

STATUTORY INSTRUMENTS

1996 No. 1462

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

PART IV

MODIFICATION OF PART III OF THE 1993 ACT

Modifications of Part III of the 1993 Act on transfers of and transfer payments in respect of guaranteed minimum pensions from occupational pension schemes

12. Where a transfer to ^{F1}... a salary-related ^{F1}... scheme, or a transfer payment to an overseas scheme, has taken place from an occupational pension scheme in accordance with regulations 3, 4 or 6 (or with regulation 2 of the Contracting-out (Transfer) Regulations 1985 ^{M1}), the 1993 Act shall have effect subject to the following modifications—

- (a) [^{F2} where the transfer was of the accrued rights to guaranteed minimum pensions of an earner who was in employment which was contracted-out by reference to the receiving scheme, the modification of section 14(1) ^{M2} (earner's guaranteed minimum) specified in paragraph 3 of Schedule 2;]
- (b) in the case of [^{F3} any other [^{F3} a]] transfer of the accrued rights of an earner to guaranteed minimum pensions, the modifications of sections 8(2) ^{M3} (meaning of "guaranteed minimum pension"), [^{F4} 24A(1)(a) (conversion of guaranteed minimum pension into other benefits: introduction)] 20(6) (transfer of accrued rights: meaning of "accrued rights") and 159 ^{M4} (inalienability of guaranteed minimum pension and protected rights payments) specified in [^{F5} paragraphs 1, 1A, 4 and 5] of Schedule 2;
- (c) in the case of any transfer of the liability for payment of guaranteed minimum pensions to or in respect of a person who had become entitled to them, the modifications of [^{F6} sections 8(2), 24A(1)(a) and 159] specified in [^{F7} paragraphs 1, 1A and 5] of Schedule 2;
- (d) in the case of any transfer payment to an overseas scheme in respect of the accrued rights of an earner to guaranteed minimum pensions, the modification of section 46 ^{M5} (effect of entitlement to guaranteed minimum pensions on payment of social security benefits) specified in paragraph 2 of Schedule 2.

Textual Amendments

- F1** Words in [reg. 12](#) omitted (6.4.2018) by virtue of [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), [regs. 1, 2\(6\)\(a\)](#)
- F2** [Reg. 12\(a\)](#) 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\(8\)\(a\)](#) (with [art. 5\(1\)](#))

- F3** Word in reg. 12(b) 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(8)(c)** (with art. 5(1))
- F4** Words in reg. 12(b) inserted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(6)(b)(i)**
- F5** Words in reg. 12(b) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(6)(b)(ii)**
- F6** Words in reg. 12(c) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(6)(c)(i)**
- F7** Words in reg. 12(c) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(6)(c)(ii)**

Marginal Citations

- M1** S.I. 1985/1323, amended by S.I. 1986/317, **S.I.** 1986/1716, S.I. 1987/1099, **S.I.** 1987/1114, S.I. 1988/475 and S.I. 1994/1062.
- M2** Section 14 was amended by paragraph 27 of Schedule 5 to the Pensions Act 1995.
- M3** Section 8 was amended by section 136(2) of and paragraph 23 of Schedule 5 to the Pensions Act 1995.
- M4** Section 159 was amended by paragraph 41 of Schedule 3 to the Pensions Act 1995.
- M5** Section 46 was amended by paragraph 44 of Schedule 5 to the Pensions Act 1995.

Modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts

13. Where a transfer to a [^{F8}scheme that was a] salary-related contracted-out scheme, or a transfer payment to an overseas scheme, in respect of an earner's accrued rights to guaranteed minimum pensions has taken place from an appropriate policy in accordance with regulation 3 or 6 (or with regulation 2A of the Contracting-out (Transfer) Regulations 1985), the 1993 Act shall have effect subject to the following modifications—

- (a) [^{F9}where the earner was in employment which was contracted-out by reference to the receiving scheme, the modification of section 14(1) specified in paragraph 7 of Schedule 2;]
- (b) [^{F10}where the earner was in employment which was not contracted-out by reference to the receiving scheme,] the modifications of sections 8(2), 20(6) and 159 specified in [^{F11}paragraphs 5, 6 and 8] of Schedule 2;
- (c) in the case of any transfer payment to an overseas scheme, the modification of section 46 specified in paragraph 2 of Schedule 2.

