

1996 No. 1847

PENSIONS

The Occupational Pension Schemes (Transfer Values) Regulations 1996

<i>Made - - - -</i>	<i>15th July 1996</i>
<i>Laid before Parliament</i>	<i>23rd July 1996</i>
<i>Coming into force</i>	<i>6th April 1997</i>

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The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 93(1)(a), 93(1B)(b), 93A(2) and (3)(c), 94(3)(d), 95(2), (5) and (6), 97(1), (2), (3) and (4)(e), 98(1), (1A), (2), (3) and (4)(f), 99(4) and (7)(g), 113(1) and (3), 153(1), 168(4)(h), 181(1)(i), 182(2) and (3) and 183(3)(j) of the Pension Schemes Act

(a) Section 93(1)(a) was substituted by section 152(2) of the Pensions Act 1995 (c. 26).

(b) Section 93(1B) was inserted by section 152(3) of the Pensions Act 1995.

(c) Section 93A was inserted by section 153 of the Pensions Act 1995.

(d) Section 94(3) was inserted by section 154(5) of the Pensions Act 1995.

(e) Section 97 was amended by paragraph 4 of Schedule 6 to the Pensions Act 1995.

(f) Section 98 was amended by paragraph 5 of Schedule 6 to the Pensions Act 1995.

(g) Section 99 was amended by paragraph 6 of Schedule 6 to the Pensions Act 1995.

(h) Section 168 was substituted by section 155 of the Pensions Act 1995.

(i) Section 181(1) is cited because of the meaning there given to "prescribed" and "regulations".

(j) Section 183(3) was amended by paragraph 15(b) of Schedule 6 to the Pensions Act 1995.

1993(a) and sections 10(2) and 124(1)(b) of the Pensions Act 1995(c) and of all other powers enabling him in that behalf, after agreement with the Occupational Pensions Board that certain proposals within these Regulations need not be referred to them(d), by this instrument, which otherwise contains regulations made under section 10(2) of the Pensions Act 1995 which are made before the end of the period of six months beginning with the coming into force of that section(e), regulations made only for the purpose of consolidating regulations revoked by them(f) and regulations made under provisions of the Pension Schemes Act 1993 as inserted or amended by sections 152 to 154 and paragraphs 2 to 6 of Schedule 6 to the Pensions Act 1995 and which are made before the end of the period of six months beginning with the coming into force of those sections as so inserted or amended(g), hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Transfer Values) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations, unless the context otherwise requires—

“the 1993 Act” means the Pension Schemes Act 1993;

“the 1995 Act” means the Pensions Act 1995;

▶¹“the 2004 Act” means the Pensions Act 2004;◀

▶²“actuary” means—

(a) the actuary mentioned in section 47(1)(b) of the 1995 Act (professional advisers); or

(b) in relation to a scheme to which that section does not apply—

▶³(i) a Fellow of the Institute and Faculty of Actuaries; or◀

(iii) a person with other actuarial qualifications who is approved, at the request of the trustees of the scheme in question, by the Secretary of State as being a proper person to act for the purposes of these Regulations in connection with that scheme;◀

“appropriate date” has the meaning given to that expression in section 97(3A) of the 1993 Act(h);

“base rate” has the meaning given to that expression in the Local Government Pension Scheme Regulations 1995(i);

¹Defn. of “the 2004 Act” inserted by para. 5(2) of Sch. 3 to S.I. 2005/3377 as from 30.12.05.

²Defn. of “actuary” inserted by reg. 2(a) of S.I. 2008/1050 as from 1.10.08.

³Paras. (2)(b)(i) & (ii) in defn. of “actuary” substituted by reg. 5 of S.I. 2012/692 as from 6.4.12.

(a) 1993 c. 48.

(b) Section 124(1) is cited because of the meaning there given to “prescribed” and “regulations”.

(c) 1995 c. 26.

(d) See section 185(6) of the Pension Schemes Act 1993 and section 173(1) of the Social Security Administration Act 1992 (c. 5) under which the requirement to consult does not apply where the Occupational Pensions Board agrees that regulations need not be referred to them.

(e) See section 120 of the Pensions Act 1995 under which the requirement to consult such persons as the Secretary of State considers appropriate does not apply to regulations made before the end of the period of six months beginning with the coming into force of the provision of Part I of that Act by virtue of which the regulations are made.

(f) See section 185(2) of the Pension Schemes Act 1993 under which the requirement to consult does not apply where regulations are made only for the purpose of consolidating other regulations revoked by them.

(g) See section 185(6) of the Pension Schemes Act 1993 and section 173(5) of the Social Security Administration Act 1992 under which the requirement to consult does not apply where regulations are made before the end of the period of six months beginning with the coming into force of the enactment under which they are made.

(h) Section 97(3A) was inserted by paragraph 4(c) of Schedule 6 to the Pensions Act 1995.

(i) S.I. 1995/1019.

Regs. 1-1A

¹Defns. of “discount rates”, “initial cash ...”, “insufficiency report”, “insufficiency report ...”, “insurance policy” inserted, “effective date” & “member” substituted and “the Board ...” omitted by reg. 2(a)-(d) of S.I. 2008/1050 as from 1.10.08.

²Defns. of “cash balance benefit”, “final salary” and “pensionable earnings” inserted by reg. 32(2) of S.I. 2014/1711 as from 24.7.14.

³Defn. of “post 97 protected rights” omitted by art. 14(2) of S.I. 2011/1246 as from 6.4.12.

⁴Defns. of “salary related benefits” & “statement of entitlement” inserted & defn. of “scheme actuary” omitted by reg. 2(a) & (d) of S.I. 2008/1050 as from 1.10.08.

⁵Defn. of “salary related scheme” amended & Reg. 1A added by reg. 12(2) & (3) of S.I. 1997/786 as from 6.4.97.

▶¹◀

▶²“cash balance benefit” has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014;◀

“cash equivalent” means a cash equivalent of guaranteed cash equivalent mentioned in section 93A(1) or 94(1) of the 1993 Act(a);

▶¹“discount rates” means the interest rates used to discount future payments of benefit for the purposes of placing a current value on them;◀

▶¹“effective date” means the date as at which the assets and liabilities are valued for the purposes of the insufficiency report;◀

▶²“final salary”, in relation to a member to or in respect of whom benefits under a pension scheme are payable, means the member’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to, the time when the member’s pensionable service in relation to that scheme ends;◀

“guarantee date” has the meaning given to that expression in section 93A(2) of the 1993 Act;

▶¹“initial cash equivalent” means the amount calculated in accordance with regulation 7(1)(a);

“insufficiency report” means the actuary’s last relevant report before the guarantee date prepared in accordance with Schedule 1B (insufficiency reports);

“insufficiency report liabilities” has the meaning given in paragraph 7 of Schedule 1B;

