

**1988 No. 1016**

**PENSIONS**

**The Personal and Occupational Pension Schemes  
(Transfer to Self-employed Pension Arrangements)  
Regulations 1988**

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| <i>Made</i> - - - -           | <i>9th June 1988</i>  |
| <i>Laid before Parliament</i> | <i>10th June 1988</i> |
| <i>Coming into force</i>      | <i>1st July 1988</i>  |

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), paragraphs 13(2) (c), (2A) and (3) and 20 of Schedule 1A to the Social Security Pensions Act 1975(b) and section 17(1)(b) of the Social Security Act 1986(c), and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the proposals referred to them(d), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Personal and Occupational Pension Schemes (Transfer to Self-employed Pension Arrangements) Regulations 1988 and shall come into force on 1st July 1988.

**Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1985**

2. The Occupational Pension Schemes (Transfer Values) Regulations 1985(e) shall be amended as follows –

- (a) in sub-paragraphs (a) and (c) of regulation 2(3) for the words “Chapter II of Part II of the Finance Act 1970” there shall be substituted the words “Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(f)”;
- (b) in sub-paragraph (b) of regulation 2(3) for the words “section 26(1) of the Finance Act 1970” there shall be substituted the words “section 612(1) of the Income and Corporation Taxes Act 1988”;
- (c) in sub-paragraph (d) of regulation 2(3) for the words “section 36 of the Finance Act 1980” there shall be substituted the words “section 608 of the Income and Corporation Taxes Act 1988”; and
- (d) after regulation 2C there shall be inserted the following regulation –

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(a) 1975 c.14. See the 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. Schedule 1A was inserted by the Social Security Act 1985 (c.53), Schedule 1, paragraph 3, and paragraph 13(2A) was inserted into Schedule 1A by the Social Security Act 1986, Schedule 10, paragraph 30(c) (ii). (c) 1986 c.50. (d) See section 61(2) and (3) of the Social Security Pensions Act 1975; section 61(2) is amended in ways not relevant to these Regulations. (e) S.I. 1985/1931; the relevant amending instruments are S.I. 1987/1107 and 1988/474. (f) 1988 c.1.

#### **"Use of cash equivalents for subscribing to self-employed arrangements**

2D.—(1) For the purposes of paragraph 13(3) (except in prescribed circumstances paragraph 13(2) to be construed as if paragraph (c) were omitted) the prescribed circumstances are that a member of a scheme who has acquired a right to a cash equivalent under paragraph 12 in respect of rights which are not rights to a guaranteed minimum pension or protected rights has become, or proposes to become, a member of a self-employed pension arrangement.

(2) For the purposes of paragraph 13(2) (c) the prescribed requirements are that the other pension arrangement to which it is proposed to subscribe is a self-employed pension arrangement.

(3) In this regulation "self-employed pension arrangement" means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 which is approved by the Inland Revenue under that Chapter; but which is neither a personal pension scheme within the meaning of the Social Security Act 1986 nor a contract or a scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988."

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

3. The Personal Pension Schemes (Transfer Values) Regulations 1987(a) shall be amended as follows –

- (a) in regulation 2(a) (i) for the words "Chapter II of Part II of the Finance Act 1970" there shall be substituted the words "Chapter I of Part XIV of the Income and Corporation Taxes Act 1988";
- (b) in regulation 2(a) (ii) for the words "section 26(1) of the Finance Act 1970" there shall be substituted the words "section 612(1) of the Income and Corporation Taxes Act 1988"; and
- (c) after regulation 2 there shall be inserted the following regulation –

#### **"Use of cash equivalents for subscribing to self-employed pension arrangements**

2A.—(1) For the purposes of paragraph 13(3) of Schedule 1A to the Act (except in prescribed circumstances paragraph 13(2) to be construed as if paragraph (c) were omitted) the prescribed circumstances are that a member of a personal pension scheme who has acquired a right to a cash equivalent under paragraph 12 of Schedule 1A to the Act in respect of rights which are not protected rights has become, or proposes to become, a member of a self-employed pension arrangement.

(2) For the purposes of paragraph 13(2) (c) of Schedule 1A to the Act the prescribed requirements are that the other pension arrangement to which it is proposed to subscribe is a self-employed pension arrangement.

(3) In this regulation "self-employed pension arrangement" means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 which is approved by the Inland Revenue under that Chapter; but which is neither a personal pension scheme within the meaning of the Social Security Act 1986 nor a contract or a scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988."

#### **Consequential amendments**

4.—(1) In paragraph (b) of regulation 2 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985(b) for the words "either or both" there shall be substituted the words "one or more" and at the end of sub-paragraph (ii) of that paragraph there shall be added "and" and after that sub-paragraph there shall be inserted the following sub-paragraph –

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(a) S.I. 1987/1112. (b) S.I. 1985/1929; the relevant amending instruments are S.I.s 1986/2171 and 1987/1114.

“(iii) in the case only of benefits which are not, and do not include, guaranteed minimum pensions, the award of rights to money-purchase benefits under a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985 or regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987.”.

(2) The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987(a) shall be amended as follows:—

- (a) in paragraph (4) of regulation 4 the word “both” shall be inserted after the word “included” and at the end there shall be added the words “and a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985 or regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987”; and
- (b) in paragraph 9(c) of Schedule 4 and paragraph 3 of Schedule 6, in the substituted paragraph (a) of sub-paragraph (5) after “appropriate scheme,” there shall be inserted “or of a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985 or regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987”.

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

*Nicholas Scott*  
Minister of State,

Department of Health and Social Security

9th June 1988

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(a) S.I. 1987/1116; the relevant amending instrument is S.I. 1988/474.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Occupational Pension Schemes (Transfer Values) Regulations 1985 and the Personal Pension Schemes (Transfer Values) Regulations 1987. They make provision for a member of an occupational or personal pension scheme who, on termination of his pensionable service under the scheme, has acquired a right under Part II of Schedule 1A to the Social Security Pensions Act 1975 to a cash equivalent of his accrued rights under the scheme and who is, or is about to become, self-employed to require the trustees or managers of the scheme to use that cash equivalent to secure rights to money-purchase benefits under a self-employed pension arrangement. The right so to require does not extend to any part of the cash equivalent which represents guaranteed minimum pensions or protected rights. A "self-employed pension arrangement" is an arrangement which is a personal pension scheme for the purposes of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 and which is approved by the Inland Revenue under that Chapter; but which is neither a personal pension scheme for the purposes of the Social Security Act 1986 nor a contract or a scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988. The Regulations also amend certain references to the income tax legislation to take account of the consolidation of that legislation.

Consequential amendments are made to the Occupational Pension Schemes (Discharge of Liability) Regulations 1985 and the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 so as to permit the assignment or surrender of insurance or annuity contracts for the purpose of transfer to a self-employed pension arrangement, and to provide for references to an occupational or personal pension scheme in the provisions of Schedule 16 to the Social Security Act 1973 about alternatives to, and surrender of, short-service benefit to include references to a self-employed pension arrangement.

The report of the Occupational Pensions Board dated 6th May 1988 on the draft of these Regulations referred to them, together with a statement showing that the Regulations give effect to the Board's recommendations is contained in Command Paper No. 402 published by Her Majesty's Stationery Office.

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