

[2015] No.

PENSIONS

**Occupational Pension Schemes (Transfer Values) (Amendment)
Regulations [2015]**

Made - - - - [***]

Laid before Parliament [***]

Coming into force - - 6 April 2015

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections [93(5), 93(10), 93A(5), 95(6A), 97(2), (3B) and (4), 99(4A) and (4B), 101F(6A), 113(1) and 181] of the Pension Schemes Act 1993^a and [clause 48(7) of the Pension Schemes Bill 2015]^b.

These Regulations were not subject to consultation because in this case the Secretary of State considered consultation to be inexpedient by reason of urgency.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2015 and come into force on 6th April 2015.

(2) In these Regulations, ‘the principal Regulations’ means the Occupational Pension Schemes (Transfer Values) Regulations 1996(c).

Amendment of Part 1 of the principal Regulations

2.—(1) In Regulation 1(2) of the principal Regulations—

- (a) In the definition of “cash balance benefit”, for “by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014” substitute “to that expression in [clause 75 of the Pensions Schemes Bill 2014];”;
- (b) In the definition of “cash equivalent”, for “or guaranteed cash equivalent mentioned in section 93A(1) or 94(1)” substitute “mentioned in section 94(1) or (2)”;
- (c) In the definition of “guarantee date”, for “section 93A(2)” substitute “section 93A(4)”;
- (d) Omit the definition of “relevant date”;

^a 1993 c. 48. Section 93 and 93A were amended by the [Pension Schemes Bill 2015]. Section 95(6A) was inserted by the [Pensions Schemes Bill 2015]. Section 97 was amended by the [Pension Schemes Bill 2015]; Section 99(4A) was inserted by the Pensions Act 1995 (c. 26). Section 99(4B) was inserted by the [Pension Schemes Bill 2015]. Section 101F(6A) was amended by the [Pension Schemes Act 2015]. Section 113(1) was amended by the Child Support, Pensions and Social Security Act 2000 (c. 19). Section 181 is cited for the meaning it gives to “prescribed” and “regulations”.

^b [2015 c. xx]. Section 48(7) is cited for the meaning it gives to “safeguarded benefits”.

^c S.I. 1996/1847.

- (e) In the definition of “statement of entitlement”, for “section 93A(1) of the 1993 Act (salary related schemes: right to statement of entitlement)” substitute “section 93A(3) of the 1993 Act (Right to statement of entitlement: benefits other than money purchase)”.

Amendment of Part 2 of the principal Regulations

- 3.**—(1) In regulation 2, for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”^a.
- (2) Omit regulations 3, 4 and 5.

Amendment of Part 3 of the principal Regulations

4.—(1) In the heading to Part 3 (guaranteed statements of entitlement and calculation of transfer values), omit the word “guaranteed”.

(2) In regulation 6—

- (a) In the heading, omit the word “Guaranteed”;
- (b) In paragraph (1)(a)^b, omit the words “under section 93A of the 1993 Act (salary related schemes: right to statement of entitlement)”;
- (c) After paragraph 1B insert—

“(1C) Where a member has transferrable rights in relation to two categories of benefit other than money purchase benefits, the trustees or managers must provide the member with a statement of entitlement setting out a separate cash equivalent value in relation to each category of benefit, unless the member’s application relates to one category of benefit only.”;

(d) In paragraph (3), omit the words “under section 93A(1) of the 1993 Act”;

(e) Omit paragraph (4);

(f) At the end of regulation 6 insert—

“(5) In this regulation, “application” means an application for a statement of entitlement made under section 93A(1) of the 1993 Act.”.

(3) In regulation 7C(3)(b)(ii)^c, for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(4) In regulation 9—

- (a) in the heading, for “guaranteed cash equivalents” substitute “cash equivalents shown in the statement of entitlement”;
- (b) for paragraph (1), substitute—

“(1) This regulation applies to a cash equivalent in respect of transferrable rights in relation to categories of benefits other than money purchase benefits where a statement of entitlement has been sent to a member of a salary related scheme by the trustees of the scheme.”;

(c) in paragraph (2)—

- (i) in the first place where it appears, for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”; and
- (ii) in the second place where it appears, for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”;
- (d) in paragraphs (3)^d, (5) and (6), in each place where it appears, for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”;

^a Regulation 2 was amended by S.I. 2013/459.

^b Paragraph (1) of Regulation 6 was substituted by SI 2008/1050.

^c Regulation 7C was substituted by SI 2008/1050.

