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STATUTORY INSTRUMENTS

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**1996 No. 1847**

**The Occupational Pension Schemes  
(Transfer Values) Regulations 1996**

**PART III**

**GUARANTEED STATEMENTS OF ENTITLEMENT  
AND CALCULATION OF TRANSFER VALUES**

**Guaranteed statements of entitlement**

6.—<sup>[F1]</sup>(1) Subject to paragraph (1A), the guarantee date in relation to a statement of entitlement must be—

- (a) within the period of three months beginning with the date of the member's application under section 93A of the 1993 Act (salary related schemes: right to statement of entitlement) for a statement of entitlement; or
- (b) where the trustees are unable to provide a statement of entitlement for reasons beyond their control within the period specified in sub-paragraph (a), within such longer period not exceeding six months beginning with the date of the member's application as they may reasonably require.]

<sup>[F2]</sup>(1A) Where a relevant scheme has received an application, the guarantee date must be either—

- (a) within the period, or, where applicable, the longer period, set out in paragraph (1); or
- (b) within a period of three months beginning on the date on which the relevant direction ceases to have effect,

whichever ends later.

(1B) In paragraph (1A)—

“application” means an application for a statement of entitlement made under section 93A(1) of the 1993 Act ;

“relevant scheme” means a scheme which either—

- (a) is the subject of a freezing order made under section 23 of the Pensions Act 2004 containing a relevant direction on the date it receives the application; or
- (b) becomes the subject of such a freezing order during the period, or, where applicable, the longer period, set out in paragraph (1); and

“relevant direction” means a direction under section 23(4)(g) of the Pensions Act 2004.]

(2) The guarantee date must be within the period of ten days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday) ending with the date on which the statement of entitlement is provided to the member.

(3) A member who has made an application under section 93A(1) of the 1993 Act for a statement of entitlement may not within a period of twelve months beginning on the date of that application

*Status: Point in time view as at 01/10/2008.*

*Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Transfer Values) Regulations 1996, PART III. (See end of Document for details)*

make any further such application unless the rules of the scheme provide otherwise or the trustees allow the member to do so.

(4) Subject to paragraph (3), any application for a cash equivalent made by a member of a salary related scheme which does not result in the member acquiring a right to a guaranteed cash equivalent under section 94(1)(aa) of the 1993 Act shall be treated as if it were an application under section 93A(1) of that Act for a statement of entitlement.

#### Textual Amendments

- F1** Reg. 6(1) substituted (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **3**
- F2** Reg. 6(1A)(1B) inserted (6.4.2005) by [Pensions Regulator \(Freezing Orders and Consequential Amendments\) Regulations 2005 \(S.I. 2005/686\)](#) , regs. 1(1) , **4(2)(b)**

#### Manner of calculation and verification of cash equivalents - general provisions

[<sup>F3</sup> 7.—(1) Subject to paragraphs (4) and (7), cash equivalents are to be calculated and verified—

(a) by calculating the initial cash equivalent—

(i) for salary related benefits, in accordance with regulations 7A and 7B; or

(ii) for money purchase benefits, in accordance with regulation 7C,

and then making any reductions in accordance with regulation 7D; or

(b) in accordance with regulation 7E.

(2) The trustees must decide whether to calculate and verify the cash equivalent in accordance with paragraph (1)(a) or (b), but they can only choose paragraph (1)(b) if they have had regard to any requirement for consent to paying a cash equivalent which is higher than the amount calculated and verified in accordance with paragraph (1)(a).

(3) The trustees are responsible for the calculation and verification of cash equivalents and initial cash equivalents.

(4) Where a member, in relation to whom a cash equivalent is to be calculated and verified, is a member of a scheme modified by—

(a) the British Coal Staff Superannuation Scheme (Modification) Regulations 1994; or

(b) the Mineworkers' Pension Scheme (Modification) Regulations 1994,

the cash equivalent of his bonus is to be calculated and verified by the trustees, having obtained the advice of the actuary, to reflect the fact that a reduced bonus, or no bonus, may become payable in accordance with the provisions governing the scheme in question.

