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STATUTORY INSTRUMENTS

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**1996 No. 1462**

**PENSIONS**

**The Contracting-out (Transfer and  
Transfer Payment) Regulations 1996**

<i>Made</i>	- - - -	<i>5th June 1996</i>
<i>Laid before Parliament</i>		<i>11th June 1996</i>
<i>Coming into force</i>	- -	<i>6th April 1997</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 12C(1)(a)<sup>M1</sup>, 20(1), (2) and (3), 181(1)<sup>M2</sup> and 182(2) and (3) of the Pension Schemes Act 1993<sup>M3</sup> and of all other powers enabling him in that behalf, after agreement with the Occupational Pensions Board that certain proposals within these Regulations need not be referred to them, by this instrument, which otherwise contains regulations made only for the purpose of consolidating regulations revoked by them and regulations made under section 12C(1)(a) of the Pension Schemes Act 1993 as inserted by section 136 of the Pensions Act 1995<sup>M4</sup> and which are made before the end of the period of 6 months beginning with the coming into force of that section<sup>M5</sup>, hereby makes the following Regulations:

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

- C1** Instrument applied by SI 1998/366 reg. 145(1)(e) (as inserted (3.3.2001) by [The Local Government Pension Scheme \(Pension Sharing on Divorce\) \(Scotland\) Regulations 2001 \(S.S.I. 2001/23\)](#), regs. 1(2), 4)

**Marginal Citations**

- M1** Section 12C is inserted by section 136(5) of the [Pensions Act 1995 \(c.26\)](#).  
**M2** Section 181(1) is cited because of the meaning there given to the words "prescribed" and "regulations".  
**M3** [1993 c.48](#).  
**M4** [1995 c.26](#).  
**M5** See section 185(2) and (6) of the Pension Schemes Act 1993 and section 173(1) and (5) of the [Social Security Administration Act 1992 \(c.5\)](#), under which the requirement to consult does not apply where regulations are made only for the purpose of consolidating other regulations revoked by them or are made before the end of six months from the coming into force of the enactment under which they are made or where the Occupational Pensions Board agrees that regulations need not be referred to them.

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Contracting-out (Transfer and Transfer Payment) Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PART I  
GENERAL

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Contracting-out (Transfer and Transfer Payment) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993;

“accrued rights”, for the purposes of Parts II and IV of these Regulations, has the meaning given to that expression in section 20(6) of the 1993 Act;

<sup>F1</sup> ...

[<sup>F2</sup> “ Administration Act ” means the Social Security Administration Act 1992; ]

“appropriate policy” means a policy of insurance or an annuity contract such as is described in section 19(4) of the 1993 Act;

“appropriately secured” has the meaning given to that expression in section 19(3) of the 1993 Act;

[<sup>F3</sup>“assessment period” has the meaning given in section 132 of the Pensions Act 2004 (assessment periods);]

[<sup>F4</sup>“connected employer transfer” and “connected employer transfer payment” mean respectively a transfer of guaranteed minimum pensions [<sup>F5</sup>from one salary-related scheme to another] and a transfer payment in respect of section 9(2B) rights [<sup>F5</sup>from one salary-related scheme to another] where either—

- (a) the transferring scheme and the receiving scheme relate to persons who are or have been in employment with the same employer; or
- (b) the transferring scheme and receiving scheme relate to persons who are or have been in employment with different employers, and the earner or person concerned is one of a group of persons in respect of whom transfers or transfer payments are being made from the transferring scheme to the receiving scheme and either—
  - (i) the transfer or transfer payment is a consequence of a financial transaction between the employers, or
  - (ii) [<sup>F6</sup>the employers are members] of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006 (meaning of “subsidiary” etc),

<sup>F7</sup> ...]

“earner” includes an earner who is not in employment at the time of the transfer or transfer payment;

<sup>F1</sup> ...

“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; [<sup>F8</sup>and]

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

- (c) is administered wholly or primarily outside the United Kingdom;

[<sup>F10</sup>“overseas scheme” means—

(a) an occupational pension scheme which has its main administration outside the [F11United Kingdom]; F12 ...

F12(b) ...

but does not include a [F13scheme that was a] salary-related contracted-out scheme F14 ....]

“the principal appointed day” has the meaning given to that expression in section [F15181(1)] of the 1993 Act;

[F3“regulated apportionment arrangement” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Employer Debt) Regulations 2005 (interpretation);]

F16 ...

