

2015 No. 498

PENSIONS

The Occupational and Personal Pension Schemes (Transfer Values) (Amendment and Revocation) Regulations 2015

Made - - - - *3rd March 2015*

Laid before Parliament *9th March 2015*

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 93(5) and (10)(a) and (b), 93A(5), 95(2)(b) and (6A), 97(1), (2)(a) and (b), (3B) and (4), 99(4A) and (4B), 101F(6A), 113(1) and (3), 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(a), section 10(2)(b) of the Pensions Act 1995(b) and sections 83(1) and 86 of the Pension Schemes Act 2015(c).

Except in relation to regulation 14, by virtue of section 185(2)(d) of the Pension Schemes Act 1993(d) these Regulations were not subject to consultation, because in this case it appeared to the Secretary of State that by reason of urgency consultation was considered inexpedient. In the case of regulation 14, in accordance with section 185(1) of the Pension Schemes Act 1993(e), 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 Occupational and Personal Pension Schemes (Transfer Values) (Amendment and Revocation) Regulations 2015.

(2) Subject to paragraph (3), these Regulations come into force on 6th April 2015.

(3) Regulation 14 comes into force on 1st April 2017.

(4) In these Regulations, “the 1996 Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996(f).

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- (a) 1993 c.48. Sections 93 and 93A were substituted by the Pension Schemes Act 2015 c.8 (“the 2015 Act”), section 67 and paragraph 8 of Schedule 4. Section 95(6A) was inserted by the 2015 Act, section 67 and paragraph 9(4) of Schedule 4. Section 97 was amended by the 2015 Act, section 67 and paragraph 11 of Schedule 4. Section 99(4A) was inserted by the Pensions Act 1995 (c.26), section 173 and paragraph 6(c) of Schedule 6 and amended by the Pensions Act 2004 (c.35, section 319(1) and paragraphs 9 and 14(b) of Schedule 12. Section 99(4B) was inserted by the 2015 Act, section 67 and paragraph 13(5) of Schedule 4. Section 101F(6A) was substituted by the 2015 Act, section 67 and paragraph 15(5) of Schedule 4. Section 113(1) was amended by the Child Support, Pensions and Social Security Act 2000 (c.19) section 52(1). Section 181(1) is cited for the meaning it gives to “prescribe” and “regulations”. Section 183(1) was amended by the Pension Act 1995, sections 151, 173 and 177 and paragraph 79 of Schedule 5, paragraph 15(a) of Schedule 6 and Parts 3 and 4 and Schedule 7.
- (b) 1995 c.26.
- (c) 2015 c.8.
- (d) Section 185(2)(d) was inserted by the Pensions Act 1995, section 151 and Schedule 5, paragraph 80(b).
- (e) Section 185(1) was amended by the Pensions Act 1995, sections 122, 151 and 177 and Schedule 3, paragraph 46 and Schedule 5, paragraph 80.
- (f) S.I. 1996/1847.

Amendment of Part 1 of the 1996 Regulations

2. In regulation 1(2) (interpretation) of the 1996 Regulations—

(1) In the appropriate alphabetical place, insert—

““categories of benefits” refers to the categories listed in paragraphs (a) to (c) of section 93(6) of the 1993 Act;”.

(2) In the definition of “cash balance benefit”(a), for “by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014” substitute “to that expression in section 75 of the Pension Schemes Act 2015”.

(3) 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)”.

(4) In the definition of “guarantee date”, for “section 93A(2)” substitute “section 93A(4)”.

(5) Omit the definition of “relevant date”.

(6) In the definition of “statement of entitlement”(b), 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 1996 Regulations

3.—(1) Part 2 (restrictions on right to cash equivalent) of the 1996 Regulations is amended as follows.

(2) In regulation 2 (pre-1986 leavers)(c), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(3) Omit regulations 3 (rules on continuation in employment after termination of pensionable service), 4 (right to further cash equivalent on termination of employment to which the scheme applies) and 5 (treatment of a number of employments as a single employment).

Amendment of Part 3 of the 1996 Regulations

4.—(1) Part 3 (guaranteed statements of entitlement and calculation of transfer values) of the 1996 Regulations is amended as follows.

(2) In the heading to Part 3, omit the word “guaranteed”.

(3) In the heading to regulation 6, omit the word “Guaranteed”.

