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**2000 No. 1052**

**PENSIONS**

**The Pension Sharing (Valuation) Regulations 2000**

<i>Made</i> - - - - -	<i>13th April 2000</i>
<i>Laid before Parliament</i>	<i>19th April 2000</i>
<i>Coming into force</i> - -	<i>1st December 2000</i>

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 27(2), 30(1) and (2) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999<sup>(a)</sup>, and of all other powers enabling him in that behalf, after consulting such persons as he considered appropriate<sup>(b)</sup>, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Pension Sharing (Valuation) Regulations 2000 and shall come into force on 1st December 2000.

(2) In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993<sup>(c)</sup>;

“the 1995 Act” means the Pensions Act 1995<sup>(d)</sup>;

“the 1999 Act” means the Welfare Reform and Pensions Act 1999;

“employer” has the meaning given by section 181(1) of the 1993 Act;

“occupational pension scheme” has the meaning given by section 1 of the 1993 Act;

“pension arrangement” has the meaning given by section 46(1) of the 1999 Act;

“relevant arrangement” has the meaning given by section 29(8) of the 1999 Act;

“relevant benefits” has the meaning given by section 612 of the Income and Corporation Taxes Act 1988<sup>(e)</sup>;

“scheme” means an occupational pension scheme;

“scheme actuary”, in relation to a scheme to which section 47(1)(b) of the 1995 Act applies, means the actuary mentioned in section 47(1)(b) of that Act;

“transfer credits” has the meaning given by section 181(1) of the 1993 Act;

“transferor” has the meaning given by section 29(8) of the 1999 Act;

“trustees or managers” has the meaning given by section 46(1) of the 1999 Act;

“valuation day” has the meaning given by section 29(7) of the 1999 Act.

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(a) 1999 c. 30.

(b) See section 83(11) of the Welfare Reform and Pensions Act 1999.

(c) 1993 c. 48.

(d) 1995 c. 26.

(e) 1988 c. 1. Section 612 was amended by sections 103(2) and 258 of, and paragraph 12 of Part V of Schedule 26 to, the Finance Act 1994 (c. 9).

### **Rights under a pension arrangement which are not shareable**

2.—(1) Rights under a pension arrangement which are not shareable are—

- (a) subject to paragraph (2), any rights accrued between 1961 and 1975 which relate to contracted-out equivalent pension benefit within the meaning of section 57 of the National Insurance Act 1965(a) (equivalent pension benefits, etc.);
- (b) any rights in respect of which a person is in receipt of—
  - (i) a pension;
  - (ii) an annuity;
  - (iii) payments under an interim arrangement within the meaning of section 28(1A) of the 1993 Act(b) (ways of giving effect to protected rights); or
  - (iv) income withdrawal within the meaning of section 630(1) of the Income and Corporation Taxes Act 1988(c) (interpretation),  
by virtue of being the widow, widower or other dependant of a deceased person with pension rights under a pension arrangement; and
- (c) any rights which do not result in the payment of relevant benefits.

(2) Paragraph (1)(a) applies only when those rights are the only rights held by a person under a pension arrangement.

### **Calculation and verification of cash equivalents for the purposes of the creation of pension debits and credits**

3. For the purposes of section 29 of the 1999 Act (creation of pension debits and credits), cash equivalents may be calculated and verified—

- (a) where the relevant arrangement is an occupational pension scheme in accordance with regulations 4 and 5; or
- (b) in any other case, in accordance with regulations 6 and 7.

### **Occupational pension schemes: manner of calculation and verification of cash equivalents**

4.—(1) In a case to which, or to the extent to which, paragraph (2) or (5) does not apply, cash equivalents are to be calculated and verified in such manner as may be approved in a particular case by the scheme actuary or, in relation to a scheme to which section 47(1)(b) of the 1995 Act (professional advisers) does not apply, by—

- (a) a Fellow of the Institute of Actuaries;
- (b) a Fellow of the Faculty of Actuaries(d); or
- (c) 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 in question, as being a proper person to act for the purposes of these Regulations in connection with that scheme

and, subject to paragraph (2), in the following paragraphs of this regulation and in regulation 5 “actuary” means the scheme actuary or, in relation to a scheme to which section 47(1)(b) of the 1995 Act does not apply, the actuary referred to in sub-paragraph (a), (b) or (c) of this paragraph.

