
STATUTORY INSTRUMENTS

1996 No. 1847

**The Occupational Pension Schemes
(Transfer Values) Regulations 1996**

PART II

RESTRICTIONS ON RIGHT TO CASH EQUIVALENT

Pre-1986 leavers

2. Chapter IV of Part IV of the 1993 Act shall not apply to a member of a salary related scheme whose pensionable service terminated before 1st January 1986 if all of the member's accrued rights to benefits under the scheme—

- (a) are rights—
 - (i) to official pensions specified in Schedule 2 to the Pensions (Increase) Act 1971⁽¹⁾ (official pensions),
 - (ii) to pensions in relation to which the Pensions (Increase) Act 1971 has effect by virtue of regulations made under section 5(2) of that Act (scope of Act and general powers), or
 - (iii) to pensions under a scheme the rules of which provide that pensions thereunder shall be increased in accordance with the Pensions (Increase) Act 1971; or
- (b) are rights to pensions under a scheme the rules of which provide that pensions thereunder shall in the pre-pension period (as defined in section 83(1)(a)(iii) of the 1993 Act (scope of Chapter II: revaluation of accrued benefits excluding guaranteed minimum pensions)) be revalued at a rate equal to or exceeding the rate of inflation as measured by the retail price index.

Rules on continuation in employment after termination of pensionable service

3.—(1) This regulation applies where a member continues in employment to which a scheme applies after the member's pensionable service in such employment terminates and—

- (a) that pensionable service commenced before 6th April 1988 and terminated at the member's request; and
- (b)
 - (i) that pensionable service, but for that request, would have continued until the guarantee date, or
 - (ii) that pensionable service continued, or but for that request would have continued, until the relevant date.

(2) Where this regulation applies and the condition mentioned in regulation 3(1)(b)(i) is satisfied, without prejudice to any right the member may acquire to a cash equivalent of money purchase benefits, the member, on making a relevant application in accordance with section 94(1)(aa) of the

⁽¹⁾ 1971 c. 56.

1993 Act (right to guaranteed cash equivalent) acquires a right to only that part of the guaranteed cash equivalent which relates to benefits specified in paragraph (4).

(3) Where this regulation applies and the condition mentioned in regulation 3(1)(b)(ii) is satisfied, without prejudice to any right the member may acquire to a cash equivalent of benefits other than money purchase benefits, the member acquires a right to the cash equivalent of only those money purchase benefits which are benefits specified in paragraph (4).

(4) The benefits referred to in paragraphs (2) and (3) are—

- (a) in the case of benefits which have accrued in respect of the member's pensionable service in employment to which the scheme applied, those benefits which are attributable to pensionable service after 5th April 1988; and
- (b) in the case of benefits which have not so accrued, those benefits which were credited to the member after 5th April 1988.

(5) Where a member exercises a right to the part of a guaranteed cash equivalent described in paragraph (2) or to a cash equivalent of only certain money purchase benefits as described in paragraph (3), Chapters II and III of Part IV of the 1993 Act are modified so that, for the purposes of those provisions, the benefits to which that part or that cash equivalent, as the case may be, related are disregarded and the pensionable service by reference to which those benefits were calculated is excluded from the pensionable service referred to in paragraph 1(1) of Schedule 3 to the 1993 Act (the final salary method of revaluation of accrued benefits).

Right to further cash equivalent on termination of employment to which the scheme applies

4.—(1) This regulation applies to a case where regulation 3 (or regulation 2A of the Occupational Pension Schemes (Transfer Values) Regulations 1985(2)) has operated to restrict a member's cash equivalent and subsequently the member's employment terminates on a date which is at least one year earlier than the date on which the member would attain the age which is the normal pension age for the scheme or, where the normal pension age is earlier than 60, the age of 60.

(2) Where this regulation applies, a right to any cash equivalent or any part of a guaranteed cash equivalent to which the member has not acquired a right but would, but for the operation of regulation 3 (or regulation 2A of the Occupational Pension Schemes (Transfer Values) Regulations 1985), have acquired a right by the date when the member's employment terminates shall accrue to the member on that date.

(3) Where a right to any part of a guaranteed cash equivalent accrues to a member under paragraph (2), the cash equivalent of the benefits to which that part relates shall be recalculated as at—

- (a) the date on which the member's employment terminates; or, if later,
- (b) the date on which the member applies to take that part

and that part shall be increased or reduced by the amount by which it falls short of or exceeds the value of the cash equivalent of those benefits as so recalculated.

(4) In relation to any case to which this regulation applies there shall be substituted for the definitions of "relevant date" in section 94(2) of the 1993 Act (right to cash equivalent) and of "the last option date" in section 95(8) of that Act (ways of taking right to cash equivalent) the following definitions—

““relevant date” means the date when the member's employment terminates or the date of the relevant application, whichever is the later”, and

““the last option date” means the date which falls—

(2) [S.I. 1985/1931](#). The relevant amending instruments are [S.I. 1987/1107](#), [S.I. 1988/523](#), [S.I. 1990/1142](#) and [S.I. 1994/1062](#).

- (a) one year before the date on which the member attains normal pension age; or
 - (b) six months after the date when his employment terminates,
whichever is the later”.
- (5) In this regulation “employment” means employment to which the scheme applies.

Treatment of a number of employments as a single employment

5. For the purposes of section 98(1) and (1A) of the 1993 Act (variation and loss of rights to cash equivalent) and of regulations 3 and 4, where a member’s employment to which a scheme applies terminates but that member enters again into employment to which that scheme applies, then, if there is between those two employments—

- (a) an interval not exceeding one month; or
- (b) an interval of any length if the second of the employments results from the exercise of a right to return to work under section 79 of the Employment Rights Act 1996(3) (maternity: right to return to work)

they shall be treated as a single employment.