
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 112

The Divorce etc. (Pensions) (Scotland) Regulations 2000

Valuation

3.—(1) The value of any benefits under a pension arrangement shall be calculated and verified, for the purposes of the Act, in accordance with this regulation and regulation 4.

(2) The value, as at the relevant date, of the rights or interests which a party has or may have in any benefits under a pension arrangement as at that date shall be calculated as follows and in accordance with—

- (a) paragraph (3), if the party with pension rights is a deferred member of an occupational pension scheme;
- (b) paragraph (4), if the party with pension rights is an active member of an occupational pension scheme;
- (c) paragraphs (5) and (6), if—
 - (i) the party with pension rights is a member of a personal pension scheme; or
 - (ii) those rights are contained in a retirement annuity contract; or
- (d) paragraphs (7) to (9), if—
 - (i) the pension of the party with pension rights is in payment;
 - (ii) the party with the pension rights holds an annuity other than a retirement annuity contract; or
 - (iii) the rights of the party with pension rights are contained in a deferred annuity contract other than a retirement annuity contract.

(3) Where the party with pension rights is a deferred member of an occupational pension scheme, the value of the benefits which he has under that scheme shall be taken to be—

- (a) in the case of an occupational pension scheme other than a salary related scheme, the cash equivalent to which he acquired a right under section 94(1)(a) of the 1993 Act⁽¹⁾ (right to cash equivalent) on the termination of his pensionable service, calculated on the assumption that he has made an application under section 95 of that Act⁽²⁾ (ways of taking right to cash equivalent) on the date on which the request for the valuation was received; or
- (b) in the case of salary related occupational pension scheme, the guaranteed cash equivalent to which he would have acquired a right under section 94(1)(aa) of the 1993 Act⁽³⁾ if he had made an application under section 95(1) of that Act, calculated on the assumption that he has made an application under section 95 of that Act on the date on which the request for the valuation was received.

(4) Where the party with pension rights is an active member of an occupational pension scheme, the valuation of the benefits which he has accrued under that scheme shall be calculated and verified—

(1) Section 94(1)(a) was amended by the Pensions Act 1995 (“the 1995 Act”), section 154.
(2) Section 95 was amended by the 1995 Act, Schedule 6, paragraph 3.
(3) Section 94(1)(aa) was inserted by the 1995 Act, section 154(2).

- (a) on the assumption that the member has made a request for an estimate of the cash equivalent that would be available to him were his pensionable service to terminate on the date on which the request for valuation was received; and
- (b) in accordance with regulation 11 and Schedule 1 to the Occupational Pension Schemes (Transfer Values) Regulations 1996⁽⁴⁾ (disclosure).

(5) Where the party with pension rights is a member of a personal pension scheme, or those rights are contained in a retirement annuity contract, the value of the benefits which he has under that scheme or contract shall be taken to be the cash equivalent to which he would have acquired a right under section 94(1)(b) of the 1993 Act, if he had made an application under section 95(1) of that Act on the date on which the request for the valuation was received.

(6) In relation to a personal pension scheme which is comprised in a retirement annuity contract made before 4th January 1988, paragraph (5) shall apply as if such a scheme were not excluded from the scope of Chapter IV of Part IV of the 1993 Act by section 93(1)(b) of that Act (scope of Chapter IV).

(7) Except in a case to which, or to the extent to which, paragraph (9) applies, the cash equivalent of benefits in respect of a person referred to in paragraph (2)(d) shall be calculated and verified in such a manner as may be approved in particular cases by—

- (a) a Fellow of the Institute of Actuaries;
- (b) a Fellow of the Faculty of Actuaries⁽⁵⁾; or
- (c) a person with actuarial qualifications who is approved by the Scottish Ministers, at the request of the person responsible for the pension arrangement in question, as being a proper person to act for the purposes of this regulation in connection with that arrangement.

(8) Except in a case to which paragraph (9) applies, cash equivalents are to be calculated and verified by adopting methods and making assumptions which—

- (a) if not determined by the person responsible for the pension arrangement in question, are notified to him by the actuary referred to in paragraph (7); and
- (b) are certified by the actuary to the person responsible for the pension arrangement in question as being consistent with the “Retirement Benefit Scheme-Transfer Values (GN11)” published by the Institute of Actuaries and the Faculty of Actuaries and current at the date on which the request for valuation is received⁽⁶⁾.

(9) Where the cash equivalent, or any portion of it represents rights to money purchase benefits under the pension arrangement in question of the party with pension rights, and those rights do not fall, either wholly or in part, to be valued in a manner which involves making estimates of the value of benefits, then that cash equivalent, or that portion of it, shall be calculated and verified in such manner as may be approved in particular cases by the person responsible for the pension arrangement in question, and by adopting methods consistent with the requirement of Chapter IV of Part IV of the 1993 Act (protection for early leavers-transfer values).

(10) For the purposes of paragraph (3), (4), (7) or (9), section 93(1)(a)(i) of the 1993 Act⁽⁷⁾ (scope of Chapter IV) shall be construed as if the words “at least one year” had been omitted from that provision.

(11) For the purposes of paragraph (3), (4) and (5) where the date on which the request for valuation was received is more than 12 months after the relevant date then the date for the purpose of valuing the benefits shall be the relevant date.

⁽⁴⁾ S.I.1996/1847.

⁽⁵⁾ The Institute of Actuaries is at Staple Inn Hall, High Holborn, London WC1V 7QJ. The Faculty of Actuaries is at Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP.

⁽⁶⁾ A copy of this publication can be obtained from the Institute of Actuaries or Faculty of Actuaries.

⁽⁷⁾ Section 93(1)(a) was substituted by the 1995 Act, section 152(2).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