^d Paragraph 3 of Regulation 9 was amended by SI 2005/706.

- (e) in paragraph (5), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.
- (5) In regulation 11—
 - (a) For paragraph (1)^a substitute—

“(1) Subject to paragraphs (1A) and (1B), a member to whom paragraph (1C) applies is entitled to receive from the trustees, on request, the information mentioned in Schedule 1 in writing.”;
 - (b) After paragraph (1B)^b insert—

“(1C) This paragraph applies—

 - (a) to a member who is currently accruing rights to benefits in a category (as defined in section 93(6) of the 1993 Act); and
 - (b) to a member who is no longer accruing rights to money purchase benefits unless, in respect of those benefits, a crystallisation event under section 93(7) has occurred.”;
 - (c) omit paragraph (3)^c;
 - (d) in paragraph (4)^d—
 - (i) For “to a guaranteed cash equivalent” substitute “provided under section 93A of the 1993 Act”;
 - (ii) Before paragraph (ii) of sub-paragraph (b), insert—

“(i) indicating the amount of the cash equivalent which is attributable to each category of benefit included in the statement of entitlement”;
 - (iii) In subparagraph (ii) after the first appearance of the words “cash equivalent” insert “in relation to each category of benefit”;
 - (e) In paragraphs (4)(b)(iv), (v), (vi)(aa) and (5), in each place where it appears, for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”.

Amendment of Part 5 of the principal Regulations

5. In regulation 13(a)(vi)^e, for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”.

Amendment of Part 6 of the principal Regulations

- 6.**—(1) In regulation 14—
- (a) In the heading, for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”;
 - (b) For paragraph (1) substitute—

“(1) Paragraph (2) will apply in the following situations—

 - (a) Where a member’s cash equivalent shown in the statement of entitlement has been reduced or increased under regulation 9;
 - (b) Where, within three months of the trustees or managers informing a member in writing that the cash equivalent has been reduced or increased in accordance with regulation 9, the member disputes the basis or amount of the increase or reduction; and

^a Paragraph 1 of Regulation 11 was substituted by SI 2008/1050.

^b Paragraph 1B of Regulation 11 was substituted by SI 2008/1050.

^c Paragraph 3 of Regulation 11 was amended by SI 2008/1050.

^d Paragraph 4 of Regulation 11 was amended by SI 2005/72 and SI 2008/1050.

^e Regulation 13 was amended by SI 2005/686.

- (c) Where, within three months beginning with the guarantee date, a member disputes the amount of the cash equivalent shown in the statement of entitlement.”
- (c) For paragraph (2) substitute—
 - “(2) Where any of the situations mentioned in paragraph (1) occurs—
 - (a) if the member has made an application to take the cash equivalent under section 95(1) of the 1993 Act, that application lapses unless the trustees or managers have done what is needed to carry out what the member requires or the application has been withdrawn;
 - (b) the time for making a fresh application to take the cash equivalent under section 95(1) is three months beginning with the date on which the trustees or managers inform the member in writing of the reduced or increased cash equivalent, or the finally determined cash equivalent; and
 - (c) the period specified in section 99(2) (trustees’ duties after exercise of option) is six months beginning with the date on which the trustees or managers inform the member in writing of the reduced or increased cash equivalent, or the finally determined cash equivalent.”
- (2) In regulation 15—
 - (a) For “93(1)(a)(i)” substitute “93(4)(b)”;
 - (b) For “Chapter IV” substitute “Chapter 1 of Part 4ZA”;
 - (c) For “sections 95(8)(a), 98(7)(a)(variation and loss of rights under section 94) and 99(2)(a) and (b)” substitute “section 95(1A)(b)”.
- (3) In regulation 16(2), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.
- (4) In regulation 17(2), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.
- (5) Omit regulations 18 and 19 of the principal Regulations.

Amendment of Part 7 of the principal Regulations

- 7. In regulation 20, for “section 93A(4)” substitute “section 93A(6)”.

Amendment of Part 8 of the principal Regulations

- 8.—(1) Omit regulation 21 of the principal Regulations.

Amendment of Schedule 1 of the principal Regulations

- 9.—(1) In paragraph 1a—
 - (a) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”;
 - (b) for “the member’s pensionable service were to terminate” substitute “the conditions specified in section 93(2) to (4) of the 1993 Act were met”;
 - (c) In sub-paragraph (a), for “the member’s pensionable service terminated or will terminate on a particular date;” substitute “the conditions specified in section 93(2) to (4) of the 1993 Act were met or will be met on a particular date”.
- (2) In paragraph 2—
 - (a) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”;
 - (b) in sub-paragraph (d), after “estimated amount of the transfer value” insert “in relation to the member’s rights to benefits other than money purchase benefits”.
- (3) In paragraph 3a, at the beginning of paragraph (c) insert “except where [clause 48 of the Bill] applies,”.