(4) In regulation 6 (guaranteed statements of entitlement)—

(a) in paragraph (1)(a)(d), omit the words “under section 93A of the 1993 Act (salary related schemes: right to statement of entitlement)”;

(b) in paragraph (1B)(e), omit the definition of “application”;

(c) after paragraph (1B) insert—

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

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

(e) omit paragraph (4);

(a) The definition of “cash balance benefit” was inserted by S.I. 2014/1711, regulation 32(1) and (2)(a).

(b) The definition of “statement of entitlement” was inserted by S.I. 2008/1050, regulation 2(2)(a).

(c) Regulation 2 was amended by S.I. 2013/459, regulation 6.

(d) Paragraph (1) of regulation 6 was substituted by S.I. 2008/1050, regulation 3.

(e) Paragraph (1B) of regulation 6 was inserted by S.I. 2005/686, regulation 4(2)(b).

(f) insert at the end—

“(5) In this regulation, “application” means an application for a statement of entitlement made under section 93A(1) of the 1993 Act (right to statement of entitlement: benefits other than money purchase).”.

(5) In regulation 7C(3)(b)(ii) (manner of calculation of initial cash equivalents for money purchase benefits)(a), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(6) In regulation 7D(3) (reductions to initial cash equivalents)(b), for “paragraphs 7 to 11” substitute “paragraphs 7, 10, 11”.

(7) In the heading to regulation 9, for “guaranteed cash equivalents” substitute “cash equivalents shown in the statement of entitlement”.

(8) In regulation 9 (increases and reductions of guaranteed cash equivalents)—

(a) 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.”;

(b) in paragraphs (2), (3)(c), (5) and (6), in each place where it appears, for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”;

(c) in paragraph (5), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(9) In regulation 11 (disclosure)—

(a) for paragraph (1)(d) 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)(e) insert—

“(1C) This paragraph applies—

(a) to a member who is currently accruing rights to one of the categories of benefits;
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)(f);

(d) in paragraph (4)(g)—

(i) for “to a guaranteed cash equivalent” substitute “provided under section 93A of the 1993 Act”;

(ii) in sub-paragraph (b)(ii) after the first appearance of the words “cash equivalent” insert “in relation to each of the categories of benefits”;

(iii) after sub-paragraph (b)(ii), insert—

“(iia) indicating the amount of the cash equivalent which is attributable to each of the categories of benefits included in the statement of entitlement”;

(a) Regulation 7C was substituted by S.I. 2008/1050, regulation 4.

(b) Paragraph (3) of regulation 7D was substituted by S.I. 2014/1711, regulation 32(1) and (7)(b).

(c) Paragraph (3) of regulation 9 was amended by S.I. 2005/706, regulation 15(1) and (7).

(d) Paragraph (1) of regulation 11 was substituted by S.I. 2008/1050, regulation 5(a).

(e) Paragraph (1B) of regulation 11 was substituted by S.I. 2008/1050, regulation 5(a).

(f) Paragraph (3) of regulation 11 was amended by S.I. 2008/1050, regulation 5(c).

(g) Paragraph (4) of regulation 11 was amended by S.I. 2005/72, regulation 4(a) and S.I. 2008/1050, regulation 5(d), (e), (f) and (g).

- (e) in paragraphs (4)(b)(ii), (iv), (v) and (vi) 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 1996 Regulations

5. In regulation 13(a)(vi) (extension of time for payment of cash equivalents) of the 1996 Regulations, for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”.

Amendment of Part 6 of the 1996 Regulations

6.—(1) Part 6 (modification of the 1993 Act) of the 1996 Regulations is amended as follows.

(2) For regulation 14 (extension of time within which member may exercise option to take a guaranteed cash equivalent), and the heading to that regulation, substitute—

“Extension of time within which member may exercise option to take a cash equivalent shown in the statement of entitlement

14.—(1) This regulation applies where—

- (a) the member disputes the amount of the cash equivalent shown in the statement of entitlement within three months beginning with the guarantee date; or
- (b) the member’s cash equivalent shown in the statement of entitlement has been reduced or increased under regulation 9, including where the member disputes the basis or amount of the increase or reduction within three months beginning with the date that the member is informed in writing that the cash equivalent has been reduced or increased.

(2) Where this regulation applies—

- (a) if the member has made an application to take the cash equivalent under section 95(1) of the 1993 Act, that application lapses;
- (b) the time for making a fresh application to take the cash equivalent under section 95(1) is extended so that the time is three months beginning with the date on which the member is informed in writing of—
 - (i) the reduced or increased cash equivalent; or, if later,
 - (ii) where the cash equivalent shown in the statement of entitlement has been disputed, the finally determined cash equivalent following the dispute, even where the cash equivalent has not changed; and
- (c) the time specified in section 99(2)(a) (trustees’ duties after exercise of option)(a) is extended so that the time is six months beginning with the date on which the member is informed in writing of—
 - (i) the reduced or increased cash equivalent; or, if later,
 - (ii) where the cash equivalent shown in the statement of entitlement has been disputed, the finally determined cash equivalent following the dispute, even where the cash equivalent has not changed.”.

