
DRAFT STATUTORY INSTRUMENTS

2014 No.

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

PART 9

Transfers

Interpretation

30. In this Part “the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996⁽¹⁾.

Cash equivalent of cash balance benefits etc treated as money purchase benefits: transitional arrangements

31.—(1) This regulation applies where—

- (a) a member of an occupational pension scheme has, under the applicable rules, accrued rights to cash balance benefits, a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits) or top-up benefits; and
- (b) the pensionable service of the member has terminated before the appointed day.

(2) Where the conditions specified in paragraph (3) are met—

- (a) the cash equivalent of the member’s benefits specified in paragraph (1)(a) which were treated as money purchase benefits is to be calculated as if those benefits were money purchase benefits;
- (b) the member acquires a right to the cash equivalent of those benefits as if section 94(1)(a) of the 1993 Act (right to cash equivalent)⁽²⁾ applied;
- (c) a member who acquires a right to a cash equivalent of those benefits in accordance with sub-paragraph (b) may require the trustees or managers of the scheme to use the cash equivalent in any of the ways specified in section 95(2) of the 1993 Act (ways of taking cash equivalent)⁽³⁾;
- (d) an application to use the cash equivalent of the benefits in accordance with sub-paragraph (c) must be made to the trustees or managers of the scheme in writing and is subject to the provisions of sections 96 to 99 (provisions concerning exercise of options) of the 1993 Act⁽⁴⁾; and

⁽¹⁾ [S.I. 1996/1847](#).

⁽²⁾ Section 94(1) was amended by section 154(1) and (2) of the 1995 Act.

⁽³⁾ Section 95(2) was amended by [S.I. 2001/3649](#).

⁽⁴⁾ Section 96 was amended by section 151 of and Schedule 5 to the 1995 Act, sections 18, 84(1) and 88 of and Schedules 2 and 13 to the 1999 Act, sections 15(3)(a) and 27(2) of and Schedules 4 and 7 to the 2007 Act. Section 97 was amended by paragraph 4 of Schedule 6 to the 1995 Act and paragraph 8(1) of Schedule 5 to the 2000 Act. Section 98 was amended by paragraph 5 of Schedule 6 to the 1995 Act, paragraph 37 of Schedule 12 to the 1999 Act, and paragraph 8(2) of Schedule 5 to the 2000 Act. Section 99 was amended by paragraph 6 of Schedule 6 to the 1995 Act and paragraph 14 of Schedule 12 to the 2004 Act.

- (e) a member may withdraw an application made in accordance with sub-paragraph (d) by giving the trustees or managers of the scheme notice in writing, in accordance with the provisions of section 100 of that Act (withdrawal of application)(5).
- (3) The conditions specified in this paragraph are that before the appointed day—
 - (a) the trustees or managers of the scheme treated benefits specified in paragraph (1)(a) accrued by a member as if they were money purchase benefits;
 - (b) the member has made an application to the trustees or managers of the scheme for a written statement of entitlement of the amount of the cash equivalent of those benefits (whether or not the application also relates to other benefits) in accordance with section 93A(1) of the 1993 Act (salary related schemes: right to statement of entitlement)(6); and
 - (c) the member has been treated as acquiring a right to the cash equivalent of those benefits, in accordance with section 94(1)(a) of that Act (including in a case where section 94(1)(a) of that Act is modified by regulation 19(2)(b) of the Transfer Values Regulations (hybrid schemes)).
- (4) Where—
 - (a) the conditions specified in paragraph (3) are met; and
 - (b) the trustees or managers of the scheme have (at any time) used the cash equivalent of those benefits treated as money purchase benefits in any of the ways specified in section 95(2) of the 1993 Act,

they are discharged from the obligation to provide the benefits to which that cash equivalent value relates, as if section 99(1) of that Act (trustees' duties after exercise of option)(7) applied.