(2) Where the transferor in respect of whose rights a cash equivalent is to be calculated and verified, is a member of a scheme having particulars from time to time set out in regulations made under section 7 of the Superannuation Act 1972(e) (superannuation of persons employed in local government service, etc.), that cash equivalent shall be calculated and verified in such manner as may be approved by the Government Actuary or by an actuary authorised by the Government Actuary to act on his behalf for that purpose and in such a case “actuary” in this regulation and in regulation 5 means the Government Actuary or the actuary so authorised.

(a) 1965 c. 51. Section 57 is continued in force by virtue of regulation 3 of S.I. 1974/2057.

(b) Section 28(1A) is amended by paragraph 5(3) of Schedule 2 to the Welfare Reform and Pensions Act 1999.

(c) The definition of “income withdrawal” was inserted by paragraph 1 of Schedule 11 to the Finance Act 1995 (c. 4).

(d) 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.

(e) 1972 c. 11.

(3) Except in a case to which paragraph (5) applies, cash equivalents are to be calculated and verified by adopting methods and making assumptions which—

- (a) if not determined by the trustees or managers of the scheme in question, are notified to them by the actuary; and
- (b) are certified by the actuary to the trustees or managers of the scheme—
  - (i) as being consistent with “Retirement Benefit Schemes—Transfer Values (GN11)” published by the Institute of Actuaries and the Faculty of Actuaries and current on the valuation day(a);
  - (ii) as being consistent with the methods adopted and assumptions made, at the time when the certificate is issued, in calculating the benefits to which entitlement arises under the rules of the scheme in question for a person who is acquiring transfer credits under those rules; and
  - (iii) in the case of a scheme to which section 56 of the 1995 Act (minimum funding requirement) applies as providing as a minimum an amount, consistent with the methods adopted and assumptions made in calculating, for the purposes of section 57 of that Act (valuation and certification of assets and liabilities), the liabilities mentioned in section 73(3)(a), (aa), (b), (c)(i) and (d) of that Act(b) (preferential liabilities on winding up), subject, in any case where the cash equivalent calculation is made on an individual and not a collective basis, to any adjustments which are appropriate to take account of that fact.

(4) If, by virtue of Schedule 5 to the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996(c) (modifications), section 56 of the 1995 Act applies to a section of a scheme as if that section were a separate scheme, paragraph (3)(b)(iii) shall apply as if that section were a separate scheme and if the reference therein to a scheme were accordingly a reference to that section.

(5) Where a cash equivalent or any portion of a cash equivalent relates to money purchase benefits which do not fall to be valued in a manner which involves making estimates of the value of benefits, then that cash equivalent or that portion shall be calculated and verified in such manner as may be approved in particular cases by the trustees or managers of the scheme.

#### **Occupational pension schemes: further provisions as to the calculation of cash equivalents and increases and reductions of cash equivalents**

5.—(1) Where it is the established custom for additional benefits to be awarded from the scheme at the discretion of the trustees or managers or the employer, the cash equivalent shall, unless the trustees or managers have given a direction that cash equivalents shall not take account of such benefits, take account of any such additional benefits as will accrue to the transferor if the custom continues unaltered.

(2) The trustees or managers shall not make a direction such as is mentioned in paragraph (1) unless, within 3 months before making the direction, they have consulted the actuary and have obtained the actuary’s written report on the implications for the state of funding of the scheme of making such a direction, including the actuary’s advice as to whether or not in the actuary’s opinion there would be any adverse implications for the funding of the scheme should the trustees or managers not make such a direction.

(3) Subject to paragraph (6), in the case of a scheme to which section 56 of the 1995 Act applies, each respective part of the cash equivalent which relates to liabilities referred to in section 73(3)(a), (aa), (b), (c)(i) or (d) of the 1995 Act may be reduced by the percentage which is the difference between—

- (a) 100 per cent; and

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(a) The publication “Retirement Benefit Schemes—Transfer Values (GN11)” may be obtained from the Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ and from the Faculty of Actuaries, Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP. The publication is also available on the following internet web-site: <http://www.actuaries.org.uk>.

(b) Section 73 was modified by regulation 3 of S.I. 1996/3126 and is amended by section 38(1) of, and paragraph 55 of Schedule 12 to, the Welfare Reform and Pensions Act 1999.

(c) S.I. 1996/1536. Schedule 5 was amended by S.I. 1997/786 and 1997/3038.

(b) the percentage of the liabilities mentioned in the relevant paragraph of section 73(3) which the actuarial valuation shows the scheme assets as being sufficient to satisfy where the actuarial valuation is the latest actuarial valuation obtained in accordance with section 57 of the 1995 Act before the valuation day.