“insurance policy” means an insurance policy which is a contract on human life or a contract of annuity on human life, but excluding a contract which is linked to investment funds;◀

▶¹“member” has the meaning given in section 124(1) of the 1995 Act (interpretation);◀

▶²“pensionable earnings”, in relation to a member of a pension scheme, means earnings by reference to which benefits under the scheme are calculated;◀

▶³◀

“relevant date” has the meaning given to that expression in section 94(2) of the 1993 Act (b);

▶⁴“salary related benefits” means benefits that are not money purchase benefits;◀

▶⁵“salary related scheme” has the meaning given in regulation 1A;◀

“scheme”, except in the expressions “personal pension scheme” and “receiving scheme”, means occupational pension scheme;

▶⁴◀

“section 9(2B) rights” has the meaning given to that expression in the Contracting-out Transfer and Transfer Payment) Regulations 1996(c);

▶⁴“statement of entitlement” has the meaning given in section 93A(1) of the 1993 Act (salary related schemes: right to statement of entitlement);◀

“trustees”, in relation to a scheme which is not set up or established under a trust, means the managers of the scheme(d)

and other expressions have the same meaning as in the 1993 Act.

▶⁵Salary related schemes

1A. For the purposes of Chapter IV of Part IV of the 1993 Act and these regulations an occupational pension scheme is salary related if it is not a money purchase scheme and it is not a scheme—

- (a) the only benefits provided by which (other than money purchase benefits) are death benefits; and
- (b) under the provisions of which no member has accrued rights (other than rights to money purchase benefits).◀

(a) Section 94(1) was amended by section 154(1) of the Pension Act 1995.

(b) Section 94(2) was amended by section 154(4) of the Pensions Act 1995.

(c) S.I. 1996/1462.

(d) In relation to regulation 11, see also the Occupational Pension Schemes (Managers) Regulations 1986, S.I. 1986/1718.

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^(a) (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 ¹a rate that, in the opinion of the Secretary of State, maintains the value of pensions or other benefits by reference to the rise in the general level of prices in Great Britain.◀

¹Words substituted in reg. 2(b) by reg. 6 of S.I. 2013/459 as from 6.4.13.

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 guaranteed 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 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.

(a) 1971 c. 56.

(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 referred to in paragraph 1(1) of Schedule 3 to the 1993 Act (the final salary method of revaluation of accrued benefits).

Rights 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(a)) 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—

 - (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(b) (maternity: right to return to work)

they shall be treated as a single employment.

(a) 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.

(b) 1996 c. 18.

PART III

GUARANTEED STATEMENTS OF ENTITLEMENT AND
CALCULATION OF TRANSFER VALUES

Guaranteed statements of entitlement

6.—¹(1) Subject to paragraph (1A), the guarantee date in relation to a statement of entitlement must be—

¹Reg. 6(1) substituted by reg. 3 of S.I. 2008/1050 as from 1.10.08.

- (a) within the period of three months beginning with the date of the member's application under section 93A of the 1993 Act (salary related schemes: right to statement of entitlement) for a statement of entitlement; or
- (b) where the trustees are unable to provide a statement of entitlement for reasons beyond their control within the period specified in sub-paragraph (a), within such longer period not exceeding six months beginning with the date of the member's application as they may reasonably require.◀

▶²(1A) Where a relevant scheme has received an application, the guarantee date must be either—

²Paras. (1A) & (1B) inserted into reg. 6(1) by reg. 4(2)(b) of S.I. 2005/686 as from 6.4.05.

- (a) within the period, or, where applicable, the longer period, set out in paragraph (1); or
- (b) within a period of three months beginning on the date on which the relevant direction ceases to have effect,

whichever ends later.

(1B) In paragraph (1A)—

“application” means an application for a statement of entitlement made under section 93A(1) of the 1993 Act;

“relevant scheme” means a scheme which either—

- (a) is the subject of a freezing order made under section 23 of the Pensions Act 2004 containing a relevant direction on the date it receives the application; or
- (b) becomes the subject of such a freezing order during the period, or, where applicable, the longer period, set out in paragraph (1); and

“relevant direction” means a direction under section 23(4)(g) of the Pensions Act 2004.◀

(2) The guarantee date must be within the period of ten days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday) ending with the date on which the statement of entitlement is provided to the member.

(3) A member who has made an application under section 93A(1) of the 1993 Act for a statement of entitlement may not within a period of twelve months beginning on the date of that application make any further such application unless the rules of the scheme provide otherwise or the trustees allow the member to do so.

(4) Subject to paragraph (3), any application for a cash equivalent made by a member of a salary related scheme which does not result in the member acquiring a right to a guaranteed cash equivalent under section 94(1)(aa) of the 1993 Act shall be treated as if it were an application under section 93A(1) of that Act for a statement of entitlement.

▶³**Manner of calculation and verification of cash equivalents - general provisions**

³Regs. 7 & 8 substituted for regs. 7 to 7(e) by reg. 4 of S.I. 2008/1050 as from 1.10.08.

7.—(1) Subject to paragraphs (4) and (7), cash equivalents are to be calculated and verified—

- (a) by calculating the initial cash equivalent—
 - (i) for salary related benefits ▶⁴other than cash balance benefits in respect of which the available sum is not calculated by reference to final salary◀, in accordance with regulations 7A and 7B; or
 - (ii) for money purchase benefits ▶⁴and cash balance benefits in respect of which the available sum is not calculated by reference to final salary◀, in accordance with regulation 7C,

⁴Words inserted in regs. 7(1)(a)(i) & (ii) by reg. 32(3) of S.I. 2014/1711 as from 24.7.14.

- and then making any reductions in accordance with regulation 7D; or
(b) in accordance with regulation 7E.

(2) The trustees must decide whether to calculate and verify the cash equivalent in accordance with paragraph (1)(a) or (b), but they can only choose paragraph (1)(b) if they have had regard to any requirement for consent to paying a cash equivalent which is higher than the amount calculated and verified in accordance with paragraph (1)(a).

(3) The trustees are responsible for the calculation and verification of cash equivalents and initial cash equivalents.

(4) Where a member, in relation to whom a cash equivalent is to be calculated and verified, is a member of a scheme modified by—

- (a) the British Coal Staff Superannuation Scheme (Modification) Regulations 1994(a); or
(b) the Mineworkers' Pension Scheme (Modification) Regulations 1994(b),

the cash equivalent of his bonus is to be calculated and verified by the trustees, having obtained the advice of the actuary, to reflect the fact that a reduced bonus, or no bonus, may become payable in accordance with the provisions governing the scheme in question.

(5) For the purposes of paragraph (4) “bonus” means any—

- (a) augmentation of his benefits; or
(b) new, additional or alternative benefits,

which the trustees of the scheme in question have applied to the member's benefits, or granted to him in accordance with the provisions governing that scheme, on the basis of findings as to that scheme's funding position.

