

2005 No. 555

PENSIONS

**The Contracting-out, Protected Rights and Safeguarded Rights
(Transfer Payment) Amendment Regulations 2005**

<i>Made</i> - - - -	<i>7th March 2005</i>
<i>Laid before Parliament</i>	<i>14th March 2005</i>
<i>Coming into force</i> - -	<i>6th April 2005</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 12C(1)(a), 20(1) and (2), 28(2)(b), 68D, 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(a), and of all other powers enabling him in that behalf, having consulted such persons as he considers appropriate(b), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Contracting-out, Protected Rights and Safeguarded Rights (Transfer Payment) Amendment Regulations 2005 and shall come into force on 6th April 2005.

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

2.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations 1996(c) shall be amended in accordance with this regulation.

(2) In regulation 6(d) (transfer payments in respect of guaranteed minimum pensions to overseas schemes)—

- (a) after “an overseas scheme” insert “or an overseas arrangement”;
- (b) in paragraph (b) for “the earner” to “applies” substitute “, where the receiving scheme is an occupational pension scheme, the earner is in employment to which the receiving scheme applies”;
- (c) in paragraph (d) insert “or arrangement”—
 - (i) after “scheme” where that word first appears; and
 - (ii) after “receiving scheme”; and

(a) 1993 c. 48. Section 12C was inserted by section 136(5) of the Pensions Act 1995 (c. 26). Section 20(1) was amended by paragraph 2(1) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c. 19). Section 28(2)(b) was amended by paragraph 2(2) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000. Section 68D was inserted by section 36 of the Welfare Reform and Pensions Act 1999 (c. 30). Section 181(1) is cited because of the meaning there given to the words “prescribed” and “regulations”.

(b) See section 185(1) of the Pension Schemes Act 1993. Section 185(1) was amended by paragraph 46 of Schedule 3, paragraph 80 of Schedule 5 and Part I of Schedule 7 to the Pensions Act 1995.

(c) S.I. 1996/1462. The relevant amending instrument is S.I. 1997/786.

(d) Regulation 6 was amended by S.I. 1997/786.

(d) in paragraph (e) insert “or arrangement” after “receiving scheme”.

(3) In regulation 11 (transfer payments to overseas schemes or arrangements in respect of section 9(2B) rights) in paragraph (b)—

- (a) omit from “the earner” to “and”; and
- (b) for “that he” substitute “the earner”.

Amendment of the Protected Rights (Transfer Payment) Regulations 1996

3.—(1) The Protected Rights (Transfer Payment) Regulations 1996(a) shall be amended in accordance with this regulation.

(2) In regulation 1(2) (interpretation) after the definition of ““money purchase contracted-out scheme”” insert—

““overseas arrangement” means a scheme or arrangement, other than an occupational pension scheme, which—

- (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to, or in respect of, earners;
- (b) is not an appropriate personal pension scheme; and
- (c) is administered wholly or primarily outside the United Kingdom;”.

(3) In regulation 5(b) (transfer payments to overseas schemes) in paragraph (b) for “the member” to “applies” substitute “, where the receiving scheme is an occupational pension scheme, the member is in employment to which the receiving scheme applies”.

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000

4.—(1) The Pension Sharing (Pension Credit Benefit) Regulations 2000(c) shall be amended in accordance with this regulation.

(2) In regulation 19 (transfer payments to overseas schemes or overseas arrangements) in paragraph (b)—

- (a) omit from “the person” to “and”; and
- (b) for “that he” substitute “the person with pension credit rights”.

Signed by authority of the Secretary of State for Work and Pensions.

Malcolm Wicks
Minister of State,
Department for Work and Pensions

7th March 2005

(a) S.I. 1996/1461. The relevant amending instrument is S.I. 2002/681.
(b) Regulation 5 was amended by S.I. 2002/681.
(c) S.I. 2000/1054, to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462) (“the Contracting-out Regulations”), the Protected Rights (Transfer Payment) Regulations 1996 (S.I. 1996/1461) (“the Protected Rights Regulations”) and the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054) (“the Pension Credit Benefit Regulations”).

Regulation 2 amends the Contracting-out Regulations so that regulation 6 applies in respect of transfer payments made to an overseas arrangement (regulation 2(2)(a) and (c)).

Regulation 6 of the Contracting-out Regulations is further amended in order to remove the permanent emigration requirement in relation to transfer payments to overseas schemes or arrangements in respect of guaranteed minimum pensions (regulation 2(2)(b)).

A similar amendment is made to regulation 11 of the Contracting-out Regulations in relation to transfer payments in respect of section 9(2B) rights (regulation 2(3)).

Regulation 3 amends regulation 1 of the Protected Rights Regulations to insert a definition of “overseas arrangement” (regulation 3(2)).

Regulation 5 of the Protected Rights Regulations is also amended in order to remove the permanent emigration requirement in relation to transfer payments to overseas schemes or arrangements in respect of protected rights (regulation 3(3)).

Regulation 4 makes a similar amendment to regulation 19 of the Pension Credit Benefit Regulations in relation to transfer payments in respect of safeguarded rights (regulation 4(2)).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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