F17 ...

[F18“salary-related scheme” means a scheme which—

- (a) is not a scheme under which all the benefits that may be provided are money purchase benefits, and
- (b) does not fall within a class prescribed in regulations made by the Secretary of State under section 100D of the 1993 Act;]

“scheme” means an occupational pension scheme or a personal pension scheme;

[F19“section 9(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015]

“trustees”, in relation to a scheme which is not set up or established under a trust, means the managers of the scheme.

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|------------|---|
| <b>F1</b>  | Words in reg. 1(2) omitted (6.4.2012) by virtue of The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 (S.I. 2011/1245), regs. 1(2), <b>6(2)(a)</b>     |
| <b>F2</b>  | Words in reg. 1(2) inserted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), <b>30(2)</b>   |
| <b>F3</b>  | Words in reg. 1(2) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, <b>2(2)</b>  |
| <b>F4</b>  | Words in reg. 1(2) substituted (6.4.2013) by The Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/459), regs. 1, <b>4(2)</b>   |
| <b>F5</b>  | Words in reg. 1(2) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, <b>2(2)(a)(i)</b>   |
| <b>F6</b>  | Words in reg. 1(2) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, <b>2(2)(a)(ii)</b>  |
| <b>F7</b>  | Words in reg. 1(2) omitted (6.4.2016) by virtue of The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), <b>4(2)(a)(i)</b>   |
| <b>F8</b>  | Word in reg. 1(2) added (6.4.2012) by The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 (S.I. 2011/1245), regs. 1(2), <b>6(2)(b)(i)</b>               |
| <b>F9</b>  | Words in reg. 1(2) omitted (6.4.2012) by virtue of The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 (S.I. 2011/1245), regs. 1(2), <b>6(2)(b)(ii)</b> |
| <b>F10</b> | Words in reg. 1(2) substituted (6.4.2007) by Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/814), regs. 1, <b>6(2)</b>  |

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- F11** Words in reg. 1(2)(a) substituted (31.12.2020) by The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192), regs. 1, **9(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Reg. 1(2)(b) and word omitted (31.12.2020) by virtue of The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192), regs. 1, **9(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in reg. 1(2) inserted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(2)(b)(i)**
- F14** Words in reg. 1(2) omitted (6.4.2016) by virtue of The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(2)(b)(ii)**
- F15** Word in reg. 1(2) substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(2)(c)**
- F16** Words in reg. 1(2) omitted (6.4.2012) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011 (S.I. 2011/1246), arts. 1(2)(a), **9(2)(a)**
- F17** Words in reg. 1(2) omitted (6.4.2016) by virtue of The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(2)(d)**
- F18** Words in reg. 1(2) inserted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(2)(b)**
- F19** Words in reg. 1(2) substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(2)(e)**

## PART II

### TRANSFERS OF AND TRANSFER PAYMENTS IN RESPECT OF GUARANTEED MINIMUM PENSIONS

#### General

**2.—(1)** A transfer or transfer payment from an occupational pension scheme of or in respect of the accrued rights of an earner to guaranteed minimum pensions may be made in accordance with whichever of regulations 3 to 6 is applicable and no such transfer or transfer payment may otherwise be made from such a scheme.

(2) A transfer or transfer payment from an appropriate policy of or in respect of the accrued rights of an earner to guaranteed minimum pensions which are appropriately secured may be made in accordance with whichever of regulations 3, 5 or 6 is applicable and no such transfer or transfer payment may otherwise be made from such a policy.

(3) A transfer of liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them may be made from an occupational pension scheme in accordance with whichever of regulations 3<sup>[F20]</sup>, 4 or 6A] is applicable and no such transfer may be made otherwise.

[<sup>F21</sup>(3A) A transfer payment from an occupational pension scheme in respect of the payment of guaranteed minimum pensions to or in respect of a person who has become entitled to them may be made in accordance with regulation 6A and no such transfer payment may be made otherwise.]

(4) In regulations 3 to [F22 6A] “transfer” means a transfer, of accrued rights or liability, such as is described in this regulation and “transfer payment” means a payment in respect of [F23 the payment of guaranteed minimum pensions or a payment in respect of] accrued rights such as is described in this regulation.

