

## STATUTORY INSTRUMENTS

# 1996 No. 1462

## The Contracting-out (Transfer and Transfer Payment) Regulations 1996

### PART III

#### TRANSFERS OF LIABILITY IN RESPECT OF SECTION 9(2B) RIGHTS

##### General

7.—(1) A transfer of liability—

- (a) from <sup>F1</sup>... a salary-related <sup>F2</sup>... scheme <sup>F3</sup>... <sup>F4</sup>... in respect of the accrued section 9(2B) rights of an earner; or
- (b) from <sup>F1</sup>... a salary-related <sup>F2</sup>... scheme <sup>F3</sup>... for the payment to or in respect of a person who has become entitled to them of pensions under that scheme deriving from section 9(2B) rights

may be made in accordance with arrangements which satisfy paragraph (2) and no such transfer may be made otherwise.

(2) The arrangements referred to in paragraph (1) must result in there being made—

- (a) in the case of a transfer referred to in paragraph (1)(a), a transfer payment to the receiving scheme or overseas arrangement, in accordance with whichever of regulations 8 to 11 is applicable, of at least the cash equivalent of the accrued section 9(2B) rights in respect of which the transfer is being made, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act; and
- (b) in the case of a transfer referred to in paragraph (1)(b), a connected employer transfer payment <sup>F5</sup>... in accordance with regulation 9 [<sup>F6</sup>or a transfer in accordance with regulation 11A].

[<sup>F7</sup>(2A) A transfer payment from [<sup>F8</sup>a salary-related scheme] in respect of the payment of pensions under [<sup>F9</sup>that scheme] deriving from section 9(2B) rights to or in respect of a person who has become entitled to them may be made in accordance with regulation 11A and no such transfer payment may be made otherwise.]

(3) In this regulation and regulations 8 to [<sup>F10</sup>11A] “transfer payment” means a payment to effect a transfer of liability such as is referred to in paragraph (1) [<sup>F11</sup>or a payment in respect of pensions deriving from section 9(2B) rights such as is referred to in paragraph (2A)].

##### Textual Amendments

- F1** Words in [reg. 7\(1\)](#) omitted (6.4.2018) by virtue of [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), [regs. 1, 2\(3\)\(a\)\(i\)](#)
- F2** Word in [reg. 7\(1\)](#) omitted (6.4.2018) by virtue of [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), [regs. 1, 2\(3\)\(a\)\(ii\)](#)

- F3** Words in reg. 7(1)(a)(b) omitted (6.4.2016) by virtue of The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(5)(b)**
- F4** Words in reg. 7(1)(a) revoked (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786), reg. 1, Sch. 1 para. 7(4), **Sch. 2**
- F5** Words in reg. 7(2)(b) omitted (6.4.2013) by virtue of The Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/459), regs. 1, **4(3)**
- F6** Words in reg. 7(2)(b) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(5)(a)**
- F7** Reg. 7(2A) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(5)(b)**
- F8** Words in reg. 7(2A) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(3)(b)(i)**
- F9** Words in reg. 7(2A) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(3)(b)(ii)**
- F10** Word in reg. 7(3) substituted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(5)(c)**
- F11** Words in reg. 7(3) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(5)(c)**

### Transfer payments to [<sup>F12</sup>schemes that were] salary-related contracted-out schemes in respect of section 9(2B) rights

8. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to a [<sup>F13</sup>scheme that was a salary-related contracted-out scheme which was contracted-out by virtue of section 9(2B) of the 1993 Act] if—

- (a) the earner consents in writing;
- (b) the earner—
  - (i) is employed by an employer who is a contributor to the receiving scheme, or
  - (ii) has previously been a member of the receiving scheme; and
- (c) the transfer payment is applied to provide rights for the earner or person concerned which, had they accrued in the receiving scheme, would be provided in accordance with the rules of the receiving scheme relating to earners who are in employment [<sup>F14</sup>which was contracted-out in relation to the receiving scheme on or after the principal appointed day.]