Statement of entitlement in relation to cash balance benefits etc treated as money purchase benefits: periods before the appointed day

- 32.**—(1) Where the conditions specified in paragraph (2) are met—
- (a) section 93A(1) of the 1993 Act does not, in relation to any period before the appointed day, require the trustees or managers of an occupational pension scheme to provide a statement of entitlement in respect of cash balance benefits, a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits) or top-up benefits which were treated as money purchase benefits;
 - (b) section 93A(4) of that Act does not apply in relation to a failure to provide a statement of entitlement occurring before the appointed day; and
 - (c) regulation 6(3) of the Transfer Values Regulations (guaranteed statements of entitlement) does not prevent the member making a further application under section 93A(1) of that Act for a statement of entitlement within a period of twelve months beginning on the date of an application by the member where the circumstances specified in paragraph (2)(a) of this regulation apply.
- (2) The conditions specified in this paragraph are that before the appointed day—
- (a) the trustees or managers of an occupational pension scheme have not, on the application of a member of the scheme made in accordance with section 93A(1) of the 1993 Act, provided the member with a statement of entitlement of the amount of the cash equivalent of cash balance benefits, a defined benefit minimum (in relation to money purchase underpin

(5) Section 100 was amended by section 84(1) of and Schedule 12 to the 1999 Act.

(6) Section 93A was inserted by section 153 of the Pension Schemes Act 1993 (c. 48) and was amended by section 84(1) of and Schedule 12 to the 1999 Act.

(7) Section 99(1) was amended by S.I. 2011/1730.

benefits or cash balance underpin benefits) or top-up benefits which have accrued to or in respect of the member under the applicable rules; and

- (b) the trustees or managers of the scheme did not provide a statement of entitlement because, at the time that they received the application, those benefits were treated by the trustees or managers as money purchase benefits.

Amendment of the Transfer Values Regulations

33.—(1) The Transfer Values Regulations are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)(8)—

- (a) after the definition of “base rate”, insert—

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

- (b) after the definition of “effective date” 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;” and

- (c) after the definition of “member” 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 7 (manner of calculation and verification of cash equivalents – general provisions)(9)—

- (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 equivalent 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 equivalent is to be calculated—

- (a) for the portion falling within paragraph (1)(a)(i), in accordance with regulations 7A and 7B; and

- (b) for the portion falling within paragraph (1)(a)(ii), in accordance with regulation 7C.”.

(4) In regulation 7A (manner of calculation of initial cash equivalents 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”.

(8) Regulation 1(2) was amended by S.I.s [1997/786](#), [1997/1613](#), [2003/1727](#), [2005/3377](#), [2007/60](#), [2008/1050](#), [2011/1246](#) and [2012/692](#).

(9) Regulations 7 to 7E were substituted for regulations 7 and 8 as originally enacted by [S.I. 2008/1050](#).

(5) In regulation 7B (initial cash equivalents for salary related benefits: assumptions and guidance)⁽¹⁰⁾—

- (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 7C (manner of calculation of initial cash equivalents 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 7D (reductions to initial cash equivalents)—

- (a) in paragraph (1), at the beginning insert “For salary-related benefits”;
- (b) for paragraphs (2) and (3) substitute—
 - “(2) For the purposes of paragraph (1) the trustees may—
 - (a) request an insufficiency report from the actuary in accordance with Schedule 1B (insufficiency reports)⁽¹¹⁾; or
 - (b) treat the actuary’s last relevant GN11 report as an insufficiency report.
 - (3) For money purchase benefits, an initial cash equivalent may, or as the case may be, must be reduced in accordance with paragraphs 7 to 11, 14 and 15 of Schedule 1A (reductions in initial cash equivalents)⁽¹²⁾.”.

⁽¹⁰⁾ Regulation 7B was also amended by [S.I. 2008/2450](#).

⁽¹¹⁾ Schedule 1B was inserted by [S.I. 2008/1050](#).

⁽¹²⁾ Schedule 1A was inserted by [S.I. 2008/1050](#). Paragraph 9 was revoked by [S.I. 2011/1246](#).