- F20** Words in reg. 2(3) substituted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, 2(3)(a)
- F21** Reg. 2(3A) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, 2(3)(b)
- F22** Word in reg. 2(4) substituted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, 2(3)(c)
- F23** Words in reg. 2(4) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, 2(3)(c)

### Transfers of guaranteed minimum pensions to [F24 schemes that were] salary-related contracted-out schemes

3. A transfer may be made to a [F25 scheme that was a] salary-related contracted-out scheme if—
- (a) the earner or person concerned consents in writing;
  - (b) in the case of a transfer of the accrued rights of an earner—
    - (i) the earner is employed by an employer who is a contributor to the receiving scheme, or
    - (ii) the earner has previously been a member of the receiving scheme;
  - (c) F26... the conditions specified in paragraphs 1 to 4 of Schedule 1 are satisfied, unless the transfer is from an appropriate policy in which case the condition set out in paragraph 5 of Schedule 1 must be satisfied;
  - (d) in the case of a transfer of the accrued rights of an earner from an appropriate policy, the receiving scheme does not make provision under section 16(2) and (3) of the 1993 Act M6 (revaluation of earnings factors for purposes of section 14: early leavers etc.), or any analogous provision, in relation to the rights transferred where the effect would be to increase them at a different rate from that at which they would have been increased had the transfer not taken place; and
  - (e) in the case of a transfer of liability for the payment of guaranteed minimum pensions to or in respect of a person who has become entitled to them, the transfer is from a scheme and the conditions set out in paragraph 6 of Schedule 1 are satisfied.

- F24** Words in reg. 3 inserted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), 4(3)(a)
- F25** Words in reg. 3 inserted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), 4(3)(b)
- F26** Words in reg. 3(c) omitted (6.4.2016) by virtue of The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), 4(3)(c)

#### Marginal Citations

- M6** Section 16(3) was amended by paragraph 28 of Schedule 5 to the Pensions Act 1995.

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## Connected employer transfers of guaranteed minimum pensions

4. A connected employer transfer may be made <sup>F27</sup>... subject to the conditions set out in regulation 3(c) and (e).

**F27** Words in reg. 4 omitted (6.4.2013) by virtue of [The Occupational and Stakeholder Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/459\)](#), regs. 1, **4(3)**

## [<sup>F28</sup>Transfer payments in respect of guaranteed minimum pensions to occupational and personal pension schemes

5. A transfer payment in respect of a guaranteed minimum pension may be made to a scheme which is not <sup>F29</sup>... an overseas scheme or overseas arrangement, if—

- (a) the earner consents in writing;
- (b) the transfer payment (whether or not it forms part of a larger payment in respect of both guaranteed minimum pensions and other rights) is of an amount at least equal to the cash equivalent of the earner's accrued rights to guaranteed minimum pensions, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents); and—
- (c) the earner has acknowledged in writing to the transferring scheme that the earner has received a statement from the receiving scheme showing the benefits to be awarded in respect of the transfer payment, and that the earner accepts that—
  - (i) the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been payable by the transferring scheme, and
  - (ii) there is no statutory requirement on the receiving scheme to provide for survivor's benefits out of the transfer payment.]

**F28** Reg. 5 substituted (6.4.2012) by [The Pensions Act 2007 \(Abolition of Contracting-out for Defined Contribution Pension Schemes\) \(Consequential Amendments\) Regulations 2011 \(S.I. 2011/1245\)](#), regs. 1(2), **6(3)**

**F29** Words in reg. 5 omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(4)**

## Transfer payments in respect of guaranteed minimum pensions to overseas schemes

6. A transfer payment may be made to an overseas scheme [<sup>F30</sup>or an overseas arrangement] if—

- (a) the earner consents in writing;
- (b) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves [<sup>F31</sup>(or, if the transfer payment is from an appropriate policy, the transferring insurance company has taken reasonable steps to satisfy itself)] that [<sup>F32</sup>, where the receiving scheme is an occupational pension scheme, the earner is in employment to which the receiving scheme applies];
- (c) the transfer payment (whether or not it forms part of a larger payment in respect of both guaranteed minimum pensions and other rights) is of an amount at least equal to the cash equivalent of the earner's accrued rights to guaranteed minimum pensions, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act;

- (d) the earner has acknowledged in writing that he accepts that the scheme [<sup>F33</sup>or arrangement] to which the transfer payment is to be made may not be regulated in any way by the law of the United Kingdom and that as a consequence there may be no obligation under that law on the receiving scheme [<sup>F34</sup>or arrangement] or its trustees or administrators to provide any particular value or benefit in return for the transfer payment; and
- (e) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves [<sup>F35</sup>(or, if the transfer payment is from an appropriate policy, the transferring insurance company has taken reasonable steps to satisfy itself)] that the earner has received a statement from the receiving scheme [<sup>F36</sup>or arrangement] showing the benefits to be awarded in respect of the transfer payment and the conditions (if any) on which these could be forfeited or withheld.

