

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES (TRANSFER VALUES ETC.)
(COAL STAFF AND MINEWORKERS' SCHEMES) (AMENDMENT)
REGULATIONS 2006

2006 No. 34

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 The regulations only apply to members of two pension schemes, the British Coal Staff Superannuation Scheme and the Mineworkers' Pension Scheme. The regulations modify the method of calculating transfer values for members of these schemes.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 These regulations are being made at the request of the two schemes in question, the British Coal Staff Superannuation Scheme and the Mineworkers' Pension Scheme, and the Department for Trade and Industry. The DTI retains a residual guarantor role in relation to these schemes.
 - 4.2 The British Coal Staff Superannuation Scheme and the Mineworkers' Pension Scheme were originally set up under the now-repealed Coal Industry Nationalisation Act 1946. The controlling instruments for the schemes are two sets of regulations made under the Coal Industry Act 1994.
5. **Extent**
 - 5.1 This instrument applies to Great Britain.
6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Members of the British Coal Staff Superannuation Scheme and the Mineworkers' Pension Scheme ("the Coal Industry Pension Schemes") can be awarded bonuses depending on whether there is a funding surplus. However if the funding position deteriorates at some later time, the scheme provisions provide that bonuses can gradually be reduced or even eliminated over a period.

7.2 When a member of a pension scheme decides to transfer to another scheme, the value of his pension rights is translated into a cash amount and paid to his new scheme. This "cash equivalent transfer value" is then used to acquire rights for the member in his new scheme. The rules for calculating cash equivalent transfer values are contained in the Occupational Pension Schemes (Transfer Values) Regulations 1996 (SI 1996/ 1847) ("the Transfer Values regulations").

7.3 The Transfer Values regulations require the actuary to take into account the full value of any bonuses in the calculation of the cash equivalent transfer value. However this can be at odds with the position in the Coal Industry Pension Schemes where bonuses can be reduced or even eliminated. On the one hand, people transferring out of these schemes at the moment must have the full bonus at the date of transfer included in their transfer value. On the other hand people remaining in the scheme face the prospect of possibly having a reduced bonus or no bonus because of a reduction in the Scheme's surplus.

7.4 These regulations seek to level the playing field between members who transfer out of the scheme and members who remain in it. The regulations provide that in calculating the member's cash equivalent transfer value, the actuary should take into account that a reduced bonus or no bonus may be payable.

7.5 These regulations also amend two sets of pension sharing regulations, the Pension Sharing (Pension Credit Benefit) Regulations 2000 (SI 2000/1054) ("the Pension Credit Benefit regulations"); and the Pension Sharing (Valuation) Regulations 2000 (SI 2000.1052) ("the Valuation regulations"). Pension sharing means that where a couple divorce, any pension that either party has can be taken into account as part of a financial settlement. In the event of a member of the Coal Industry Pension Schemes being a party in a divorce, these regulations could apply to them.

7.6 The relevance of these regulations is that in pension sharing, a value has to be put in the pension. That value is calculated in the same way as a cash equivalent transfer value. The amendments being made to the Pension Credit Benefit regulations and the Valuation regulations are on all fours with the amendments being made to the Transfer Values regulations. The amendments

mean that in calculating the value of the pension for pension sharing purposes, the actuary should take into account that a reduced bonus or no bonus may be payable.

7.7 The Department carried out a consultation on the regulations, primarily with bodies in the coal industry. Three responses were received. Two responses, from bodies representing retired staff, supported the changes because they are in the interests of members remaining in the scheme. The other response raised technical points about the way the regulations are drafted. These points have been considered and some minor amendments made to the regulations.

8. Impact

8.1 A Regulatory Impact Assessment has not been produced because these regulations only apply to two pension schemes and will have a negligible impact on the costs of these schemes.

8.2 These regulations should have no impact on the public sector.

9. Contact

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