

SCHEDULE 1

Regulation 3

FURTHER CONDITIONS FOR TRANSFERS OF GUARANTEED MINIMUM PENSIONS

PART I

[^{F1}Further Conditions for Transfer to ^{F2}... a Salary-related ^{F2}...
Scheme of Accrued Rights to Guaranteed Minimum Pensions]

Textual Amendments

- F1** Sch. 1 Pt. I heading 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(11)(a)**
- F2** Words in Sch. 1 Pt. I heading omitted (6.4.2018) by virtue of [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(a)**

1. Subject to paragraphs 2 to 4, the receiving scheme must in respect of the rights transferred—
 - (a) provide for pensions payable at the rates at which guaranteed minimum pensions would have been payable by the transferring scheme if the transfer had not taken place; ^{F3}...
 - (b) contain the same provision for commencement and continuation of payment of those pensions and (if any) for commutation, suspension and forfeiture as for guaranteed minimum pensions provided by the receiving scheme in accordance with [^{F4}section 13 or (as the case may be) 17 of the 1993 Act].

[^{F5}(c) comply with sections 13 to 24E of the 1993 Act in respect of accrued rights.]

Textual Amendments

- F3** Word in Sch. 1 para. 1(a) omitted (6.4.2018) by virtue of [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(b)(i)**
- F4** Words in Sch. 1 para. 1(b) substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(b)(ii)**
- F5** Sch. 1 para. 1(c) inserted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(b)(iii)**

2. Subject to paragraphs 3 and 4, the arrangements for the transfer (in this Schedule called “the arrangements”) must contain provision that the earner’s earnings factors which are attributable to any particular period of service, or the weekly equivalent derived therefrom, will be increased at the same rate under the receiving scheme as that at which they or it would have fallen to be increased under the transferring scheme if—

- ^{F6}(a)
- (b) the transfer had not taken place.

Textual Amendments

- F6** Sch. 1 para. 2(a) and word 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(11)(b)**

Changes to legislation: There are currently no known outstanding effects for the The Contracting-out (Transfer and Transfer Payment) Regulations 1996. (See end of Document for details)

3. If the weekly equivalent derived from the earnings factors which are attributable to any particular period of service was not, before the transfer, affected by a provision made, or a provision analogous to one made, under section 16(2) and (3) of the 1993 Act, the arrangements may contain a provision analogous to one made under section 16(2) and (3) in relation to it.

4. If the weekly equivalent derived from the earnings factors which are attributable to any particular period of service was, before the transfer, affected by a provision made, or a provision analogous to one made, under section 16(2) and (3) of the 1993 Act, the arrangements may contain a provision that those earnings factors will be increased under the receiving scheme at the same rate as that at which they would have fallen to be increased if—

- (a) there had never been a provision made, or a provision analogous to one made; or
- (b) in the case only of the first transfer of the rights in question, a different provision had been made

under section 16(2) and (3) relating to that weekly equivalent.

PART II

[^{F7}Further Conditions for Transfer from an Appropriate Policy to a Scheme that was a Salary-related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions]

Textual Amendments

- F7** Sch. 1 Pt. II 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(**11**)(c)

5. The receiving scheme must provide for pensions to be paid which are of at least equal value to the annuity which would have been payable by the transferring policy, had the transfer not taken place, in respect of the earner's accrued rights to guaranteed minimum pensions.

PART III

FURTHER CONDITIONS FOR TRANSFER OF LIABILITY FOR THE PAYMENT OF A GUARANTEED MINIMUM PENSION TO OR IN RESPECT OF A PERSON WHO HAS BECOME ENTITLED TO IT

[^{F8}6.—(1) The date of commencement of the pension the liability for which is transferred—

- (a) if the pension is payable to the person who has become entitled to it, must be the date from which liability for payment is assumed by the receiving scheme; and
- (b) if the pension is payable to the widow, widower or surviving civil partner of that person, must be the same as it would have been under the provisions of the transferring scheme.

(2) The receiving scheme must contain the same provision (if any) for suspension and forfeiture of that pension as for guaranteed minimum pensions provided by the receiving scheme in accordance with section 13 or (as the case may be) 17 of the 1993 Act.

(3) The receiving scheme must provide for the payment of guaranteed minimum pensions to or in respect of a person who has become entitled to them at a rate that is no lower than the rate at

which they would have been paid by the transferring scheme, taking into account any increases to the rate which are required by virtue of section 109 of the 1993 Act.]

Textual Amendments

F8 Sch. 1 para. 6 substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(c)**

SCHEDULE 2

Regulations 12 and 13

MODIFICATIONS OF PART III OF THE 1993 ACT

1. Section 8(2) shall have effect as if for the definition of “guaranteed minimum pension” there were substituted—

[^{F9}“guaranteed minimum pension” means any pension which is provided—

- (a) by a scheme that was a salary-related contracted-out scheme in accordance with the requirements of sections 13 and 17; or
- (b) by a salary-related scheme in compliance with the condition set out in paragraph 1 or 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in paragraph 1 or 5 of Schedule 2 to the Contracting-out (Transfer) Regulations 1985),

to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s widow’s, widower’s or surviving same sex spouse’s or surviving civil partner’s guaranteed minimum, as determined for the purposes of those sections or, as the case may be, conditions;]

Textual Amendments

F9 Words in Sch. 2 para. 1 substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(8)(a)**

[^{F10}**1A.** Section 24A(1)(a) shall have effect as if after “17(1)” there were inserted “and in paragraphs 1 and 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996.]

Textual Amendments

F10 Sch. 2 para. 1A inserted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(8)(b)**

2. Section 46 shall have effect as if the reference in subsection (1)(b) to one or more guaranteed minimum pensions included the guaranteed minimum pensions which would have been payable if they had been preserved in and paid by the transferring scheme or policy.