(6) Paragraph (7) applies where the cash equivalent is calculated and verified in accordance with paragraph (1)(a).

¹Reg. 7(7) substituted & words inserted in heading to reg. 7A & 7A(1) by reg. 32(3)(c) & (4) of S.I. 2014/1711 as from 24.7.14.

►¹(7) Where a portion of the cash equivalent relates to a benefit specified in paragraph (1)(a)(i) and a portion relates to a benefit specified in paragraph (1)(a)(ii), the initial cash equivalent is to be calculated—

- (a) for the portion falling within paragraph (1)(a)(i), in accordance with regulations 7A and 7B; and
(b) for the portion falling within paragraph (1)(a)(ii), in accordance with regulation 7C.◄

Manner of calculation of initial cash equivalents for salary related benefits ►¹other than cash balance benefits not calculated by reference to final salary◄

7A.—(1) For salary related benefits ►¹other than cash balance benefits in respect of which the available sum is not calculated by reference to final salary◄, the initial cash equivalent is to be calculated—

- (a) on an actuarial basis; and
(b) in accordance with paragraph (2) and regulation 7B.

(2) The initial cash equivalent is the amount at the guarantee date which is required to make provision within the scheme for a member's accrued benefits, options and discretionary benefits.

(3) For the purposes of paragraph (2), the trustees must determine the extent—

- (a) of any options the member has which would increase the value of his benefits under the scheme;
(b) of any adjustments they decide to make to reflect the proportion of members likely to exercise those options; and
(c) to which any discretionary benefits should be taken into account, having regard to any established custom for awarding them and any requirement for consent before they are awarded.

(a) S.I. 1994/2576.

(b) S.I. 1994/2577.

►¹Initial cash equivalents for salary related benefits ►²other than cash balance benefits not calculated by reference to final salary ◀: assumptions and guidance

7B.—(1) The trustees must calculate the initial cash equivalent for salary related benefits ►²other than cash balance benefits in respect of which the available sum is not calculated by reference to final salary ◀—

- (a) by using the assumptions determined under this regulation; and
- (b) where the scheme falls within paragraph (6), in accordance with the guidance referred to in that paragraph. ◀

(2) Having taken the advice of the actuary, the trustees must determine the economic, financial and demographic assumptions.

(3) In determining the demographic assumptions, the trustees must have regard to—

- (a) the main characteristics of the members of the scheme; or
- (b) where the members of the scheme do not form a large enough group to allow demographic assumptions to be made, the characteristics of a wider population sharing similar characteristics to the members.

(4) ►¹Except where the scheme falls within paragraph (6), the trustees must ◀ have regard to the scheme's investment strategy when deciding what assumptions will be included in calculating the discount rates in respect of the member.

(5) The trustees must determine the assumptions under this regulation with the aim that, taken as a whole, they should lead to the best estimate of the initial cash equivalent.

►¹(6) A scheme falls within this paragraph if it is a public service pension scheme in respect of which guidance has been prepared, and from time to time revised, by the Treasury for calculating the discount rates(a). ◀

Manner of calculation of initial cash equivalents for money purchase benefits ►²and cash balance benefits not calculated by reference to final salary ◀

7C.—(1) For ►²cash balance benefits in respect of which the available sum is not calculated by reference to final salary and ◀ money purchase benefits, the initial cash equivalent is to be calculated in accordance with this regulation.

(2) The initial cash equivalent is the realisable value ►¹at the date of calculation ◀ of any benefits to which the member is entitled.

(3) The trustees must calculate that realisable value—

- (a) in accordance with the scheme rules; and
- (b) in a manner which is—
 - (i) approved by the trustees; and
 - (ii) consistent with Chapter IV of Part IV of the 1993 Act.

►²(4) The realisable value must include—

- (a) for money purchase benefits, any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules; or
- (b) for cash balance benefits—
 - (i) any interest (including notional interest) which, in accordance with the scheme rules, applies to the available sum in respect of which the benefits are calculated;

¹Heading to reg. 7B and para. (1) & words in para. (4) substituted & para. (6) & words in reg. 7C(2) inserted by reg. 3(2)(a)-(c) and (3) of S.I. 2008/2450 as from 13.10.08.

²Words inserted in headings of reg. 7B & 7C in reg. 7B(1) & 7C(1) & reg. 7C(4) substituted by reg. 32(5) & (6) of S.I. 2014/1711 as from 24.7.14.

(a) The Treasury have issued guidance entitled "Basis for setting the discount rate for calculating cash equivalent transfer values payable by public service pension schemes". A copy of the guidance can be obtained from The Correspondence & Enquiry Unit, 2/W1, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and public.enquiries@hm-treasury.gsi.gov.uk. It is also available on the internet at http://www.hmtreasury.gov.uk/documents/taxation_work_and_welfare/public_service_pensions/tax_pensions_guidance.cfm.

- (ii) any guarantee which, in accordance with the scheme rules, applies to the available sum in respect of the benefits or to the contributions made by the member or by another person in respect of the member;
- (iii) any options the member has which would increase the value of the member's benefits under the scheme (adjusted to reflect the proportion of members the trustees determined are likely to exercise those options); and
- (iv) any discretionary benefits which the trustees determine should be taken into account, having regard to any established custom for awarding the benefits and any requirement for consent before they are awarded.◀

Reductions to initial cash equivalents

¹Words inserted in reg. 7D(1) & reg. 7D(2)-(3) substituted by reg. 32(7) of S.I. 2014/1711 as from 24.7.14.

7D.—(1) ▶¹For salary-related benefits◀ an initial cash equivalent may, or as the case may be must, be reduced in accordance with Schedule 1A (reductions in initial cash equivalents).

▶¹(2) For the purposes of paragraph (1) the trustees may—

- (a) request an insufficiency report from the actuary in accordance with Schedule 1B (insufficiency reports)(a); or
- (b) treat the actuary's last relevant GN11 report as an insufficiency report.

(3) For money purchase benefits, an initial cash equivalent may, or as the case may be, must be reduced in accordance with paragraphs 7 to 11, 14 and 15 of Schedule 1A (reductions in initial cash equivalents)(b).◀

Alternative manner of calculating and verifying cash equivalents

7E.—(1) This regulation applies where the trustees have decided to calculate and verify the cash equivalent in accordance with regulation 7(1)(b).

(2) The cash equivalent is to be calculated and verified in such manner as may be approved by the trustees.

(3) The cash equivalent must be higher than it would be if it was calculated and verified in accordance with regulation 7(1)(a).

(4) For the purposes of calculating and verifying the cash equivalent, the trustees may request an insufficiency report from the actuary in accordance with Schedule 1B.

(5) The trustees may treat the actuary's last relevant GN11 report as an insufficiency report.◀

Increases and reductions of guaranteed cash equivalents

9.—(1) This regulation applies to a guaranteed cash equivalent when a statement of entitlement has been sent to a member of a salary related scheme by the trustees of the scheme.

