

SCHEDULES

SCHEDULE 17

AUTOMATIC TRANSFER OF PENSION BENEFITS ETC.

PART 1

AUTOMATIC TRANSFER OF PENSION BENEFITS

Regulations providing for transfer of cash equivalent of transferable benefits

1.—(1) The Department must make regulations with a view to ensuring that, where a qualifying member of an automatic transfer scheme has transferable benefits under another pension scheme, the cash equivalent of the transferable benefits—

- (a) is transferred to the automatic transfer scheme, and
- (b) is used to provide rights for the member under it.

(2) In this Schedule “automatic transfer scheme” means—

- (a) a work-based pension scheme, other than a scheme of a prescribed description, which is registered under Chapter 2 of Part 4 of the Finance Act 2004 and is a money purchase scheme, or
- (b) a pension scheme of a prescribed description.

(3) In this Schedule “qualifying member”, in relation to an automatic transfer scheme, means an active member of the scheme of a prescribed description.

(4) For the purposes of this Schedule a person has transferable benefits under a pension scheme if—

- (a) the scheme is a transferable benefits scheme,
- (b) the person is a member of the scheme,
- (c) contributions to the scheme by, or on behalf or in respect of, the member have ceased,
- (d) the member has accrued rights to benefits under the scheme rules,
- (e) all of those rights accrued on or after the prescribed date (which may be a date before the coming into operation of this paragraph),
- (f) the cash equivalent of those benefits is less than the prescribed amount (but not nil), and

- (g) any other prescribed conditions are met.
- (5) In this Schedule “transferable benefits scheme” means—
 - (a) a work-based pension scheme, other than a scheme of a prescribed description, which is registered under Chapter 2 of Part 4 of the Finance Act 2004 and is a money purchase scheme, or
 - (b) a pension scheme of a prescribed description.
- (6) In sub-paragraph (4)—
 - (a) the reference to “scheme rules” is to be read in accordance with section 96B of the Pension Schemes Act;
 - (b) “benefits” means—
 - (i) money purchase benefits other than money purchase benefits of a prescribed description, or
 - (ii) benefits of a prescribed description.

*Automatic transfer scheme to find out
whether members have transferable benefits*

- 2.—(1) The regulations must require the trustees or managers of an automatic transfer scheme to take steps to find out whether a qualifying member of the scheme has transferable benefits under another pension scheme.
- (2) The regulations may make provision—
- (a) about when a step is to be taken (for example, within a prescribed period after a person becomes a qualifying member or at prescribed intervals);
 - (b) for the steps to be taken at any particular time to relate to a particular qualifying member, or to some or all qualifying members.

Automatic transfer scheme to request transfer of cash equivalent

- 3.—(1) The regulations must require the trustees or managers of an automatic transfer scheme to give a transfer notice if—
- (a) they find out that a qualifying member of the scheme has transferable benefits under another pension scheme, and
 - (b) any other prescribed conditions are met.
- (2) A “transfer notice” is a notice given to the trustees or managers of the other pension scheme requesting the transfer of the cash equivalent of the transferable benefits to the automatic transfer scheme.
- (3) The conditions that may be prescribed because of sub-paragraph (1)(b) include a condition that the trustees or managers must not give a transfer notice unless the qualifying member consents in accordance with the regulations.

Right to opt out of automatic transfer

4.—(1) If the regulations do not include the condition mentioned in paragraph 3(3), they must ensure that where the duty to give a transfer notice has arisen in relation to transferable benefits of a qualifying member of an automatic transfer scheme, the member can opt out of the transfer in accordance with the regulations.

(2) The regulations must provide that, where the member does opt out—

- (a) the duty to give the transfer notice is not to be complied with, and
- (b) the cash equivalent of the member's transferable benefits is not to be transferred.