3. [^{F11}Section 14(1) shall have effect as if the reference to employment which [^{F12}was contracted-out] by reference to the scheme included a reference to employment in any period of linked qualifying service which was contracted-out by reference to the transferring scheme.]

Changes to legislation: There are currently no known outstanding effects for the The Contracting-out (Transfer and Transfer Payment) Regulations 1996. (See end of Document for details)

Textual Amendments

- F11** Sch. 2 para. 3 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\(12\)\(c\)](#) (with art. 5(1))
- F12** Words in Sch. 2 para. 3 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\(12\)\(b\)](#)

4. Section 20(6) shall have effect as if after the words “sections 13 and 17” there were inserted the words ^{[F13}“or in compliance with the condition set out in] paragraph 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, ^{[F13}in paragraph 5] of Schedule 2 to the Contracting-out (Transfer) Regulations 1985) or in compliance with the condition set out in paragraph 1 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in paragraph 1 of Schedule 2 to the Contracting-out (Transfer) Regulations 1985)”.

Textual Amendments

- F13** Words in Sch. 2 para. 4 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\(8\)\(b\)](#)

5. Section 159 shall have effect as if subsections (1)(b) and (3) were omitted.

^{[F14} 6. Section 8(2) shall have effect as if for the definition of “guaranteed minimum pension” there were substituted—

“guaranteed minimum pension” means any pension which is provided ^{[F15}by a scheme that was a salary-related contracted-out scheme]—

- (a) in accordance with the requirements of sections 13 and 17, or
- (b) in compliance with the condition set out in paragraph 5 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in regulation 2A(4) of the Contracting-out (Transfer) Regulations 1985),

to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s widow’s ^{[F16}or widower’s^{[F16}, widower’s or surviving same sex spouse’s]]^{[F17}or surviving civil partner’s guaranteed minimum,] as determined for the purposes of those sections or, as the case may be, condition;”;

Textual Amendments

- F14** Sch. 2 para. 6 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\(8\)\(c\)](#)
- F15** Words in Sch. 2 para. 6 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\(12\)\(a\)](#)
- F16** Words in Sch. 2 para. 6 substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential Provisions\) Order 2014 \(S.I. 2014/107\)](#), art. 1(2), [Sch. 1 para. 18\(3\)\(a\)](#)
- F17** Words in Sch. 2 para. 6 substituted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential Provisions\) Order 2014 \(S.I. 2014/107\)](#), art. 1(2), [Sch. 1 para. 18\(3\)\(b\)](#)

Changes to legislation: There are currently no known outstanding effects for the The Contracting-out (Transfer and Transfer Payment) Regulations 1996. (See end of Document for details)

Modifications etc. (not altering text)

C1 Sch. 2 para. 6 amendment to earlier affecting provision S.I. 1997/786 Sch. 1 para. 7(8)(b) (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 6 para. 13(3)**

7. [^{F18}Section 14(1) shall have effect as if the reference to employment which [^{F19}was contracted-out] by reference to the scheme included a reference to employment in any period of linked qualifying service which was contracted-out by reference to the transferring scheme.]

Textual Amendments

F18 Sch. 2 para. 7 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(12)(d)** (with art. 5(2))

F19 Words in Sch. 2 para. 7 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(12)(b)**

8. Section 20(6) shall have effect as if after the words “sections 13 and 17” there were inserted the words “or in compliance with the condition set out in paragraph 5 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in regulation 2A(4) of the Contracting-out (Transfer) Regulations 1985)”.

^{F20}9.

Textual Amendments

F20 Sch. 2 para. 9 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(8)(d), **Sch. 2**

SCHEDULE 3

Regulation 14

REVOCATIONS

Column 1 Statutory Instrument Number	Column 2 Statutory Instrument	Column 3 Provision revoked
S.I. 1985/1323	The Contracting-out (Transfer) Regulations 1985	The whole of the Regulations
S.I. 1986/317	The Occupational Pension Schemes (Contracting-out) Amendment Regulations 1986	Regulation 3
S.I. 1986/1716	The Contracting-out (Requisite Benefits—Consequential Provisions) Regulations 1986	Regulation 5(2)
S.I. 1987/1099	The Contracting-out (Transfer) Amendment Regulations 1987	The whole of the Regulations

Changes to legislation: There are currently no known outstanding effects for the The Contracting-out (Transfer and Transfer Payment) Regulations 1996. (See end of Document for details)

S.I. 1987/1114	The Personal and Occupational Pension Schemes (Consequential Provisions) Regulations 1987	Regulation 6
S.I. 1988/475	The Contracting-out (Miscellaneous Amendments) Regulations 1988	Regulation 4
S.I. 1994/1062	The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations 1994	Schedule 2, paragraph 5

SCHEDULE 4

Regulation 14

TRANSITIONAL PROVISIONS

In a case such as is mentioned in regulation 14(3), the Contracting-out (Transfer) Regulations 1985 are modified as follows:

- (a) all references to the Occupational Pensions Board are replaced by references to the Secretary of State;
- (b) the definition of “overseas scheme” is replaced by the definition of “ overseas scheme ” in these Regulations; and
- (c) the definition of “section 53 money purchase scheme” is replaced by the definition “ &4u; “section 53 money purchase scheme” means a scheme which was formerly a money purchase contracted-out scheme and in respect of which section 53 applies ” and the definition of “section 53 salary related scheme” is replaced by the definition “ &4u; “section 53 salary related scheme” means a scheme which was formerly a salary related contracted-out scheme and in respect of which section 53 applies ”.

Changes to legislation:

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