(2) Where all or any of the benefits to which a guaranteed cash equivalent relates have been surrendered, commuted or forfeited before the date on which the trustees do what is needed to carry out what the member requires, that part of the guaranteed cash equivalent which relates to the benefits so surrendered, commuted or forfeited shall be reduced to nil.

(3) Where a scheme has on or after the guarantee date begun to be wound up, a guaranteed cash equivalent may be reduced to the extent necessary for the scheme to comply with ▶²the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act) and regulations made under those provisions◀.

²Words substituted in reg. 9(3) by reg. 15(7) of S.I. 2005/706 as from 6.4.05.

(a) Schedule 1B was inserted by S.I. 2008/1050.

(b) Schedule 1B was inserted by S.I. 2008/1050. Paragraph 9 was revoked by S.I. 2011/1246.

(4) If, by virtue of regulations made ¹under section 73B(4)(b)(i) of the 1995 Act by virtue of section 73B(5) of that Act, the winding up provisions (as so defined) apply to a section of a scheme as if that section were a separate scheme, paragraph (3) shall apply as if that section were a separate scheme and as if the references therein to a scheme were accordingly references to that section.

¹Words substituted in reg. 9(4) by reg. 15(8) of S.I. 2005/706 as from 6.4.05.

(5) If a member's guaranteed cash equivalent falls short of or exceeds the amount which it would have been had it been calculated in accordance with Chapter IV of Part IV of the 1993 Act and these Regulations it shall be increased or reduced to that amount.

(6) In a case where two or more of the paragraphs of this regulation fall to be applied to a calculation, they shall be applied in the order in which they occur in this regulation except that where paragraph (5) falls to be applied it shall be applied as at the date on which it is established that the guaranteed cash equivalent falls short of or exceeds the proper amount.

Increases of cash equivalents on late payment

10.—(1) Subject to paragraph (2), if the trustees of a scheme, having received an application under section 95 of the 1993 Act, fail to do what is needed to carry out what the member requires within six months of the appropriate date the member's cash equivalent, as calculated in accordance with regulations 7 to 9, shall be increased by

the amount, if any, by which that cash equivalent falls short of what it would have been if the appropriate date had been the date on which the trustees carry out what the member requires.

(2) If the trustees of a scheme, having received an application under section 95 of the 1993 Act, fail without reasonable excuse to do what is needed to carry out what the member requires within six months of the appropriate date the member's cash equivalent, as calculated in accordance with regulations 7 to 9, shall be increased by—

- (a) interest on that cash equivalent calculated on a daily basis over the period from the appropriate date to the date on which the trustees carry out what the member requires, at an annual rate of one per cent. above base rate; or, if it is greater,
- (b) the amount, if any, by which that cash equivalent falls short of what it would have been if the appropriate date had been the date on which the trustees carry out what the member requires.

Disclosure

11.—¹(1) Subject to paragraphs (1A) and (1B), an active member of any scheme, and a deferred member of a money purchase scheme, is entitled to receive from the trustees, on request, the information mentioned in Schedule 1 in writing.

(1A) Paragraph (1) does not apply where the request is made within 12 months of the last occasion that such information was provided to the member.

(1B) Information provided under paragraph (1) is to be provided by the trustees as soon as reasonably practicable, and in any event within three months after the date that the member makes the request.◀

▶¹◀

(3) For the purposes of ▶¹paragraph (1)◀ “active member” and “deferred member” have the meaning given to those expressions by section 124 of the 1995 Act (interpretation).

(4) The trustees must ensure that a statement of entitlement to a guaranteed cash equivalent is accompanied by—

- (a) the information mentioned in Schedule 1 in relation to any cash equivalent of or transfer value in relation to the member's money purchase benefits (if any) under the scheme, calculated by reference to the guarantee date;
- (b) a statement in writing—

▶¹◀

- (ii) indicating whether, and if so for what reasons and by what amount, the member's ▶¹initial◀ cash equivalent has been reduced under ▶¹Schedule 1A◀ and if any such reduction has been made the statement shall indicate the paragraph of ▶¹Schedule 1A◀ which has been relied upon and shall give an estimate of the date (if any) by which it will be possible to make available a guaranteed cash equivalent which is not so reduced,
- (iii) explaining the terms and effect of regulation 6(3) (no right to make an application for a guaranteed statement of entitlement within 12 months of the last such application),
- (iv) explaining that if the member wishes to exercise his right to take the guaranteed cash equivalent the member must submit a written application to do so within three months beginning on the guarantee date; ▶²◀
- (v) explaining that in exceptional circumstances the guaranteed cash equivalent may be reduced and that the member will be informed if it is so reduced ▶²and
- (vi) where the scheme has begun to wind up, explaining that—
 - (aa) the value of the member's guaranteed cash equivalent may be affected by the scheme's winding up; ▶¹and◀

¹Reg. 11(1), (1A)-(1B) and words in paras. (3), (4)(b)(ii), (vi)(aa) substituted, inserted and deleted and reg. 11(2) and (4)(b)(i) omitted by reg. 5(a)-(g) of S.I. 2008/1050 as from 1.10.08.

²Words in sub-para. (b)(iv) omitted and sub-para. (b)(vi) by reg. 4(a)(i) & (ii) of S.I. 2005/72 as from 15.2.05.

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(bb) a decision to take a guaranteed cash equivalent should be given careful consideration; and◀

¹Sub-para. (c) & (cc) substituted, and deleted by reg. 5(g) of S.I. 2008/1050 as from 1.10.08.

²Para.(4A) inserted by reg. 4(b) of S.I. 2005/72 as from 15.2.05.

▶¹(c) the information mentioned in paragraph 3 of Schedule 1.◀
▶¹◀

▶²(4A) For the purposes of paragraph (4)(b)(vi), the question whether a scheme has begun to wind up shall be determined in accordance with section 124(3A) to (3D) of the 1995 Act.◀

(5) Where a guaranteed cash equivalent is reduced or increased under regulation 9, the trustees must notify the member of that fact in writing within ten days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday) and such notification must—

- (a) state the reasons for and the amount of the reduction or increase;
- (b) indicate the paragraph of regulation 9 which has been relied upon; and
- (c) state that the member has a further three months, beginning with the date on which the member is informed of the reduction or increase, to make a written application to take the guaranteed cash equivalent as so reduced or increased.

³Words inserted in reg. 11(6) by reg. 8(2) of S.I. 2009/615 as from 6.4.09.

(6) Where any person fails to comply with any requirement imposed upon that person by this regulation, the Regulatory Authority may ▶³by notice in writing◀ require that person to pay, within 28 days, a penalty which—

- (a) in the case of an individual, shall not exceed £1,000; and
- (b) in any other case, shall not exceed £10,000.