Information to be given to qualifying members of automatic transfer schemes

5.—(1) The regulations must require a prescribed person to give information to a qualifying member of an automatic transfer scheme who has transferable benefits under another scheme for the purpose of helping the member to decide whether (as applicable)—

- (a) to consent to the giving of a transfer notice in relation to the transferable benefits, or
- (b) to opt out of the transfer of the cash equivalent of the transferable benefits.

(2) The information to be given—

- (a) must include information about the effect of the regulations, and in particular the member's power to consent or right to opt out (as applicable);
- (b) may include other information, for example information about the schemes.

Transferable benefits scheme to comply with request

6.—(1) The regulations must require the trustees or managers of a pension scheme who receive a transfer notice requesting the transfer of the cash equivalent of a person's transferable benefits to do what is needed to carry out the request.

(2) The regulations may in particular—

- (a) require the trustees or managers of the scheme to take particular steps to carry out the request;
- (b) provide for the discharge, in prescribed circumstances, of any obligation to provide the transferable benefits.

(3) The regulations may provide for circumstances in which the duty to carry out the request does not apply.

*Automatic transfer scheme to use cash
equivalent to provide rights under the scheme*

7.—(1) The regulations must require the trustees or managers of an automatic transfer scheme to whom the cash equivalent of a person's transferable benefits is transferred to use the cash equivalent to provide rights for the person under the scheme.

(2) The regulations may make provision about how that is to be done and in particular about—

- (a) the nature and value of the rights to be provided;
- (b) calculating and verifying the value of the rights to be provided.

Cash equivalents: calculation and verification

8.—(1) The regulations may provide for the manner in which cash equivalents are to be calculated and verified.

(2) The regulations may in particular—

- (a) provide that a cash equivalent is to be increased or reduced in prescribed circumstances;
- (b) make provision about the time by reference to which a cash equivalent is to be calculated for the purposes of a provision of the regulations.

(3) Regulations made because of sub-paragraph (2)(a) may provide for a cash equivalent to be reduced to nil.

Disclosure of information and establishment of database

9.—(1) The regulations must make provision about disclosure of information.

(2) The regulations may in particular require a person to disclose information to another person—

- (a) for the purposes of helping a person to comply with a duty imposed on the person by the regulations or by corresponding regulations made by the Secretary of State under paragraph 9 of Schedule 17 to the Pensions Act 2014, or
- (b) otherwise for the purposes of a provision of the regulations or of corresponding regulations made by the Secretary of State under paragraph 9 of Schedule 17 to the Pensions Act 2014.

(3) The regulations may require the Department or the Regulator to establish and operate a database containing information relating to people who have or had transferable benefits for the purposes of helping the trustees or managers of an automatic transfer scheme to comply with their duties under the regulations.

Compliance

10.—(1) The regulations may make provision with a view to ensuring compliance with any provision of the regulations.

(2) For this purpose the regulations may in particular—

- (a) provide for the Regulator to issue a notice (a “compliance notice”) to a person with a view to ensuring the person’s compliance with a provision of the regulations;
- (b) provide for the Regulator to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person’s compliance with a provision of the regulations;
- (c) provide for the Regulator to issue a notice (a “penalty notice”) imposing a penalty on a person where the Regulator is of the opinion that the person has failed to comply with a compliance notice or third party compliance notice or has contravened a provision of the regulations;
- (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
- (e) confer other functions on the Regulator.

(3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.

(4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—

- (a) £5,000, in the case of an individual, and
- (b) £50,000, in any other case.

Record keeping

11.—(1) The regulations may require any person—

- (a) to make records;
- (b) to preserve records for a prescribed period;
- (c) to provide records to the Regulator on request.

(2) The regulations may provide that Article 10 of the 1995 Order (civil penalties) applies to a person who fails to comply with those requirements.

Further provision about the regulations

12. The regulations may—

- (a) impose or confer other functions on the trustees or managers of an automatic transfer scheme or transferable benefits scheme;

(b) confer a discretion on a person.