- F30** Words in reg. 6 inserted (6.4.2005) by [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(2)(a)**
- F31** Words in reg. 6(b) inserted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 7(3)**
- F32** Words in reg. 6(b) substituted (6.4.2005) by [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(2)(b)**
- F33** Words in reg. 6(d) inserted (6.4.2005) by [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(2)(c)(i)**
- F34** Words in reg. 6(d) inserted (6.4.2005) by [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(2)(c)(ii)**
- F35** Words in reg. 6(e) inserted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 7(3)**
- F36** Words in reg. 6(e) inserted (6.4.2005) by [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(2)(d)**

**[<sup>F37</sup>Transfers in respect of guaranteed minimum pensions in the case of a regulated apportionment arrangement or where an assessment period has commenced**

- 6A.—**(1) This regulation applies in relation to an occupational pension scheme where—
- (a) there is an assessment period in relation to the scheme; or
  - (b) a regulated apportionment arrangement has been entered into in relation to the scheme.
- (2) A transfer of liability for, or a transfer payment in respect of, the payment of guaranteed minimum pensions to or in respect of a person who has become entitled to them may be made from an occupational pension scheme to which this regulation applies (“the transferring scheme”) to an occupational pension scheme which is not an overseas scheme or overseas arrangement (“the receiving scheme”) if the person to whom the pension is payable—
- (a) consents to the transfer in writing;
  - (b) acknowledges in writing to the transferring scheme the receipt of a statement showing the benefits to be awarded in respect of the transfer; and
  - (c) acknowledges in writing to the transferring scheme the person’s acceptance that—
    - (i) the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been provided by the transferring scheme; and
    - (ii) there is no statutory requirement on the receiving scheme to provide for survivor’s benefits in relation to the transfer.]

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**F37** Reg. 6A inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(4)**

## PART III

### TRANSFERS OF LIABILITY IN RESPECT OF SECTION 9(2B) RIGHTS

#### General

- 7.—(1) A transfer of liability—
- (a) from <sup>F38</sup>... a salary-related <sup>F39</sup>... scheme <sup>F40</sup>... <sup>F41</sup>... in respect of the accrued section 9(2B) rights of an earner; or
  - (b) from <sup>F38</sup>... a salary-related <sup>F39</sup>... scheme <sup>F40</sup>... for the payment to or in respect of a person who has become entitled to them of pensions under that scheme deriving from section 9(2B) rights

may be made in accordance with arrangements which satisfy paragraph (2) and no such transfer may be made otherwise.

- (2) The arrangements referred to in paragraph (1) must result in there being made—
- (a) in the case of a transfer referred to in paragraph (1)(a), a transfer payment to the receiving scheme or overseas arrangement, in accordance with whichever of regulations 8 to 11 is applicable, of at least the cash equivalent of the accrued section 9(2B) rights in respect of which the transfer is being made, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act; and
  - (b) in the case of a transfer referred to in paragraph (1)(b), a connected employer transfer payment <sup>F42</sup>... in accordance with regulation 9 [<sup>F43</sup>or a transfer in accordance with regulation 11A].

[<sup>F44</sup>(2A) A transfer payment from [<sup>F45</sup>a salary-related scheme] in respect of the payment of pensions under [<sup>F46</sup>that scheme] deriving from section 9(2B) rights to or in respect of a person who has become entitled to them may be made in accordance with regulation 11A and no such transfer payment may be made otherwise.]

(3) In this regulation and regulations 8 to [<sup>F47</sup>11A] “transfer payment” means a payment to effect a transfer of liability such as is referred to in paragraph (1) [<sup>F48</sup>or a payment in respect of pensions deriving from section 9(2B) rights such as is referred to in paragraph (2A)].