⁴Reg. 11(7) added by para. 3 of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

▶⁴(7) The trustees may provide any information or notification under this regulation in accordance with regulations 26 to 28 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (giving information and documents).◀

PART IV

RECEIVING SCHEMES, ANNUITIES AND ARRANGEMENTS

Requirements to be met by receiving schemes, annuities and arrangements

12.—(1) The prescribed requirements referred to in section 95(2)(a)(ii) and (b)(ii) of the 1993 Act (cash equivalent of member's rights in a scheme to be used for acquiring transfer credits or rights under another scheme or personal pension scheme) are that—

- (a) if the member's cash equivalent (or any portion of it to be used under section 95(2)(a) or (b) of the 1993 Act) is or includes the cash equivalent of accrued rights to guaranteed minimum pensions, then the scheme or personal pension scheme under whose rules transfer credits or rights are acquired is one to which those accrued rights may be transferred, or to which a transfer payment in respect of those accrued rights may be made, in accordance with regulation 2 of the Contracting-out (Transfer and Transfer Payment) Regulations 1996;
- (b) if the member's cash equivalent (or any portion of it to be used under section 95(2)(a) or (b) of the 1993 Act) is or includes the cash equivalent of accrued section 9(2B) rights, then the scheme or personal pension scheme under whose rules transfer credits or rights are acquired is one to which a transfer of liability in respect of those accrued rights may be made in accordance with regulation 7 of the Contracting-out (Transfer and Transfer Payment) Regulations 1996; ▶⁵and◀

⁵Reg. 12(1)(c) omitted & words added to sub-para. (1)(b) by art. 14(3)(a) & (b) of S.I. 2011/1246 as from 6.4.12.

⁶Reg. 12(1)(d) substituted by art. 12(2)(a) of S.I. 2006/744 as from 6.4.06.

(c) ▶⁵◀

▶⁶(d) if the scheme from which rights are transferred or from which a transfer payment is made is registered under section 153 of the Finance Act 2004, the scheme or personal pension scheme to which rights are transferred or to which a transfer payment in respect of rights is made is registered under that section (except a scheme which was immediately before 6th April 2006

approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988) or is a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004.◀

(2) The prescribed requirements referred to in section 95(2)(c) of the 1993 Act (cash equivalent to be used for purchasing annuities) are that—

- (a) the annuity is provided by ▶¹an insurance policy◀ or an annuity contract which satisfies the requirements of regulations 2, 3, ▶²4 and 5 or, in the case of a pension or accrued benefit under a relevant scheme, regulation 11 of the Occupational Pension Schemes (Discharge of Liability) Regulation 1997◀
- (b) if the scheme from which rights are transferred is ▶³registered under section 153 of the Finance Act 2004, the annuity satisfies requirements of Her Majesty's Revenue and Customs.◀

▶³◀

(4) The prescribed circumstances referred to in section 95(5)(a) of the 1993 Act (except in prescribed circumstances section 95(2) to be construed as if paragraph (d) were omitted) are that a member of a scheme who has acquired a right to a cash equivalent under section 94 of that Act has required the trustees to use the cash equivalent for subscribing to a pension arrangement mentioned in paragraph (5)(a).

(5) The prescribed requirements referred to in section 95(2)(d) of the 1993 Act (cash equivalent to be used for subscribing to pensions arrangements not mentioned in section 95(2)(a) to (c)) are that the pension arrangement to which it is proposed to subscribe—

- (a) is an overseas arrangement ▶⁴◀
- (b) if ▶⁴◀ the cash equivalent is or includes the cash equivalent of accrued section 9(2B) rights, is one to which a transfer payment in respect of such rights may be made in accordance with regulation 11 of the Contracting-out (Transfer and Transfer Payment) Regulations 1996; and
- (c) If the scheme from which rights are transferred ▶⁴is registered under section 153 of the Finance Act 2004 ▶⁵◀ is a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004.◀

(6) In this regulation—

▶⁶◀

- (b) “overseas arrangement” has the same meaning as in the Contracting-out (Transfer and Transfer Payment) Regulations 1996.

¹Words substituted in reg. 12(2)(a) by reg. 6(a) & (b) of S.I. 2008/1050 as from 1.10.08.

²Words in reg. 12(2)(a) substituted by reg. 12(5) of S.I. 1997/786 as from 6.4.97.

³Words in para. (2)(b) substituted and para. (3) omitted by art. 12(2)(b)-(c) of S.I. 2006/744 as from 6.4.06.

⁴Words in reg. 12(5)(a) & (b) omitted & words in para. (5)(c) substituted by art. 12(2)(d) of S.I. 2006/744 as from 6.4.06.

⁵Words substituted in reg. (5)(c) by reg. 6(b) of S.I. 2008/1050 as from 1.10.08.

⁶Reg. 12(6)(a) omitted by art. 12(e) of S.I. 2006/744 as from 6.4.06.

PART V

TIME LIMITS FOR PAYMENT OF CASH EQUIVALENTS

Extension of time limits for payment of cash equivalents

13. The Regulatory Authority may grant an extension of the period mentioned in section 99(2)(a) or, as the case may be, (b) of the 1993 Act (trustees' duties after exercise of option) if the trustees have within that period applied to the Regulatory Authority for an extension and—

- (a) the Regulatory Authority is satisfied that—
 - (i) the scheme is being wound up or is about to be wound up,
 - (ii) the scheme is ceasing to be a contracted-out scheme,
 - (iii) the interests of the members of the scheme generally will be prejudiced if the trustees do what is needed to carry out what is required within that period,
 - (iv) the member has not taken all such steps as the trustees can reasonably expect in order to satisfy them of any matter which falls to be established before they can properly carry out what the member requires,
 - (v) the trustees have not been provided with such information as they reasonably require properly to carry out what the member requires, or
 - (vi) the member's guaranteed cash equivalent has been reduced or increased under regulation 9 or the member has disputed the amount of the cash equivalent;
- (b) the provisions of section 53 of the 1993 Act^(a) (supervision of formerly certified schemes) apply; ▶◀
- ▶¹(ba) the scheme is or has been within the three months immediately before the end of that period the subject of a freezing order under section 23 of the Pensions Act 2004 which contains a direction under section 23(4)(f) of that Act; or◀
- (c) an application has been made for an extension on a ground specified in ▶paragraph (a), (b) or (ba)◀ and the Regulatory Authority's consideration of the request cannot be completed before the end of that period.

¹Words in reg. 13(b) omitted, sub-para. (ba) inserted, words substituted in para. (c) by reg. 4(3) of S.I. 2005/686 as from 6.4.05.

PART VI

MODIFICATION OF THE 1993 ACT

Extension of time within which member may exercise option to take a guaranteed cash equivalent

14.—(1) Where a member's guaranteed cash equivalent has been reduced or increased under regulation 9, section 94(1)(aa) of the 1993 Act does not apply, or ceases to apply, but if the member—

- (a) has made a relevant application within three months beginning with the guarantee date; or
- (b) makes a relevant application within three months beginning with the date on which the member is informed that the guaranteed cash equivalent is to be increased or reduced

the member acquires a right to the guaranteed cash equivalent as so increased or reduced.