^a Paragraph 1 of Schedule 1 was amended by SI 2008/1050.

Amendment of Schedule 1A of the principal Regulations^b

10.—(1) In paragraph 2 of Schedule 1A—

(a) In sub-paragraph (a) omit the word “and”;

(b) After sub-paragraph (b) insert—

“(c) the guarantee date in relation to the statement of entitlement is at least one year before the member attains normal pension age in relation to the rights to benefits covered by the statement of entitlement.”.

(2) For paragraph 8 of Schedule 1A substitute—

“**8.** Where the cash equivalent shown in a member’s statement of entitlement—

(a) relates to safeguarded benefits;

(b) is to be used for acquiring transfer credits in relation to safeguarded benefits under the rules of another scheme; and

(c) 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 may be reduced so that the cash equivalent is that lesser sum.”

Amendment of the Personal Pension Schemes (Transfer Values) Regulations 1987^c

11.—(1) In regulations 1^d and 3^e, on each occasion where it occurs, for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(2) In regulation 4^f, for “section 94(1)(b)” substitute “section 94”.

Amendment of the Transfer Values (Disapplication) Regulations 2010^g

12.—(1) In regulation 1, for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(2) In regulation 2—

(a) In paragraph (2)(a), for “section 94(1)” substitute “section 94(2)”; and

(b) In paragraph (2)(b), for “pension credit benefit” substitute “pension credit rights”.

Transitional Provisions

13.—(1) The effect Schedule 1 paragraph 3 of the principal Regulations shall be preserved in respect of a member who has made an application under section 95(1) of the 1993 Act before the commencement of these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 1 contains general provisions providing for the date the regulations are to come into force, how the regulations are to be cited and interpretation.

Regulation 2 makes consequential amendments to regulation 1 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (S.I. 1996/1847) (“the principal Regulations”) following the introduction of the Pension Schemes Act 2015.

^a Paragraph 3 of Schedule 1 was amended by SI 2013/472.

^b Schedule 1A was inserted by SI 2008/1050.

^c S.I. 1987/1112.

^d Regulation 1 was amended by SI 1994/1062, SI 2008/1050 and SI 2011/1246.

^e Regulation 3 was substituted by SI 2008/1050 and amended by SI 2008/2450.

^f Regulation 4 was substituted by SI 2008/1050.

^g S.I. 2010/6.

Regulation 3(1) makes consequential amendments to regulation 2 of the principal Regulations. Regulation 3(2) repeals regulations 3, 4 and 5 of the principal Regulations.

Regulation 4 makes consequential amendments to Part 3 of the principal Regulations. Regulation 4(2)(c) confirms that where a member applies for a statement of entitlement in respect of more than one category of benefit, the trustees must provide a separate cash equivalent for each category.

Regulation 5 makes consequential amendments to regulation 13 of the principal Regulations.

Regulation 6 makes consequential amendments to Part 6 of the principal Regulations. Regulation 6(1) amends regulation 14 of the principal regulations and provides for where the time for a member to make an application to take the cash equivalent will be extended. The Regulation also extends time for the trustee to do what is required in the same circumstances.

Regulation 7 makes consequential amendments to regulation 20 of the principal Regulations.

Regulation 8 repeals regulation 21 of the principal Regulations.

Regulation 9 makes consequential amendments to Schedule 1 of the principal Regulations. Regulation 9(3) ensures that where a trustee is not required by section 48 of the Pension Schemes Act 2015 to check that the member has received independent financial advice, the trustees make a recommendation that the member should take financial advice.

Regulation 10 makes consequential amendments to Schedule 1A of the principal Regulations. Regulation 10(2) makes amendments to paragraph 8 so that it applies to the transfer of safeguarded benefits.

Regulation 11 makes consequential amendments to the Personal Pension Schemes (Transfer Values) Regulations 1987 (S.I. 1987/1112).

Regulation 12 makes consequential amendments to the Transfer Values (Disapplication) Regulations 2010 (S.I. 2010/6).

Regulation 13 provides a transitional provision preserving the effect of Schedule 1 paragraph 3 of the principal Regulations in respect of a member who has made an application to take the cash equivalent under section 95(1) before the commencement of the Regulations.