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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

The Pensions Act 2011(Transitional, Consequential  
and Supplementary Provisions) Regulations 2014

PART 10

Early leavers: Cash Transfer Sums and Contribution Refunds

**34.** In this Part “the Early Leavers Regulations” mean the Occupational Pensions (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006<sup>(1)</sup>.

**Cash transfer sum: cash balance benefits etc treated as money purchase benefits**

**35.**—(1) Where the conditions specified in paragraph (2) are met, a cash transfer sum to which the member has acquired a right under section 101AB of the 1993 Act (right to cash transfer sum and contribution refund)<sup>(2)</sup> is to be calculated as if it related to money purchase benefits.

(2) The conditions specified in this paragraph are that—

- (a) before the appointed day the member has acquired a right to a cash transfer sum or to a contribution refund in accordance with section 101AB of the 1993 Act;
- (b) at any time, the trustees or managers of the scheme have, in accordance with section 101AC of that Act (notification of right to cash transfer sum or contribution refund), given to the member a statement in writing specifying the amount of the cash transfer sum to which the member has acquired a right under section 101AB of that Act;
- (c) the statement specifying the amount of the cash transfer sum relates to cash balance benefits, a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits) or top-up benefits which the trustees or managers of the scheme treated as money purchase benefits (whether or not the statement also relates to other benefits);
- (d) the cash transfer sum relating to those benefits specified in the statement has been calculated as if the benefits were money purchase benefits; and
- (e) the trustees or managers of the scheme have been notified in accordance with section 101AD of that Act (exercise of right under section 101AB) that the member wishes to take a cash transfer sum in accordance with section 101AB(1)(a).

(3) Where—

- (a) the conditions specified in paragraph (2) are met;
- (b) the cash transfer sum to which the member acquires a right has been calculated in the manner specified in paragraph (2)(d); and
- (c) the trustees or managers of the scheme have (at any time) done what is needed to carry out the requirement specified in the member’s notice under section 101AD(2)(b) of that Act,

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(1) S.I. 2006/33.

(2) Sections 101AB, 101AC and 101AD were inserted by section 264 of the 2004 Act.

the trustees or managers of the scheme are discharged from any obligation in respect of any rights (including contingent rights) of, or in respect of, the member to the benefits to which the cash transfer sum relates, or to make any other payment by way of refund of contributions made by or in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit).

### **Amendment of the Early Leavers Regulations**

**36.**—(1) The Early Leavers Regulations are amended as follows.

(2) In regulation 1(2) (interpretation)(3)—

(a) after the definition of “actuary”, insert—

““cash balance benefit” has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014;”;

(b) after the definition of “discount rates” insert—

““final salary”, in relation to a member to or in respect of whom benefits under a pension scheme are payable, means the member’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to, the time when the member’s pensionable service in relation to that scheme ends;”;

(c) after the definition of “insufficiency report liabilities” insert—

““pensionable earnings”, in relation to a member of a pension scheme, means earnings by reference to which benefits under the scheme are calculated;”.

(3) In regulation 2 (manner of calculation and verification of cash transfer sums – general provisions)(4)—

(a) in paragraph (1)(a)(i), after “salary related benefits” insert “other than cash balance benefits in respect of which the available sum is not calculated by reference to final salary”;

(b) in paragraph (1)(a)(ii) after “money purchase benefits” insert “and cash balance benefits in respect of which the available sum is not calculated by reference to final salary”; and

(c) for paragraph (7) substitute—

“(7) Where a portion of the cash transfer sum relates to a benefit specified in paragraph (1)(a)(i) and a portion relates to a benefit specified in paragraph (1)(a)(ii), the initial cash transfer sum is to be calculated—

(a) for the portion falling within paragraph (1)(a)(i), in accordance with regulations 2A and 2B; and

(b) for the portion falling within paragraph (1)(a)(ii), in accordance with regulation 2C.”.

(4) In regulation 2A (manner of calculation of initial cash transfer sums for salary related benefits)

(a) in the heading, at the end insert “other than cash balance benefits not calculated by reference to final salary”; and

(b) in paragraph (1) after “salary related benefits” insert “other than cash balance benefits in respect of which the available sum is not calculated by reference to final salary”.

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(3) Relevant amendments were made to regulation 1(2) by S.I.s [1997/1613](#), [2003/1727](#), [2007/60](#) and [2008/1050](#).

(4) Regulations 2 to 2D were substituted for regulation 2 by [S.I. 2008/1050](#).

(5) In regulation 2B (initial cash transfer sum for salary related benefits: assumptions and guidance)—

- (a) in the heading, after “salary related benefits” insert “other than cash balance benefits not calculated by reference to final salary”; and
- (b) in paragraph (1), after “salary related benefits” insert “other than cash balance benefits in respect of which the available sum is not calculated by reference to final salary”.

(6) In regulation 2C (manner of calculation of initial cash transfer sums for money purchase benefits)—

- (a) in the heading, at the end insert “and cash balance benefits not calculated by reference to final salary”;
- (b) in paragraph (1) after “For” insert “cash balance benefits in respect of which the available sum is not calculated by reference to final salary and”; and
- (c) for paragraph (4) substitute—

“(4) The realisable value must include—

- (a) for money purchase benefits, any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules; or
- (b) for cash balance benefits—
  - (i) any interest (including notional interest) which, in accordance with the scheme rules, applies to the available sum in respect of which the benefits are calculated;
  - (ii) any guarantee which, in accordance with the scheme rules, applies to the available sum in respect of the benefits or to the contributions made by the member or by another person in respect of the member;
  - (iii) any options the member has which would increase the value of the member’s benefits under the scheme (adjusted to reflect the proportion of members the trustees determine are likely to exercise those options); and
  - (iv) any discretionary benefits which the trustees determine should be taken into account, having regard to any established custom for awarding the benefits and any requirement for consent before they are awarded.”.

(7) In regulation 4 (reduction of cash transfer sums and contribution refunds)(5)—

- (a) in paragraph (1), for the words after “trustees or managers” substitute—

“if—

  - (a) the insufficiency conditions are met; and
  - (b) the cash transfer sum relates to salary-related benefits.”;
- (b) in paragraph (3), after “initial cash transfer sum” insert “which does not relate to money purchase benefits”; and
- (c) in paragraph (7), after “the initial cash transfer sum or contribution refund” insert “, where it does not relate to money purchase benefits,”.

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(5) Regulation 4 was substituted by S.I. 2008/1050.