(2) In any case in which a member, within three months beginning with the guarantee date; disputes the amount of the guaranteed cash equivalent, or, within three months beginning with the date on which that member is informed that the guaranteed cash equivalent is to be increased or reduced in accordance with regulation 9, disputes the basis or amount of the increase or reduction, section 94(1)(aa) does not apply, or ceases to apply, but if the member—

- (a) has made a relevant application within three months beginning with the guarantee date; or

(a) Section 53 was amended by paragraph 48 of Schedule 5 to the Pensions Act 1995.

- (b) makes a relevant application within three months beginning with the date on which the amount of the guaranteed cash equivalent is finally determined

the member acquires a right to the guaranteed cash equivalent as so increased or reduced.

Cases where normal pension age is earlier than 60

15. In their application to a member of a scheme whose normal pension age is earlier than 60, section 93(1)(a)(i) of the 1993 Act (scope of Chapter IV) shall have effect as if the words “at least one year” were omitted and sections 95(8)(a), 98(7)(a) (variation and loss of rights under section 94) and 99(2)(a) and (b) of that Act shall have effect as if the references in them to normal pension age were references to the age of 60.

Accrued rights, or liabilities in respect of accrued rights, transferred without consent

16.—(1) This regulation applies where—

- (a) a member has acquired a right under section 94 of the 1993 Act to a cash equivalent but has not exercised the option conferred by section 95 of that Act; and
- (b) the member’s accrued rights have been transferred to another scheme without that member’s consent.

(2) Where this regulation applies, Chapter IV of Part IV of the 1993 Act shall have effect as if the member’s right to a cash equivalent of the benefits in respect of which a transfer or transfer payment has been made existed in relation to the receiving scheme instead of the transferring scheme.

Schemes with an overseas element

17.—(1) This regulation applies to schemes with any overseas element, as described in section 165(6) of the 1993 Act (requirements as to preservation of benefit under occupational pension schemes).

(2) Where this regulation applies, Chapter IV of Part IV of the 1993 Act applies to schemes with any overseas element only to the extent that the requirements specified in or under sections 71 to 82 of the 1993 Act (the preservation requirements) apply to the scheme.

Termination of pensionable service in certain circumstances to be disregarded

18.—(1) Subject to paragraph (3), where a member’s pensionable service terminates in the circumstances set out in paragraph (2), Chapter IV of Part IV of the 1993 Act shall have effect as if that pensionable service had not terminated.

(2) The circumstances referred to in paragraph (1) are that—

- (a) the pensionable service which has terminated is a period of such service which is one, other than the last one, of a series of such periods in employment to which the scheme relates; and
- (b) there is between successive periods of pensionable service—
 - (i) no interval,
 - (ii) an interval not exceeding one month,
 - (iii) an interval of any length if it is between two periods of pensionable service the second of which results from the exercise of a right to return to work under section 79 of the Employment Rights Act 1996, or
 - (iv) an interval of any length if it is between two periods of pensionable service the second of which results from a return to work by the member following a period of absence arising in consequence of a trade dispute within the meaning of section 35 of the Jobseekers Act 1995(a).

(a) 1995 c. 18.

(3) This regulation shall not have effect where the trustees of a scheme, during any interval such as is set out in paragraph (2)(b)(ii) to (iv), do what is needed to carry out what a member requires in exercising an option under section 95 of the 1993 Act.

Hybrid schemes

19.—(1) In this regulation “hybrid scheme” means a scheme which is a salary related scheme but under which some of the benefits which may be provided are money purchase benefits.

(2) In relation to a hybrid scheme—

- (a) section 93A(1) of the 1993 Act shall take effect as if after the word “benefits” there were added the words “other than money purchase benefits”;
- (b) section 94(1)(a) of the 1993 Act shall take effect as if the words “other than a salary related scheme” were omitted and as if for the words “any benefits” there were substituted the words “any money purchase benefits”; and
- (c) section 96(1)(a) of the 1993 Act (further provisions concerning exercise of option under section 95) shall take effect as if it read “in relation to both the whole of his guaranteed cash equivalent and the whole of any other cash equivalent such as is mentioned in section 94(1)(a);”.

PART VII

PENALTIES

Maximum penalty under section 10 of the 1995 Act

20. Where section 10 of the 1995 Act (civil penalties) applies by virtue of section 93A(4) or section 99(7) of the 1993 Act, the maximum amount for the purposes of section 10(2) of the 1995 Act shall be £1,000 in the case of an individual and £10,000 in any other case.

PART VIII

REVOCATIONS AND TRANSITIONAL PROVISIONS

Revocations and transitional provisions

21.—(1) Subject to paragraph (2) and Schedule 2, the regulations listed in column 2 of Schedule 3 (some of which are spent) are revoked to the extent specified in column 3 of that Schedule.

(2) Where an application under section 95 of the 1993 Act has been made before the date on which these Regulations came into force, regulations 2 to 20 shall not apply for the purposes of dealing with that application and for those purposes the Occupational Pension Schemes (Transfer Values) Regulations 1985(a) (as in force immediately before these Regulations came into force) shall continue to apply, subject to the modifications set out in Schedule 2, until the trustees have done what is needed to carry out what the member requires or until that application has been withdrawn.

Signed by authority of the Secretary of State for Social Security.

Oliver Heald
Parliamentary Under-Secretary of State,
Department of Social Security

15th July 1996

(a) S.I. 1985/1931, amended by S.I. 1986/751, S.I. 1986/1046, S.I. 1986/2171, S.I. 1987/1107, S.I. 1987/1114, S.I. 1988/474, S.I. 1988/476, S.I. 1988/523, S.I. 1988/1016, S.I. 1990/1142, S.I. 1991/167 and S.I. 1994/1062.

SCHEDULE 1

INFORMATION TO BE MADE AVAILABLE TO MEMBERS

1. Whether any cash equivalent (within the meaning of Chapter IV of Part IV of the 1993 Act) is available to the member or would be so available if the member's pensionable service were to terminate and if so—

¹Words inserted & omitted and para. 3 added to Sch. 1 by reg. 7(a) & (b) of S.I. 2008/1050 as from 1.10.08.