Textual Amendments

- F8** Words in reg. 13 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(9)(a)**
- F9** Reg. 13(a) 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(9)(b)** (with art. 5(2))
- F10** Word in reg. 13(b) omitted (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(9)(c)** (with art. 5(2))
- F11** Words in reg. 13(b) substituted (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786), reg. 1, **Sch. 1 para. 7(6)**

^{F12}13A.

Textual Amendments

F12 Reg. 13A 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(10)**

[^{F13}Modification of section 16: revaluation after transfer from another scheme

13B.—(1) This regulation applies [^{F14}where an earner’s service in contracted-out employment ended on the second abolition date and] where the following conditions are satisfied—

- (a) on or after 5th April 1983, a transfer of the earner’s accrued rights to guaranteed minimum pensions under a scheme (“scheme A”) was made (under or by virtue of section 20(1) of the 1993 Act) to another scheme (“scheme B”) that was at the time a contracted-out scheme;
- (b) the earner commenced employment that was contracted-out by reference to scheme B;
- (c) by virtue of section 14(1) of the 1993 Act, as modified by regulation 12(a), the calculation, under the provisions of scheme B, of the earner’s guaranteed minimum pension for the purposes of section 14(2) falls to include earnings factors arising out of contracted-out employment in any period of linked qualifying service that was contracted-out employment by reference to scheme A; and
- (d) either—
 - (i) scheme B provides for the earnings factors to be increased at the rate by which they fell to be increased under the provisions of scheme A, or would have fallen to be increased under the provisions of that scheme relating to an earner whose pensionable service under the scheme terminated before the earner attained pensionable age;
 - (ii) if scheme A provided for those earning factors to be increased by reference to orders under section 148 of the Administration Act, scheme B provides for them to be increased in accordance with the provisions of section 16(2) and (3) of the 1993 Act;
 - (iii) if scheme A provided for those earnings factors to be increased in accordance with the provisions of section 16(2) and (3) of the 1993 Act, scheme B includes provision for them to be increased by reference to orders under section 148 of the Administration Act from the date of termination of the earner’s pensionable service under the scheme; or
 - (iv) if a transfer of the earner’s accrued rights to scheme B is not one to which paragraph (iii) applies and those rights were previously being increased at a rate calculated by reference to orders under section 148 of the Administration Act, scheme B includes provision for those earnings factors to be increased at a rate calculated otherwise than by reference to orders under that section.

(2) In paragraph (1), references to earnings factors include the weekly equivalent mentioned in section 14(2) of the 1993 Act.

(3) Where this regulation applies section 16(1) of the 1993 Act applies as if there were added at the end “or, in respect of the earner’s earnings factor (or the weekly equivalent mentioned in section 14(2)) for any relevant year in a period of linked qualifying service, shall be taken to be that factor (or weekly equivalent) as increased in accordance with the provisions of the scheme under regulations made under subsection (3)”.

(4) Where this regulation applies, the modifications of section 16(2) and (3) contained in paragraph (5) apply where earnings factors of an earner whose accrued rights to guaranteed minimum pensions, including such rights derived from linked qualifying service, have been transferred under or by virtue of section 20(1) of the 1993 Act to another scheme that was contracted-out.

(5) The modifications referred to in paragraph (4) are that section 16(2) and (3) of the 1993 Act applies as if it permitted that scheme to provide for those earnings factors to be determined for the purpose of section 14(2) of the 1993 Act without reference to any order coming into force under section 148 of the Administration Act—

(a) where such earnings factors had previously fallen to be determined by reference to orders under section 148 of the Administration Act, after the relevant year in which the earner's pensionable service under the scheme, from which those rights were transferred, was terminated; or

(b) in any other case, in and after the relevant year in which that service was terminated, and as if section 16(3) of the 1993 Act had effect accordingly, save, in a case to which paragraph (b) applies, for treating the reference to the amount of the increase in section 16(3) as a reference to the amount by which the earnings factors relevant to the weekly equivalent would be increased.]

Textual Amendments

F13 Reg. 13B inserted (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#), regs. 1(2)(b), **30(3)**

F14 Words in reg. 13B(1) inserted (6.4.2017) by [The Occupational Pension Schemes and Social Security \(Schemes that were Contracted-out and Graduated Retirement Benefit\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/354\)](#), regs. 1(2), **2**

Changes to legislation:

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