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#### Textual Amendments

- F12** Words in reg. 8 inserted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(6)(a)**
- F13** Words in reg. 8 substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(6)(b)**
- F14** Words in reg. 8(c) substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(6)(c)**

### [<sup>F15</sup> **Connected employer transfer payments**

9. A connected employer transfer payment may be made subject to the condition set out in regulation 12(3) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (requirement for an actuarial certificate), irrespective of whether that condition would otherwise apply to the member concerned, and either—

- (a) for a transfer to a scheme that was a salary-related contracted-out scheme, the condition set out in regulation 8(c); or
- (b) for a transfer to a scheme that has never been a contracted-out scheme, the condition that the benefits (including benefits for the earner's widow, widower or surviving civil partner) to be credited in the receiving scheme in respect of that part of the transfer payment which relates to the earner's accrued section 9(2B) rights, or pensions in payment deriving from section 9(2B) rights, must be such as would have complied with section 12A(1) of the 1993 Act (the statutory standard) as it had effect immediately before 6th April 2016.]

#### **Textual Amendments**

**F15** Reg. 9 substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(4)**

### [<sup>F16</sup> **Transfer payments to occupational and person pension schemes in respect of section 9(2B) rights**

10. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to a scheme which is not <sup>F17</sup>... an overseas scheme or overseas arrangement, if—

- (a) the earner consents in writing; and
- (b) the earner has acknowledged in writing to the transferring scheme that the earner has received a statement from the receiving scheme showing the benefits to be awarded in respect of the transfer payment, and that the earner accepts that—
  - (i) the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been payable by the transferring scheme, and
  - (ii) there is no statutory requirement on the receiving scheme to provide for survivor's benefits out of the transfer payment.]

#### **Textual Amendments**

**F16** Reg. 10 substituted (6.4.2012) by [The Pensions Act 2007 \(Abolition of Contracting-out for Defined Contribution Pension Schemes\) \(Consequential Amendments\) Regulations 2011 \(S.I. 2011/1245\)](#), regs. 1(2), **6(4)**

**F17** Words in reg. 10 omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(7)**

### **Transfer payments to overseas schemes or arrangements in respect of section 9(2B) rights**

11. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to an overseas scheme or overseas arrangement if—

- (a) the earner consents in writing;

- (b) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that <sup>F18</sup>..., where the receiving scheme is an occupational pension scheme, [<sup>F19</sup>the earner] has entered employment to which the receiving scheme applies;
- (c) the earner has acknowledged in writing that he accepts that the scheme or arrangement to which the transfer payment is to be made may not be regulated in any way by the law of the United Kingdom and that as a consequence there may be no obligation under that law on the receiving scheme or arrangement or its trustees or administrators to provide any particular value or benefit in return for the transfer payment; and
- (d) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the earner has received a statement from the receiving scheme or arrangement showing the benefits to be awarded in respect of the transfer payment and the conditions (if any) on which these could be forfeited or withheld.

#### Textual Amendments

- F18** Words in reg. 11(b) omitted (6.4.2005) by virtue of [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(3)(a)**
- F19** Words in reg. 11(b) substituted (6.4.2005) by [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(3)(b)**

#### <sup>F20</sup>Transfers in respect of section 9(2B) rights in the case of a regulated apportionment arrangement or where an assessment period has commenced

**11A.**—(1) This regulation applies in relation to [<sup>F21</sup>a salary-related scheme] where—

- (a) there is an assessment period in relation to the scheme; or
- (b) a regulated apportionment arrangement has been entered into in relation to the scheme.

(2) A transfer of liability for, or a transfer payment in respect of, the payment of pensions deriving from section 9(2B) rights to or in respect of a person who has become entitled to them may be made from an occupational pension scheme to which this regulation applies (“the transferring scheme”) to an occupational pension scheme which is not an overseas scheme or overseas arrangement (“the receiving scheme”) if the person to whom the pension is payable—

- (a) consents to the transfer in writing;
- (b) acknowledges in writing to the transferring scheme the receipt of a statement showing the benefits to be awarded in respect of the transfer; and
- (c) acknowledges in writing to the transferring scheme the person’s acceptance that—
  - (i) the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been provided by the transferring scheme; and
  - (ii) there is no statutory requirement on the receiving scheme to provide for survivor’s benefits in relation to the transfer.]

#### Textual Amendments

- F20** Reg. 11A inserted (3.7.2017) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2017 \(S.I. 2017/600\)](#), regs. 1, **2(6)**
- F21** Words in reg. 11A(1) substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(5)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Contracting-out (Transfer and Transfer Payment) Regulations 1996, PART III.