- ▶¹(a) an estimate of its amount, calculated and verified in accordance with regulations 7 to 7E on the basis that the member's pensionable service terminated or will terminate on a particular date;◀
- (b) the accrued rights to which it relates;
- (c) whether any part of the estimated amount of the cash equivalent is attributable to additional benefits—
 - (i) which have been awarded at the discretion of the trustees, or
 - (ii) which will be awarded at their discretion if their established custom continues unaltered

and in either case whether that part is attributable to the whole or only to part of those benefits; ▶¹and◀

▶¹◀

- (e) if the estimated amount of the cash equivalent ▶¹included a reduction of the initial cash equivalent under Schedule 1A◀—
 - ▶¹(i) a statement of that fact, a statement of the amount by which the initial cash equivalent has been reduced and an explanation of the reason for the reduction, which must refer to the paragraph of Schedule 1A relied upon,◀
 - (ii) an estimate of the date (if any) by which it will be possible to make available a cash equivalent which is not so reduced, and
 - (iii) a statement of the member's rights to obtain further estimates.

2. Whether any transfer value (not being a cash equivalent within the meaning of Chapter IV of Part IV of the 1993 Act) is available to the member or would be so available if the member's pensionable service were to terminate and if so—

- (a) an estimate of its amount, calculated on the basis that the member's pensionable service terminated or will terminate on a particular date;
- (b) the accrued rights to which it relates;
- (c) whether any part of the estimated amount of the transfer value is attributable to additional benefits—
 - (i) which have been awarded at the discretion of the trustees, or
 - (ii) which will be awarded at their discretion if their established custom continues unaltered

and in either case whether that part is attributable to the whole or only to part of those benefits; and

- (d) if the estimated amount of the transfer value has been reduced to an amount which is less than it otherwise would be because of any actuary's opinion that the scheme's assets are insufficient to meet its liabilities in full—
 - (i) a statement of that fact and an explanation,
 - (ii) an estimate of the date (if any) by which it will be possible to make available a transfer value the amount of which is not so reduced, and
 - (iii) a statement of the member's rights to obtain further estimates.

▶¹3. Where information is made available under paragraph 1 or 2 to a member of a salary related scheme, the information to be made available to such a member also includes—

- (a) a statement that the Financial Services Authority(**a**), the Regulatory Authority(**b**) and the Pensions Advisory Service(**c**) provide information about transfers that may assist the member in deciding whether to transfer;
- (b) if the scheme is an eligible scheme as defined in section 126 of the 2004 Act (eligible schemes), confirmation that the scheme is so eligible and that the Board of the Pension Protection Fund(**d**) exists;
- (c) a recommendation that the member should take financial advice before making decisions about transfers.◀

►**SCHEDULE 1A**

Regulation 7D(1)

¹Sch. 1A & 1B inserted
by Sch. 1 of S.I. 2008/
1050 as from 1.10.08.

REDUCTIONS IN INITIAL CASH EQUIVALENTS

1. In a case where two or more paragraphs of this Schedule apply, they must be applied in the order in which they occur in this Schedule.
2. In the case of a scheme to which Part 3 of the 2004 Act (scheme funding) applies(**e**), the member's initial cash equivalent may be reduced by the trustees if—
 - (a) the insufficiency conditions are met; and
 - (b) the insufficiency report has an effective date which is no earlier than the effective date of the most recent actuarial valuation received by the trustees in accordance with section 224(4) of the 2004 Act (scheme funding).
3. The insufficiency conditions are that the last insufficiency report shows that at the effective date of the report—
 - (a) the scheme had assets that were insufficient to cover the insufficiency report liabilities in respect of all the members; and
 - (b) the assets were insufficient to cover in full any category of insufficiency report liabilities that is an equivalent category of liabilities for benefits in respect of which the member's cash equivalent is being calculated.
4. If the insufficiency conditions are met the trustees may reduce, by a percentage not exceeding the deficiency percentage, any part of the member's initial cash equivalent that is payable in respect of such an equivalent category of liabilities as are mentioned in paragraph 3(b).
5. The deficiency percentage for any such part of a member's initial cash equivalent is the percentage by which the insufficiency report shows that the assets were insufficient to cover that category of liabilities.
6. If, by virtue of regulations made under section 232 of the 2004 Act (power to modify provisions of Part 3), Part 3 of that Act applies to a section of a scheme as if that section were a separate scheme, paragraphs 2 and 3 apply as if that section were a separate scheme and as if the reference to a scheme were accordingly a reference to that section.
7. In a case where a contributions equivalent premium has been paid in respect of a member in accordance with section 55 of the 1993 Act (payment of state scheme

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- (a) The Financial Services Authority can be contacted at www.fsa.gov.uk or at the Financial Services Authority, 25 North Colonnade, Canary Wharf, London E14 5HS.
 - (b) The Pensions Regulator (the Regulatory Authority is defined to mean the Pensions Regulator by section 181(1) of the Pensions Act 1993) can be contacted at www.thepensionsregulator.gov.uk or at the Pensions Regulator, Napier House, Trafalgar Place, Brighton, BN1 4DW.
 - (c) The Pensions Advisory Service can be contacted at www.pensionsadvisoryservice.org.uk or at 11 Belgrave Road, London, SW1V 1RB.
 - (d) The Board of the Pension Protection Fund is established under section 107 of the Pensions Act 2004.
 - (e) Regulation 17(1)(l) of S.I. 2005/3377 provides that Part 3 does not apply where a scheme is winding up.

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premiums on termination of certified status)(a), the initial cash equivalent must be reduced (to nil if need be) to the extent that it represents the member's accrued rights which have been extinguished by virtue of section 60 of the 1993 Act (effect of payment of premiums on rights)(b) by payment of that premium.

8. Where a member's cash equivalent is to be used for acquiring—
- (a) transfer credits under the rules of another scheme; or
 - (b) rights under the rules of a personal pension scheme,

and the receiving scheme has undertaken to provide benefits at least equal in value to the benefits represented by that cash equivalent on payment of a lesser sum (including nil), the initial cash equivalent must be reduced so that the cash equivalent is that lesser sum.

9. ▶¹◀

¹Para. 9 of Sch. 1A omitted by art. 14(4) of S.I. 2011/1246 as from 6.4.12.

10. Where all or any of a member's benefits have been appropriately secured, the initial cash equivalent in respect of those benefits must be reduced so that the cash equivalent is nil.

11. For the purposes of paragraph 10, "appropriately secured" means the same as in section 19 of the 1993 Act (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts)(c), except that a policy of insurance or annuity contract which is taken out or entered into with an authorised friendly society (as defined for the purposes of regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(d) (means of assuring short service benefit)), but which otherwise satisfies the conditions for being appropriate for the purposes of section 19 of that Act, is to be treated as if it were appropriate for the purposes of that section provided the terms of such policy or contract are not capable of being amended, revoked or rescinded.

12. Where a scheme has (in the case of a cash equivalent mentioned in section 93A of the 1993 Act, before the guarantee date) begun to be wound up, an initial cash equivalent may be reduced to the extent necessary for the scheme to comply with the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act(e)) and regulations made under those provisions.

13. If, by virtue of regulations made under section 73B(4)(b)(i) of the 1995 Act (sections 73 and 73A: supplementary) by virtue of section 73B(5) of that Act, the winding up provisions (as so defined) apply to a section of a scheme as if that section were a separate scheme, paragraph 12 applies as if that section were a separate scheme and as if the references to a scheme were accordingly references to that section.