(5) For the purposes of paragraph (4) “bonus” means any—

(a) augmentation of his benefits; or

(b) new, additional or alternative benefits,

which the trustees of the scheme in question have applied to the member's benefits, or granted to him in accordance with the provisions governing that scheme, on the basis of findings as to that scheme's funding position.

(6) Paragraph (7) applies where the cash equivalent is calculated and verified in accordance with paragraph (1)(a).

(7) Where a portion of the cash equivalent relates to a salary related benefit and a portion relates to a money purchase benefit, the initial cash equivalent is to be calculated—

(a) for the salary related benefit portion, in accordance with regulations 7A and 7B; and

- (b) for the money purchase benefit portion, in accordance with regulation 7C.

#### Textual Amendments

- F3** Regs. 7-7E substituted for reg. 7 and 8 (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#), regs. 1(1), **4**

#### Modifications etc. (not altering text)

- C1** [Reg. 7](#) modified by [SI 2000/1054 reg. 24\(2\)\(d\)](#) (as substituted (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#)), reg. 1(1), **Sch. 2 para. 7(c)**
- C2** Regs. 7-7C modified by [SI 2000/1054 reg. 24\(2\)\(c\)](#) (as substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#)), reg. 1(1), **Sch. 2 para. 7(c)**
- C3** [Reg. 7\(1\)](#) modified by [SI 2000/1052 reg. 4\(4\)\(b\)](#) (as substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#)), reg. 1(1), **Sch. 2 para. 5(b)**
- C4** [Reg. 7\(1\)](#) modified by [SI 2000/1052 reg. 5\(2\)\(b\)](#) (as substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#)), reg. 1(1), **Sch. 2 para. 5(b)**
- C5** [Reg. 7\(1\)](#) modified by [SI 2000/1054 reg. 24\(2\)\(b\)](#) (as substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#)), reg. 1(1), **Sch. 2 para. 7(c)**
- C6** [Reg. 7](#) modified by [SI 2000/1052 reg. 4\(4\)\(c\)](#) (as substituted (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#)), reg. 1(1), **Sch. 2 para. 5(b)**
- C7** [Reg. 7](#) modified by [SI 2000/1052 reg. 5\(2\)\(c\)](#) (as substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#)), reg. 1(1), **Sch. 2 para. 5(b)**

#### Manner of calculation of initial cash equivalents for salary related benefits

- 7A.—**(1) For salary related benefits, the initial cash equivalent is to be calculated—
- on an actuarial basis; and
  - in accordance with paragraph (2) and regulation 7B.
- (2) The initial cash equivalent is the amount at the guarantee date which is required to make provision within the scheme for a member's accrued benefits, options and discretionary benefits.
- (3) For the purposes of paragraph (2), the trustees must determine the extent—
- of any options the member has which would increase the value of his benefits under the scheme;
  - of any adjustments they decide to make to reflect the proportion of members likely to exercise those options; and
  - to which any discretionary benefits should be taken into account, having regard to any established custom for awarding them and any requirement for consent before they are awarded.

*Status: Point in time view as at 01/10/2008.*

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#### Textual Amendments

- F3** Regs. 7-7E substituted for reg. 7 and 8 (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#), regs. 1(1), 4

#### Modifications etc. (not altering text)

- C8** Reg. 7A(2) modified by SI 2000/1054 reg. 24(2)(e) (as substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , reg. 1(1) , [Sch. 2 para. 7\(c\)](#) )
- C9** Reg. 7A(2) modified by SI 2000/1052 reg. 4(4)(d) (as substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , reg. 1(1) , [Sch. 2 para. 5\(b\)](#) )

### Initial cash equivalents for salary related benefits: assumptions

**7B.**—(1) The trustees must use the assumptions determined under this regulation in calculating the initial cash equivalent for salary related benefits.

(2) Having taken the advice of the actuary, the trustees must determine the economic, financial and demographic assumptions.

