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STATUTORY INSTRUMENTS

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**2010 No. 6**

**PENSIONS**

**The Transfer Values (Disapplication) Regulations 2010**

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|-------------------------------|---------|--------------------------|
| <i>Made</i>                   | - - - - | <i>5th January 2010</i>  |
| <i>Laid before Parliament</i> |         | <i>12th January 2010</i> |
| <i>Coming into force</i>      | - -     | <i>5th July 2010</i>     |

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 93(1B)(aa), 101F(6A), 181 and 182(2) of the Pension Schemes Act 1993<sup>(1)</sup>.

In accordance with section 185(1) of that Act<sup>(2)</sup>, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Transfer Values (Disapplication) Regulations 2010 and shall come into force on 5th July 2010.

(2) In these Regulations—

“the Act” means the Pension Schemes Act 1993;

“incapacity” means physical or mental impairment which renders a member of the Scheme incapable of carrying on any occupation, where—

(a) that member provides evidence to the scheme administrator from a registered medical practitioner that the member is (and will continue to be) suffering from that physical or mental impairment; and

(b) that member certifies that they have in fact ceased to carry on any occupation;

“normal minimum pension age” has the meaning given in section 279(1) of the Finance Act 2004<sup>(3)</sup>;

“the Scheme” means the pension scheme established by the Secretary of State under section 67(1) of the Pensions Act 2008;

“scheme administrator” has the same meaning as in section 270 of the Finance Act 2004;

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(1) 1993 c.48. Section 93(1B)(aa) was inserted by the Pensions Act 2008 (c.30), section 134(2). Section 101F(6A) was inserted by the Pensions Act 2008, section 134(3). Section 181 is cited because of the meaning it gives to “prescribed” and “regulations”.  
(2) Section 185(1) was amended by paragraph 46 of Schedule 3, and paragraph 80(a) of Schedule 5, to the Pensions Act 1995 (c.26).  
(3) 2004 c.12.

“the transfer value provisions” means Chapter IV of Part IV (protection for early leavers) and Chapter II of Part IVA(4) (requirements relating to pension credit benefit) of the Act; and  
“the Trustee” means the trustee corporation(5) established under section 75 of the Pensions Act 2008.

### **Disapplication of the transfer value provisions**

2.—(1) Subject to paragraphs (2) and (3), the transfer value provisions do not apply in relation to the Scheme.

(2) Paragraph (1) does not apply (and so the transfer value provisions apply in relation to the Scheme) when a member of the scheme reaches normal minimum pension age and notifies the Trustee of their intention to—

- (a) exercise a right to the entirety of a cash equivalent acquired under section 94(1) of the Act(6) in one of the ways listed in section 95(2) of the Act(7); or
- (b) require the Trustee to use an amount equal to the entirety of the cash equivalent of their pension credit benefit pursuant to section 101F of the Act(8) for one or more of the authorised purposes listed in section 101F(2) of the Act(9).

(3) Paragraph (1) does not apply (and so the transfer value provisions apply in relation to the Scheme) when the Trustee is satisfied that a member is suffering from incapacity.

Signed by authority of the Secretary of State for Work and Pensions.

*Angela Eagle*  
Minister of State,  
Department for Work and Pensions

5th January 2010

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(4) Part IVA was inserted by the Welfare Reform and Pensions Act 1999 (c.30), section 37.  
(5) The trustee corporation was named by article 2 of S.I. 2010/3.  
(6) Section 94(1) was amended by the Pensions Act 1995 (c.26), section 154(1) and (2).  
(7) Section 95(2) was amended by article 121 of S.I. 2001/3649.  
(8) Section 101F was inserted by the Welfare Reform and Pensions Act, section 37.  
(9) Section 101F(2) was amended by article 122 of S.I. 2001/3649.

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## EXPLANATORY NOTE

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

These Regulations disapply Chapter IV of Part IV and Chapter II of Part IVA of the Pension Schemes Act 1993 (c.48) (“the transfer value provisions”) which entitle members of occupational or personal pension schemes to acquire a right to a cash equivalent of any benefits which have accrued to or in respect of them. Those chapters allow transfers out from pension funds.

Regulation 2(1) disapplies the transfer value provisions in respect of a pension scheme established by the Secretary of State under section 67(1) of the Pensions Act 2008 (c.30).

Regulation 2(2) provides that the transfer value provisions apply in relation to that scheme when a member reaches normal minimum pension age (this means, before 6th April 2010, age 50, and on or after that date, age 55) and notifies the Trustee of that scheme of their intention to take a right to a cash equivalent in certain ways.

Regulation 2(3) provides that the transfer value provisions also apply in relation to that scheme when the Trustee of that scheme is satisfied that a member is suffering from incapacity.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Work and Pensions, ERSP, Level 7, Caxton House, Tothill Street, London SW1H 9NA and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.