(3) In regulation 15 (cases where normal pension age is earlier than 60)—

- (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)”.

(a) Section 99(2)(a) was substituted by the Pension Schemes Act 2015 c.8, section 67 and paragraph 13(2) of Schedule 4.

(4) In regulation 16(2) (accrued rights, or liabilities in respect of accrued rights, transferred without consent), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(5) In regulation 17(2) (schemes with an overseas element), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(6) Omit regulations 18 (termination of pensionable service in certain circumstances to be disregarded) and 19 (hybrid schemes).

Amendment of Part 7 of the 1996 Regulations

7. In regulation 20 (maximum penalty under section 10 of the 1995 Act) of the 1996 Regulations, for “section 93A(4)” substitute “section 93A(6)”.

Revocation of Part 8 of the 1996 Regulations

8. Omit Part 8 (revocations and transitional provisions) of the 1996 Regulations.

Amendment of Schedule 1 to the 1996 Regulations

9.—(1) Schedule 1 (information to be made available to members) to the 1996 Regulations is amended as follows.

(2) In paragraph 1(a)—

- (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 are met or were to be met on a particular date”.

(3) 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”.

(4) In paragraph 3(b), at the beginning of sub-paragraph (c) insert “except where section 48 of the Pension Schemes Act 2015 applies,”.

Amendment of Schedule 1A to the 1996 Regulations

10.—(1) Schedule 1A (reductions in initial cash equivalents) to the 1996 Regulations(c) is amended as follows.

(2) In paragraph 2 of Schedule 1A—

- (a) at the end of sub-paragraph (a) omit the word “and”;
- (b) after sub-paragraph (b) insert—

“and

- (c) the guarantee date shown in 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.”.

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

(a) Paragraph 1 of Schedule 1 was amended by S.I. 2008/1050, regulations 1(1) and 7(a).
(b) Paragraph 3 of Schedule 1 was inserted by S.I. 2008/1050, regulation 7(b) and amended by S.I. 2013/472, article 3, Schedule 2, paragraph 14.
(c) Schedule 1A was inserted by S.I. 2008/1050, regulation 8 of Schedule 1.

“8. Where—

(1) The cash equivalent shown in a member’s statement of entitlement—

- (i) relates to safeguarded benefits, as defined in [clause 48(8)] of the Pension Schemes Act 2015; and
- (ii) is to be used for acquiring transfer credits in relation to safeguarded benefits under the rules of another scheme; and

(2) 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.”.

Transitional Provision

11. The effect of paragraph 3 of Schedule 1 to the 1996 Regulations as it was in force immediately before 6th April 2015 is preserved in respect of a member who has made an application under section 93A(1) (salary related schemes: right to a statement of entitlement)(a) of the Pension Schemes Act 1993 before 6th April 2015.

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

12.—(1) The Personal Pension Schemes (Transfer Values) Regulations 1987(b) are amended as follows.

(2) In regulations 1 (citation, commencement and interpretation)(c) and 3 (manner of calculation and verification of cash equivalents)(d), in each place where it appears, for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(3) In regulation 4(2) (increases and reductions of cash equivalents)(e), for “section 94(1)(b)” substitute “section 94”.

Amendment of the Transfer Values (Disapplication) Regulations 2010

13.—(1) The Transfer Values (Disapplication) Regulations 2010(f) are amended as follows.

(2) In regulation 1(2) (interpretation), for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(3) In regulation 2(2) (disapplication of the transfer value provisions)—

- (a) in sub-paragraph (a), for “section 94(1)” substitute “section 94(2)”; and
- (b) in sub-paragraph (b), for “pension credit benefit” substitute “pension credit rights”.