(3) In determining the demographic assumptions, the trustees must have regard to—

- (a) the main characteristics of the members of the scheme; or
- (b) where the members of the scheme do not form a large enough group to allow demographic assumptions to be made, the characteristics of a wider population sharing similar characteristics to the members.

(4) The trustees must have regard to the scheme's investment strategy when deciding what assumptions will be included in calculating the discount rates in respect of the member.

(5) The trustees must determine the assumptions under this regulation with the aim that, taken as a whole, they should lead to the best estimate of the initial cash equivalent.

#### Textual Amendments

- F3** Regs. 7-7E substituted for reg. 7 and 8 (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#), regs. 1(1), 4

### Manner of calculation of initial cash equivalents for money purchase benefits

**7C.**—(1) For money purchase benefits, the initial cash equivalent is to be calculated in accordance with this regulation.

(2) The initial cash equivalent is the realisable value of any benefits to which the member is entitled.

(3) The trustees must calculate that realisable value—

- (a) in accordance with the scheme rules; and
- (b) in a manner which is—
  - (i) approved by the trustees; and
  - (ii) consistent with Chapter IV of Part IV of the 1993 Act.

(4) The realisable value must include any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules.

**Textual Amendments**

**F3** Regs. 7-7E substituted for reg. 7 and 8 (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#), regs. 1(1), 4

**Reductions to initial cash equivalents**

**7D.**—(1) An initial cash equivalent may, or as the case may be must, be reduced in accordance with Schedule 1A (reductions in initial cash equivalents).

(2) The trustees may request an insufficiency report from the actuary in accordance with Schedule 1B.

(3) The trustees may treat the actuary’s last relevant GN11 report as an insufficiency report.

**Textual Amendments**

**F3** Regs. 7-7E substituted for reg. 7 and 8 (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#), regs. 1(1), 4

**Alternative manner of calculating and verifying cash equivalents**

**7E.**—(1) This regulation applies where the trustees have decided to calculate and verify the cash equivalent in accordance with regulation 7(1)(b).

(2) The cash equivalent is to be calculated and verified in such manner as may be approved by the trustees.

(3) The cash equivalent must be higher than it would be if it was calculated and verified in accordance with regulation 7(1)(a).

(4) For the purposes of calculating and verifying the cash equivalent, the trustees may request an insufficiency report from the actuary in accordance with Schedule 1B.

(5) The trustees may treat the actuary’s last relevant GN11 report as an insufficiency report.]

**Textual Amendments**

**F3** Regs. 7-7E substituted for reg. 7 and 8 (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#), regs. 1(1), 4

**Increases and reductions of guaranteed cash equivalents**

**9.**—(1) This regulation applies to a guaranteed cash equivalent when a statement of entitlement has been sent to a member of a salary related scheme by the trustees of the scheme.

(2) Where all or any of the benefits to which a guaranteed cash equivalent relates have been surrendered, commuted or forfeited before the date on which the trustees do what is needed to carry out what the member requires, that part of the guaranteed cash equivalent which relates to the benefits so surrendered, commuted or forfeited shall be reduced to nil.

(3) Where a scheme has on or after the guarantee date begun to be wound up, a guaranteed cash equivalent may be reduced to the extent necessary for the scheme to comply with [F4the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act) and regulations made under those provisions ].

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(4) If, by virtue of regulations made [<sup>F5</sup>under section 73B(4)(b)(i) of the 1995 Act by virtue of section 73B(5) of that Act, the winding up provisions (as so defined) apply] to a section of a scheme as if that section were a separate scheme, paragraph (3) shall apply as if that section were a separate scheme and as if the references therein to a scheme were accordingly references to that section.

(5) If a member's guaranteed cash equivalent falls short of or exceeds the amount which it would have been had it been calculated in accordance with Chapter IV of Part IV of the 1993 Act and these Regulations it shall be increased or reduced to that amount.

(6) In a case where two or more of the paragraphs of this regulation fall to be applied to a calculation, they shall be applied in the order in which they occur in this regulation except that where paragraph (5) falls to be applied it shall be applied as at the date on which it is established that the guaranteed cash equivalent falls short of or exceeds the proper amount.