- F38** Words in reg. 7(1) omitted (6.4.2018) by virtue of The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(3)(a)(i)**
- F39** Word in reg. 7(1) omitted (6.4.2018) by virtue of The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(3)(a)(ii)**
- F40** Words in reg. 7(1)(a)(b) omitted (6.4.2016) by virtue of The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(5)(b)**
- F41** Words in reg. 7(1)(a) revoked (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786), reg. 1, Sch. 1 para. 7(4), **Sch. 2**
- F42** Words in reg. 7(2)(b) omitted (6.4.2013) by virtue of The Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/459), regs. 1, **4(3)**
- F43** Words in reg. 7(2)(b) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(5)(a)**



- F44** Reg. 7(2A) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(5)(b)**
- F45** Words in reg. 7(2A) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(3)(b)(i)**
- F46** Words in reg. 7(2A) substituted (6.4.2018) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018 (S.I. 2018/234), regs. 1, **2(3)(b)(ii)**
- F47** Word in reg. 7(3) substituted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(5)(c)**
- F48** Words in reg. 7(3) inserted (3.7.2017) by The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2017 (S.I. 2017/600), regs. 1, **2(5)(c)**

### Transfer payments to [<sup>F49</sup>schemes that were] salary-related contracted-out schemes in respect of section 9(2B) rights

8. A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to a [<sup>F50</sup>scheme that was a salary-related contracted-out scheme which was contracted-out by virtue of section 9(2B) of the 1993 Act] if—

- (a) the earner consents in writing;
- (b) the earner—
  - (i) is employed by an employer who is a contributor to the receiving scheme, or
  - (ii) has previously been a member of the receiving scheme; and
- (c) the transfer payment is applied to provide rights for the earner or person concerned which, had they accrued in the receiving scheme, would be provided in accordance with the rules of the receiving scheme relating to earners who are in employment [<sup>F51</sup>which was contracted-out in relation to the receiving scheme on or after the principal appointed day.]

- F49** Words in reg. 8 inserted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(6)(a)**
- F50** Words in reg. 8 substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(6)(b)**
- F51** Words in reg. 8(c) substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **4(6)(c)**

### [<sup>F52</sup> Connected employer transfer payments

9. A connected employer transfer payment may be made subject to the condition set out in regulation 12(3) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (requirement for an actuarial certificate), irrespective of whether that condition would otherwise apply to the member concerned, and either—

- (a) for a transfer to a scheme that was a salary-related contracted-out scheme, the condition set out in regulation 8(c); or
- (b) for a transfer to a scheme that has never been a contracted-out scheme, the condition that the benefits (including benefits for the earner's widow, widower or surviving civil partner) to be credited in the receiving scheme in respect of that part of the transfer payment which relates to the earner's accrued section 9(2B) rights, or pensions in payment deriving from

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section 9(2B) rights, must be such as would have complied with section 12A(1) of the 1993 Act (the statutory standard) as it had effect immediately before 6th April 2016.]

**F52** Reg. 9 substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(4)**

### **[<sup>F53</sup>Transfer payments to occupational and person pension schemes in respect of section 9(2B) rights**

**10.** A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to a scheme which is not <sup>F54</sup>... an overseas scheme or overseas arrangement, if—

- (a) the earner consents in writing; and
- (b) the earner has acknowledged in writing to the transferring scheme that the earner has received a statement from the receiving scheme showing the benefits to be awarded in respect of the transfer payment, and that the earner accepts that—
  - (i) the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been payable by the transferring scheme, and
  - (ii) there is no statutory requirement on the receiving scheme to provide for survivor's benefits out of the transfer payment.]

**F53** Reg. 10 substituted (6.4.2012) by [The Pensions Act 2007 \(Abolition of Contracting-out for Defined Contribution Pension Schemes\) \(Consequential Amendments\) Regulations 2011 \(S.I. 2011/1245\)](#), regs. 1(2), **6(4)**

**F54** Words in reg. 10 omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(7)**

### **Transfer payments to overseas schemes or arrangements in respect of section 9(2B) rights**

**11.** A transfer payment in respect of an earner's accrued section 9(2B) rights may be made to an overseas scheme or overseas arrangement if—

- (a) the earner consents in writing;
- (b) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that <sup>F55</sup>..., where the receiving scheme is an occupational pension scheme, [<sup>F56</sup>the earner] has entered employment to which the receiving scheme applies;
- (c) the earner has acknowledged in writing that he accepts that the scheme or arrangement to which the transfer payment is to be made may not be regulated in any way by the law of the United Kingdom and that as a consequence there may be no obligation under that law on the receiving scheme or arrangement or its trustees or administrators to provide any particular value or benefit in return for the transfer payment; and
- (d) the trustees of the transferring scheme have taken reasonable steps to satisfy themselves that the earner has received a statement from the receiving scheme or arrangement showing the benefits to be awarded in respect of the transfer payment and the conditions (if any) on which these could be forfeited or withheld.