Revocation of the Transfer Values (Disapplication) Regulations 2010

14. The Transfer Values (Disapplication) Regulations 2010 are revoked.

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

3rd March 2015

Steve Webb
Minister of State,
Department for Work and Pensions

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- (a) Section 93A(1) was inserted by the Pensions Act 1995, section 153.
 - (b) S.I. 1987/1112.
 - (c) Regulation 1 was amended by S.I. 1994/1062, regulation 2 and Schedule 2, paragraph 17, S.I. 2007/60 regulation 2 and Schedule, paragraph 2(a), S.I. 2008/1050 regulation 8 and Schedule 2, paragraph 1 and S.I. 2011/1246 article 3(1) and (2).
 - (d) Regulation 3 was substituted by S.I. 2008/1050 regulation 8 and Schedule 2, paragraph 1 and amended by S.I. 2008/2450 regulation 2(1) and (2).
 - (e) Regulation 4 was substituted by S.I. 2008/1050 regulation 8 and Schedule 2, paragraph 1.
 - (f) S.I. 2010/6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to secondary legislation in consequence of the Pension Schemes Act 2015 c.8 (“the 2015 Act”) and revoke the Transfer Values (Disapplication) Regulations 2010 (S.I. 2010/6) (“the 2010 Regulations”), which apply to members of the pension scheme established by the Secretary of State under section 67(1) of the Pensions Act 2008 (c.30). Part 4 and Schedule 4 of the 2015 Act provide greater flexibility to pension scheme members when accessing and transferring pension rights.

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

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

Regulation 3(2) makes consequential amendments to regulation 2 of the 1996 Regulations. Regulation 3(3) revokes regulations 3, 4 and 5 of the 1996 Regulations. The provisions are concerned with the termination of a member’s employment, which is no longer relevant following the introduction of the 2015 Act.

Regulation 4 makes consequential amendments to Part 3 of the 1996 Regulations, which contains provisions concerning statements of entitlement and the calculation of a member’s cash equivalent. Regulation 4(4)(c) provides that where a member applies for a statement of entitlement in respect of more than one of the categories of benefits, the trustees must provide a separate cash equivalent for each category.

Regulation 5 makes consequential amendments to Part 5 of the 1996 Regulations, which provides for the Regulatory Authority to grant extensions of time for the payment of the cash equivalent.

Regulation 6 makes consequential amendments to Part 6 of the 1996 Regulations. Regulation 6(2) amends regulation 14 of the 1996 Regulations and provides for when the time for a member to make an application to take the cash equivalent will be extended. The amendment also provides that time for the trustee to do what is required is extended in the same circumstances.

Regulation 7 makes consequential amendments to Part 7 of the 1996 Regulations, which provides for the maximum penalty under section 10 of the Pensions Act 1995 (c.26).

Regulation 8 revokes Part 8 of the 1996 Regulations, which contains revocations of other legislation and transitional provisions that are no longer needed following the changes introduced by the 2015 Act. .

Regulation 9 makes consequential amendments to Schedule 1 to the 1996 Regulations, which sets out information that must be made available to a member of a pension scheme in certain circumstances. Regulation 9(4) provides that where a trustee is not required by section 48 of the 2015 Act 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 to the 1996 Regulations, which provides for circumstances where a cash equivalent may be reduced. Regulation 10(3) amends paragraph 8 of Schedule 1A so that it applies to the transfer of safeguarded benefits.

Regulation 11 is a transitional provision preserving the effect of paragraph 3 of Schedule 1 to the 1996 Regulations as it was in force immediately before 6th April 2015 in respect of a member who has made an application for a statement of entitlement under section 93A(1) of the Pension Schemes Act 1993 (c.48) before 6th April 2015.

Regulation 12 makes consequential amendments to the Personal Pension Schemes (Transfer Values) Regulations 1987 (S.I. 1987/1112) and Regulation 13 makes consequential amendments to the 2010 Regulations.

Regulation 14 revokes the 2010 Regulations so as to provide that Chapter 4 of Part 4 (protection for early leavers), which will become Chapter 1 of Part 4ZA (transfer rights: general) on 6th April 2015 when amendments made by section 67 of, and paragraph 4 of Schedule 4 to, the 2015 Act come into force, and Chapter 2 of Part 4A (requirements relating to pension credit benefit) of the Pension Schemes Act 1993 do apply to the pension scheme established by the Secretary of State under section 67(1) of the Pensions Act 2008. Those provisions entitle members of occupational or personal pension schemes to acquire a right to a cash equivalent of benefits which have accrued to or in respect of them.

In respect of regulations 1 to 13, there are no additional costs to business, the private sector and civil society organisations as a result of this instrument and, as such, no impact assessment has been prepared.

An assessment of the impact of regulation 14 on private sector and civil society organisations has been made. A copy of this assessment is available in the libraries of both Houses of Parliament and alongside this instrument on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA.

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