#### Textual Amendments

- F4** Words in reg. 9(3) substituted (6.4.2005) by [Occupational Pension Schemes \(Winding Up etc.\) Regulations 2005 \(S.I. 2005/706\)](#) , regs. 1(2) , **15(7)** (with reg. 15(11) )
- F5** Words in reg. 9(4) substituted (6.4.2005) by [Occupational Pension Schemes \(Winding Up etc.\) Regulations 2005 \(S.I. 2005/706\)](#) , regs. 1(2) , **15(8)** (with reg. 15(11) )

#### Increases of cash equivalents on late payment

**10.**—(1) Subject to paragraph (2), if the trustees of a scheme, having received an application under section 95 of the 1993 Act, fail to do what is needed to carry out what the member requires within six months of the appropriate date the member's cash equivalent, as calculated in accordance with regulations 7 to 9, shall be increased by the amount, if any, by which that cash equivalent falls short of what it would have been if the appropriate date had been the date on which the trustees carry out what the member requires.

(2) If the trustees of a scheme, having received an application under section 95 of the 1993 Act, fail without reasonable excuse to do what is needed to carry out what the member requires within six months of the appropriate date the member's cash equivalent, as calculated in accordance with regulations 7 to 9, shall be increased by—

- (a) interest on that cash equivalent calculated on a daily basis over the period from the appropriate date to the date on which the trustees carry out what the member requires, at an annual rate of one per cent. above base rate; or, if it is greater,
- (b) the amount, if any, by which that cash equivalent falls short of what it would have been if the appropriate date had been the date on which the trustees carry out what the member requires.

#### Modifications etc. (not altering text)

- C10** Reg. 10(2)(a) excluded (1.4.2008) by [The Local Government Pension Scheme \(Administration\) Regulations 2008 \(S.I. 2008/239\)](#) , regs. 1(1) , **78(5)**

#### Disclosure

**11.**—<sup>F6</sup>(1) Subject to paragraphs (1A) and (1B), an active member of any scheme, and a deferred member of a money purchase scheme, is entitled to receive from the trustees, on request, the information mentioned in Schedule 1 in writing.

(1A) Paragraph (1) does not apply where the request is made within 12 months of the last occasion that such information was provided to the member.

(1B) Information provided under paragraph (1) is to be provided by the trustees as soon as reasonably practicable, and in any event within three months after the date that the member makes the request.]

<sup>F7</sup>(2) .....

(3) For the purposes of [<sup>F8</sup>paragraph (1)] “active member” and “deferred member” have the meaning given to those expressions by section 124 of the 1995 Act (interpretation).

(4) The trustees must ensure that a statement of entitlement to a guaranteed cash equivalent is accompanied by—

(a) the information mentioned in Schedule 1 in relation to any cash equivalent of or transfer value in relation to the member’s money purchase benefits (if any) under the scheme, calculated by reference to the guarantee date;

(b) a statement in writing—

<sup>F9</sup>(i) .....

(ii) indicating whether, and if so for what reasons and by what amount, the member’s [<sup>F10</sup>initial] cash equivalent has been reduced under [<sup>F11</sup>Schedule 1A] and if any such reduction has been made the statement shall indicate the paragraph of [<sup>F11</sup>Schedule 1A] which has been relied upon and shall give an estimate of the date (if any) by which it will be possible to make available a guaranteed cash equivalent which is not so reduced,

(iii) explaining the terms and effect of regulation 6(3) (no right to make an application for a guaranteed statement of entitlement within 12 months of the last such application),

(iv) explaining that if the member wishes to exercise his right to take the guaranteed cash equivalent the member must submit a written application to do so within three months beginning on the guarantee date, <sup>F12</sup>...