(4) If, by virtue of Schedule 5 to the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996, section 56 of the 1995 Act applies 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 reference therein to a scheme were accordingly a reference to that section.

(5) The reduction referred to in paragraph (3) shall not apply to a case where liability in respect of a pension credit is to be discharged in accordance with paragraph 1(2) of Schedule 5 to the 1999 Act (pension credits: mode of discharge—funded pension schemes).

(6) Where a scheme has begun to be wound up, a cash equivalent may be reduced to the extent necessary for the scheme to comply with sections 73 and 74 of the 1995 Act<sup>(a)</sup> (discharge of liabilities by insurance, etc.), and the Occupational Pension Schemes (Winding Up) Regulations 1996<sup>(b)</sup>.

(7) If, by virtue of the Occupational Pension Schemes (Winding Up) Regulations 1996, section 73 of the 1995 Act applies to a section of a scheme as if that section were a separate scheme, paragraph (6) 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.

(8) Where all or any of the benefits to which a cash equivalent relates have been surrendered, commuted or forfeited before the date on which the trustees or managers discharge their liability in respect of the pension credit in accordance with the provisions of Schedule 5 to the 1999 Act, the cash equivalent of the benefits so surrendered, commuted or forfeited shall be reduced to nil.

(9) 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.

#### **Other relevant arrangements: manner of calculation and verification of cash equivalents**

6.—(1) Except in a case to which paragraph (3) applies, cash equivalents are to be calculated and verified in such manner as may be approved in a particular case by—

- (a) a Fellow of the Institute of Actuaries;
- (b) a Fellow of the Faculty of Actuaries; or
- (c) a person with other actuarial qualifications who is approved by the Secretary of State, at the request of the person responsible for the relevant arrangement, as being a proper person to act for the purposes of this regulation and regulation 7 in connection with that arrangement,

and in paragraph (2) “actuary” means any person such as is referred to in sub-paragraph (a), (b) or (c) of this paragraph.

(2) Except in a case to which paragraph (3) applies, cash equivalents are to be calculated and verified by adopting methods and making assumptions which—

- (a) if not determined by the person responsible for the relevant arrangement, are notified to them by an actuary; and
- (b) are certified by an actuary to the person responsible for the relevant arrangement as being consistent with “Retirement Benefit Schemes—Transfer Values (GN11)”, published by the Institute of Actuaries and the Faculty of Actuaries and current on the valuation day.

(3) Where a transferor’s cash equivalent, or any portion of it—

- (a) represents his rights to money purchase benefits under the relevant arrangement; and

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(a) Section 74 is amended by paragraph 56 of Schedule 12 to the Welfare Reform and Pensions Act 1999.

(b) S.I. 1996/3126, amended by S.I. 1997/786, and S.I. 1999/3198.

(b) those rights do not fall, either wholly or in part, to be valued in a manner which involves making estimates of the value of benefits, then that cash equivalent, or that portion of it, shall be calculated and verified in such manner as may be approved in a particular case by the person responsible for the relevant arrangement.

(4) This regulation and regulation 7 apply to a relevant arrangement other than an occupational pension scheme.

**Other relevant arrangements: reduction of cash equivalents**

7. Where all or any of the benefits to which a cash equivalent relates have been surrendered, commuted or forfeited before the date on which the person responsible for the relevant arrangement discharges his liability for the pension credit in accordance with the provisions of Schedule 5 to the 1999 Act, the cash equivalent of the benefits so surrendered, commuted or forfeited shall be reduced in proportion to the reduction in the total value of the benefits.

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

13th April 2000

*Jeff Rooker*  
Minister of State,  
Department of Social Security

**EXPLANATORY NOTE**

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

These Regulations specify the types of pension rights which are not subject to pension sharing, and make provision for the calculation and verification of cash equivalents for the purpose of creating pension debits and credits.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 specifies rights under a pension arrangement which are not subject to pension sharing.

Regulation 3 specifies that the calculation and verification of cash equivalents for the purposes of creating pension debits and credits may be made by reference to these Regulations.

Regulations 4 and 5 specify how cash equivalents in respect of rights in occupational pension schemes may be calculated and verified.

Regulations 6 and 7 specify how cash equivalents in respect of rights in pension arrangements other than occupational pension schemes may be calculated and verified.

An assessment of the cost to business of the provisions of the Welfare Reform and Pensions Act 1999, including these Regulations, is detailed in the Regulatory Impact Assessment for that Act. A copy of this Assessment has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Pensions on Divorce, 3rd Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

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