
 STATUTORY INSTRUMENTS

1985 No. 1928**PENSIONS****The Contracting-out (Transfer Premiums) Regulations 1985**

<i>Made</i>	- - - - -	10th December 1985
<i>Laid before Parliament</i>		11th December 1985
<i>Coming into Operation</i>		1st January 1986

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 168(1) of, and Schedule 20 to, the Social Security Act 1975(a) and sections 44A and 52 of, and paragraph 6 of Schedule 2 to, the Social Security Pensions Act 1975(b) and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential on section 2 of the Social Security Act 1985(c) and regulations made under section 44A of the Social Security Pensions Act 1975, makes the following regulations:—

Citation, commencement and interpretation

1.— (1) These regulations may be cited as the Contracting-out (Transfer Premiums) Regulations 1985 and shall come into operation on 1st January 1986.

(2) In these regulations, “the principal regulations” means the Occupational Pension Schemes (Contracting-out) Regulations 1984(d).

Amendments of the principal regulations

2.— (1) The principal regulations shall be amended in accordance with the provisions of this regulation.

(2) After paragraph (1) of regulation 18 there is inserted the following paragraph—

“(1A) For the purposes of section 44A (transfer premiums) the prescribed person is the trustees of the scheme.”.

(a) 1975 c.14. See definitions of “prescribe” and “regulations” in Schedule 20. Section 168(1) applies, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c.60), to the exercise of certain powers conferred by that Act.

(b) 1975 c.60; section 44A was added by section 2 of and Schedule 1 to the Social Security Act 1985 (c.53).

(c) 1985 c.53.

(d) S.I. 1984/380, to which there are amendments not relevant to these regulations.

(3) In regulation 18(3), for the words “payable under the Act” there are substituted the words “which is payable”.

(4) After regulation 18 there are inserted the following regulations—

“Case in which and condition subject to which transfer premiums may be paid

18A.—(1) transfer premium may be paid in the case specified in paragraph (2) and subject to the condition specified in paragraph (3).

(2) The case referred to in paragraph (1) is where—

- (a) the trustees or managers of the scheme referred to in section 44A(1)(a) have not been discharged from their liability to provide any part of the guaranteed minimum pensions of the earner referred to in section 44A(1)(a); and
- (b) the earner has not required the trustees or managers to give effect to his accrued rights to those guaranteed minimum pensions in the manner described in paragraph 13(2)(b) of Schedule 1A(a) (purchase of annuities), or if he has, the requirement has been withdrawn.

(3) The condition referred to in paragraph (1) is that the trustees of the scheme have, subject to regulation 19(2), elected to pay a transfer premium.

Application of actuarial table in calculating the amount of a transfer premium

18B. For the purposes of determining the amount of a transfer premium, the Secretary of State shall apply the actuarial table prescribed(b) for the purpose of calculating the amount of an accrued rights premium as if the event giving rise to the liability for the premium were the election to pay the premium, and the average market level indicator were calculated accordingly.”.

(5) In regulation 19(2)—

- (a) after the words “44(6) or 45(3)” there are inserted the words “or under regulation 18A(3)”; and
- (b) after sub-paragraph (d) there is inserted the word “and” and the following sub-paragraph—
 - “(e) in the case of an election under regulation 18A(3)—
 - (i) if the transfer which gave rise to the election occurred by reason of an application under paragraph 16 of Schedule 1A, within a period of 3 months after the date of the application, and
 - (ii) if the transfer which gave rise to the election occurred for any other reason, on or before 30th June 1986 or, if it is later, within a period of one month after the date on which the transfer was made.”

(a) Schedule 1A was inserted into the Social Security Pensions Act 1975 by section 2 of and Schedule 1 to the Social Security Act 1985.

(b) See S.I. 1978/134, amended by S.I. 1982/492.

(6) In regulation 20(1), for the words “payable under the Act” there are substituted the words “which is payable (other than a transfer premium)”.

(7) After paragraph (1) of regulation 20 there is inserted the following paragraph—

“(1A) A transfer premium which is payable shall be paid on or before whichever is the latest of the following days—

- (a) the day 6 months after the date on which the trustees’ election to pay the premium was made;
- (b) the day one month after the date on which the transfer which gave rise to the election was made;
- (c) the day one month after the day on which the Secretary of State sends to the person liable to pay the premium a notice certifying the amount of the premium payable.”.

(8) In regulation 20(2), after the words “paragraph (1)”, there are inserted the words “or (1A)”.

(9) In regulation 23(1), after sub-paragraph (b) there are inserted the word “or” and the following sub-paragraph—

“(c) the trustees of a scheme have elected to pay a transfer premium under regulation 18A(3).”.

(10) In regulation 23(2), at the end there is inserted the following sub-paragraph—

“(c) in the case of a transfer premium, the date on which the earner in question ceased to be in employment to which the scheme applied”.

(11) In regulation 23(3)(b), after the words “regulation 20(1)” there are inserted the words “or (1A), as the case may be,”.

(12) In regulation 24(8), after sub-paragraph (b) there is inserted the following sub-paragraph—

“(c) where it was paid under regulation 18A and the person in respect of whom it was paid has died, without leaving a widow, on or before the latest of the days first mentioned in sub-paragraphs (a), (b) and (c) respectively of regulation 20(1A).”.

(13) In regulation 34(4)—

- (a) for the words “or section 45 (limited revaluation)” there are substituted the words “, section 45 (limited revaluation) or regulation 18A (transfer)”; and
- (b) in sub-paragraph (c), for the words “or a limited revaluation premium” there are substituted the words “, a limited revaluation premium or a transfer premium”.

Signed by authority of the Secretary of State for Social Services.

Tony Newton,
Minister of State,
Department of Health and Social Security.

10th December 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations are all either made under section 44A of the Social Security Pensions Act 1975 or consequential on section 2 of the Social Security Act 1985, and are made before the expiry of the period of 6 months beginning with the commencement (on 1st January 1986) of section 2. Consequently, by virtue of section 26(1)(b) of the Social Security Act 1985, the provisions of section 61(2) and (3) of the Social Security Pensions Act 1975 (which require reference to the Occupational Pensions Board of, and a report by the Board on, proposals to make regulations for certain purposes of that Act) do not apply to them.

The regulations amend the Occupational Pension Schemes (Contracting-out) Regulations 1984 in order to make, in relation to the transfer premium (which is a new kind of state scheme premium introduced by the Social Security Act 1985) the following provisions.

The prescribed person for the purpose of paying a transfer premium is the trustees of the relevant occupational pension scheme; and, if they have not been discharged from their liability to pay the guaranteed minimum pensions of the earner in question and there is no outstanding requirement that they should secure them by purchasing an annuity, they are to pay the premium if they have elected to do so. For the purpose of calculating the premium, the actuarial table which would be applied for the purpose of calculating an accrued rights premium is to be applied, as if the event giving rise to the liability for the premium were the election to pay it. There are also provisions regarding the time within which an election is to be made, a premium is to be paid and a premium is to be refunded.

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