 1(1) of inserted Sch. 1A (1.12.2001) by S.I. 2001/3649, arts. 1, 326(3)
- F3** Sch. 13: Para. 1(2) inserted (1.12.2001) into inserted Sch. 1A by S.I. 2001/3649, arts. 1, 326(4)
- F4** Sch. 13: Word in para. 6(2)(c) of inserted Sch. 1A substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 326(5)

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F5 Sch. 13: Word in definition of “qualifying scheme” in para. 11(3)(a) of inserted Sch. 1A substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 326(6)

Marginal Citations

M1 1981 c. 20.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58A(2)(fe) inserted by [2021 c. 17 s. 53](#)