(v) explaining that in exceptional circumstances the guaranteed cash equivalent may be reduced and that the member will be informed if it is so reduced, [<sup>F13</sup> and

(vi) where the scheme has begun to wind up, explaining that—

(aa) the value of the member’s guaranteed cash equivalent may be affected by the scheme’s winding up; [<sup>F14</sup>and]

(bb) a decision to take a guaranteed cash equivalent should be given careful consideration; and

<sup>F15</sup>(cc) .....

[<sup>F16</sup>(c) the information mentioned in paragraph 3 of Schedule 1.]

[<sup>F17</sup>(4A) For the purposes of paragraph (4)(b)(vi), the question whether a scheme has begun to wind up shall be determined in accordance with section 124(3A) to (3D) of the 1995 Act.]

(5) Where a guaranteed cash equivalent is reduced or increased under regulation 9, the trustees must notify the member of that fact in writing within ten days (excluding Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday) and such notification must—

(a) state the reasons for and the amount of the reduction or increase;

(b) indicate the paragraph of regulation 9 which has been relied upon; and

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- (c) state that the member has a further three months, beginning with the date on which the member is informed of the reduction or increase, to make a written application to take the guaranteed cash equivalent as so reduced or increased.
- (6) Where any person fails to comply with any requirement imposed upon that person by this regulation, the Regulatory Authority may require that person to pay, within 28 days, a penalty which—
- (a) in the case of an individual, shall not exceed £1,000; and
  - (b) in any other case, shall not exceed £10,000.

#### Textual Amendments

- F6** Reg. 11(1)-(1B) substituted for reg. 11(1) (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(a)**
- F7** Reg. 11(2) omitted (E.W.S.) (1.10.2008) by virtue of [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(b)**
- F8** Words in reg. 11(3) substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(c)**
- F9** Reg. 11(4)(b)(i) omitted (E.W.S.) (1.10.2008) by virtue of [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(e)**
- F10** Word in reg. 11(4)(b)(ii) inserted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(d)(ii)**
- F11** Words in reg. 11(4)(b)(ii) substituted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(d)(i)**
- F12** Word in reg. 11(4)(b)(iv) omitted (15.2.2005) by virtue of [Occupational Pension Schemes \(Winding Up, Deficiency on Winding Up and Transfer Values\) \(Amendment\) Regulations 2005 \(S.I. 2005/72\)](#) , regs. 1(1) , **4(a)(i)**
- F13** Reg. 11(4)(b)(vi) and word inserted (15.2.2005) by [Occupational Pension Schemes \(Winding Up, Deficiency on Winding Up and Transfer Values\) \(Amendment\) Regulations 2005 \(S.I. 2005/72\)](#) , regs. 1(1) , **4(a)(ii)**
- F14** Word in reg. 11(4)(b)(vi)(aa) inserted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(f)**
- F15** Reg. 11(4)(b)(vi)(cc) omitted (E.W.S.) (1.10.2008) by virtue of [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(e)**
- F16** Reg. 11(4)(c) inserted (E.W.S.) (1.10.2008) by [Occupational Pension Schemes \(Transfer Values\) \(Amendment\) Regulations 2008 \(S.I. 2008/1050\)](#) , regs. 1(1) , **5(g)**
- F17** Reg. 11(4A) inserted (15.2.2005) by [Occupational Pension Schemes \(Winding Up, Deficiency on Winding Up and Transfer Values\) \(Amendment\) Regulations 2005 \(S.I. 2005/72\)](#) , regs. 1(1) , **4(b)**

#### Modifications etc. (not altering text)

- C11** Reg. 11 applied (1.12.2000) by [The Divorce etc. \(Pensions\) \(Scotland\) Regulations 2000 \(S.S.I. 2000/112\)](#) , regs. 1(1) , **3(4)(b)** (with reg. 1(2) )
- C12** Reg. 11 applied (with application in accordance with art. 1(2) of the commencing S.I.) by [The Divorce etc. \(Pensions\) Regulations 2000 \(S.I. 2000/1123\)](#) , **art. 3(1)(b)(2)(b)**reg. 1(1)



**Status:**

Point in time view as at 01/10/2008.

**Changes to legislation:**

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