
STATUTORY INSTRUMENTS

2005 No. 992

**The Occupational and Personal Pension
Schemes (Pension Liberation) Regulations 2005**

Modification of references to “transfer” in the 1993 Act

2.—(1) In their application to cases where an order is made under section 19(6) or 21(2)(b) of the 2004 Act (pension liberation: court's power to order restitution and restraining orders), the provisions referred to in this regulation and in regulation 3 shall have effect with the modifications there specified.

(2) The reference to “a transfer payment” in the relevant provisions shall be modified so as to have effect as though that reference included a reference to—

- (a) property or money transferred by virtue of an order made by a court under section 19(4) of the 2004 Act and applied in accordance with directions contained in an order made by virtue of section 19(6) of that Act; or
- (b) money paid by virtue of an order made by the Regulator under section 21(2)(a) of the 2004 Act and applied in accordance with directions contained in an order made by virtue of section 21(2)(b) of that Act.

[^{F1}(3) The “relevant provisions” referred to in paragraph (2) are section 71 (basic principle as to short service benefit) and any regulations made under that section.]

(4) Paragraph (6) shall cease to have effect when paragraph 31 of Schedule 12 to the 2004 Act (consequential amendment to the 1993 Act) comes into force.

(5) Paragraph (7) shall have effect from the coming into force of paragraph 31 of Schedule 12 to the 2004 Act.

(6) In relation to the reference to “transfer credits” in sections 56, 73 ^{M1} and 75 (provisions supplementary to section 55; form of short service benefit and its alternatives; credits), and any regulations made under any of those sections, the definition of “transfer credits” in section 181(1) shall be modified so as to apply as if there were added at the end— “ or by reference to a transfer or payment made by virtue of an order under section 19(4) or 21(2)(a) of the Pensions Act 2004 (c. 35) which the trustees or managers have been directed to apply, pro rata, as though it were a transfer of his accrued rights from another scheme; ”.

(7) In relation to the reference to “transfer credits” in sections 56, 73 and 75, and any regulations made under any of those sections, the definition of “transfer credits” in section 181(1) shall be modified so as to apply as if there were added at the end—

“or

- (c) a transfer or payment made by virtue of an order under section 19(4) or 21(2)(a) of the Pensions Act 2004 (c. 35) which the trustees or managers have been directed to apply, pro rata, as though it were a transfer of his accrued rights from another scheme;”.

(8) The references in subsections (1)(a)(i) and (b) and (3) of section 179 (linked qualifying service), and any regulations made under that section, to a transfer of rights accrued under one scheme to a second scheme shall be modified so as to have effect as if they included a transfer

or payment made by virtue of an order under section 19(4) or 21(2)(a) of the 2004 Act which the trustees or managers of the second scheme have been directed to apply, pro rata, as though it were a transfer of accrued rights from the first scheme.

(9) From the coming into force of paragraph 30 of Schedule 12 to the 2004 Act (consequential amendment to the 1993 Act), the modification of section 179, and any regulations made under that section, made in paragraph (8) above shall also apply to references in subsection (1)(a)(i) and (iii) and (b) of that section, and in any such regulations, to a transfer payment made in respect of accrued rights to the second scheme or to the trustees or managers of that scheme, and to a cash equivalent or cash transfer sum paid in respect of the member to the trustees or managers of the second scheme.

Textual Amendments

- F1** [Reg. 2\(3\)](#) substituted (6.4.2012) by [Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) Order 2011 \(S.I. 2011/1246\)](#), arts. 1(2)(a), **21**
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Marginal Citations

- M1** Section 56 was amended by sections 151 and 177 of, and paragraph 51 of Schedule 5 and Part 3 of Schedule 7 to, the Pensions Act 1995, section 1(1) of, and paragraph 54 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999, and section 85 of, and Part 3(11) of Schedule 9 to, the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#); section 73 was amended by sections 18 and 88 of, and paragraph 3(2)(a) of Schedule 2 and Part 1 of Schedule 13 to, the Welfare Reform and Pensions Act 1999.

Changes to legislation:

There are currently no known outstanding effects for the The Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005, Section 2.