14. Where all or any of the benefits to which an initial cash equivalent relates have been surrendered, commuted or forfeited before the date on which the trustees do what is needed to carry out what the member requires, the initial cash equivalent of the benefits so surrendered, commuted or forfeited must be reduced so that the cash equivalent is nil.

(a) Section 55 was amended by section 141 of, and paragraph 50 of Schedule 5 to, the Pensions Act 1995, paragraph 7 of Schedule 2 to the Welfare Reform and Pensions Act 1999 and S.I. 2005/2050.

(b) Section 60 was amended by paragraph 54 of Schedule 5 to the Pensions Act 1995 and S.I. 2005/2050.

(c) Section 19 was amended by S.I.s 2001/3649, 2005/2050 and 2007/3014.

(d) S.I. 1991/167. Regulation 6 was amended by S.I.s 1994/1062, 1995/35 and 3067 and 1997/786.

(e) Section 73B was inserted by section 270(1) of the Pensions Act 2004.

15. The trustees may reduce an initial cash equivalent to reflect any reasonable administration costs were the member to leave the scheme and must offset against these costs any reasonable administrative savings.

SCHEDULE 1B Regulations 7D(2) and 7E(4)

INSUFFICIENCY REPORTS

1. Where the trustees have requested an insufficiency report under regulation 7D(2) or 7E(4), the actuary is responsible for the preparation of the report.

2. The insufficiency report must contain—

- (a) a comparison, as at the effective date of the report, between the insufficiency report liabilities of all members and the market value of the assets of the scheme; and
- (b) a statement of any allowance the actuary makes under paragraph 3.

3. The actuary may deduct from the assets of the scheme an allowance which—

- (a) is of such amount as he considers reasonable in the circumstances of the scheme; and
- (b) represents the expenses associated with wind up.

4. Where it appears to the actuary that the circumstances are such that it is appropriate, he may exclude any rights under an insurance policy from the scheme assets.

5. Where rights under an insurance policy are excluded under paragraph 4, the liabilities secured by the policy must be disregarded for the purposes of the insufficiency report.

6. The value of any rights under an insurance policy included in the scheme assets must be the value the actuary considers appropriate.

7. The insufficiency report liabilities are—

- (a) for active members with vested rights, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—
 - (i) paragraphs 2 to 6 of Schedule 1A are to be disregarded;
 - (ii) references to “guarantee date” are to be taken to mean the effective date of the report; and
 - (iii) it is to be assumed that the member ceases pensionable service on the effective date;
- (b) for deferred members, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—
 - (i) paragraphs 2 to 6 of Schedule 1A are to be disregarded; and
 - (ii) references to “guarantee date” are to be taken to mean the effective date of the report;
- (c) for pensioner members, calculated and verified in accordance with regulations 7 to 7C as appropriate except that references to “guarantee date” are to be taken to mean the effective date of the report;
- (d) for members over normal pension age not in receipt of a pension, calculated and verified—
 - (i) in the same way as those of pensioner members; and
 - (ii) on the assumption that the member’s pension comes into payment on the effective date of the report;
- (e) for pension credit members, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—
 - (i) paragraphs 2 to 6 of Schedule 1A are to be disregarded; and

- (ii) references to “guarantee date” are to be taken to mean the effective date of the report; and
- (f) for members with unvested rights, equal to the amount of the unvested contributions and the actuary is to assume that the member ceases pensionable service on the effective date of the report.

8. When preparing the insufficiency report—

- (a) the actuary must make estimates comparing the relevant assets with the relevant liabilities of the scheme in respect of each category of liability;
- (b) for the purposes of sub-paragraph (a), the actuary may use one or more categories of liability;
- (c) where the actuary uses more than one category, he must have regard to the priority order on winding up specified in section 73(3) of the 1995 Act (preferential liabilities on winding up)(a); and
- (d) in determining the extent and content of the category or categories of liabilities, the actuary may use such approximations as he considers reasonable.

9. In this Schedule—

“relevant assets” means, subject to paragraphs 2(b) to 6, for a particular category of liability, the market value of the scheme assets, less the total of the relevant liabilities for all categories with greater priority under the priority order and are not to exceed the maximum of the relevant liabilities for that category.

“relevant liabilities” means, for a particular category of liability, the sum of all insufficiency report liabilities falling into that category.◀

SCHEDULE 2

TRANSITIONAL PROVISIONS

In the case of an application such as is mentioned in regulation 21(2), the Occupational Pensions Schemes (Transfer Values) Regulations 1985 are modified as follows—

- (a) after regulation 4(3A) there shall be inserted—
“(3B) Paragraphs (3) and (3A) shall not apply after the expiry of the first period within which the trustees are required under section 57 of the Pensions Act 1995 to obtain an actuarial valuation (as defined in section 56(5)(c) of that Act) nor where the trustees have obtained such a valuation within that period.”;
- (b) in regulation 3(2)(b)(ii) for the words “current at the date of the calculation” there shall be substituted the words “current on 5th April 1997”.

(a) Section 73 was substituted by section 270 of the Pensions Act 2004.

SCHEDULE 3

Regulation 21

REVOCATIONS

<i>(1)</i> <i>Statutory Instrument</i> <i>Number</i>	<i>(2)</i> <i>Statutory Instrument</i>	<i>(3)</i> <i>Provisions revoked</i>
S.I. 1985/1931	The Occupational Pension Schemes (Transfer Values) Regulations 1985	The whole of the Regulations
S.I. 1986/751	The Occupational Pension Schemes (Revaluation and Transfer Values) Amendment Regulations 1986	The whole of the Regulations
S.I. 1986/2171	The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1986	Regulations 4
S.I. 1987/1107	The Occupational Pension Schemes (Transfer Values) Amendment Regulations 1987	The whole of the Regulations
S.I. 1987/114	The Personal and Occupational Pension Schemes (Consequential Provisions) Regulations 1987	Regulation 8
S.I. 1988/474	The Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988	Regulations 3
S.I. 1988/476	The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1988	Regulations 3
S.I. 1988/523	The Occupational Pension Schemes (Transfer Values) Amendment Regulations 1988	The whole of the Regulations
S.I. 1988/1016	The Personal and Occupational Pension Schemes (Transfer to Self-employed Pension Arrangements) Regulations 1988	Regulations 2
S.I. 1990/1142 Supplement No. 84 [Sept 2008]	The Personal and Occupational Pension Schemes (Miscellaneous Amendments) (No. 2) Regulations 1990	Regulations 55 <i>The Law Relating to Social Security</i>

<i>(1)</i> <i>Statutory Instrument</i> <i>Number</i>	<i>(2)</i> <i>Statutory Instrument</i>	<i>(3)</i> <i>Provisions revoked</i>
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