**F55** Words in reg. 11(b) omitted (6.4.2005) by virtue of [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(3)(a)**

**F56** Words in reg. 11(b) substituted (6.4.2005) by [The Contracting-out, Protected Rights and Safeguarded Rights \(Transfer Payment\) Amendment Regulations 2005 \(S.I. 2005/555\)](#), regs. 1, **2(3)(b)**

**[<sup>F57</sup>Transfers in respect of section 9(2B) rights in the case of a regulated apportionment arrangement or where an assessment period has commenced**

**11A.—(1)** This regulation applies in relation to [<sup>F58</sup>a salary-related scheme] where—

- (a) there is an assessment period in relation to the scheme; or
- (b) a regulated apportionment arrangement has been entered into in relation to the scheme.

(2) A transfer of liability for, or a transfer payment in respect of, the payment of pensions deriving from section 9(2B) rights to or in respect of a person who has become entitled to them may be made from an occupational pension scheme to which this regulation applies (“the transferring scheme”) to an occupational pension scheme which is not an overseas scheme or overseas arrangement (“the receiving scheme”) if the person to whom the pension is payable—

- (a) consents to the transfer in writing;
- (b) acknowledges in writing to the transferring scheme the receipt of a statement showing the benefits to be awarded in respect of the transfer; and
- (c) acknowledges in writing to the transferring scheme the person’s acceptance that—
  - (i) the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been provided by the transferring scheme; and
  - (ii) there is no statutory requirement on the receiving scheme to provide for survivor’s benefits in relation to the transfer.]

**F57** Reg. 11A inserted (3.7.2017) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2017 \(S.I. 2017/600\)](#), regs. 1, **2(6)**

**F58** Words in reg. 11A(1) substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(5)**

## PART IV

### MODIFICATION OF PART III OF THE 1993 ACT

#### **Modifications of Part III of the 1993 Act on transfers of and transfer payments in respect of guaranteed minimum pensions from occupational pension schemes**

**12.** Where a transfer to <sup>F59</sup>... a salary-related <sup>F59</sup>... scheme, or a transfer payment to an overseas scheme, has taken place from an occupational pension scheme in accordance with regulations 3, 4 or 6 (or with regulation 2 of the Contracting-out (Transfer) Regulations 1985 <sup>M7</sup>), the 1993 Act shall have effect subject to the following modifications—

- (a) [<sup>F60</sup> where the transfer was of the accrued rights to guaranteed minimum pensions of an earner who was in employment which was contracted-out by reference to the receiving scheme, the modification of section 14(1) <sup>M8</sup> (earner’s guaranteed minimum) specified in paragraph 3 of Schedule 2;]
- (b) in the case of [<sup>F61</sup>any other [<sup>F61</sup>a]] transfer of the accrued rights of an earner to guaranteed minimum pensions, the modifications of sections 8(2) <sup>M9</sup> (meaning of “guaranteed

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minimum pension"), [<sup>F62</sup>24A(1)(a) (conversion of guaranteed minimum pension into other benefits: introduction)] 20(6) (transfer of accrued rights: meaning of "accrued rights") and 159 <sup>M10</sup> (inalienability of guaranteed minimum pension and protected rights payments) specified in [<sup>F63</sup>paragraphs 1, 1A, 4 and 5] of Schedule 2;

- (c) in the case of any transfer of the liability for payment of guaranteed minimum pensions to or in respect of a person who had become entitled to them, the modifications of [<sup>F64</sup>sections 8(2), 24A(1)(a) and 159] specified in [<sup>F65</sup>paragraphs 1, 1A and 5] of Schedule 2;
- (d) in the case of any transfer payment to an overseas scheme in respect of the accrued rights of an earner to guaranteed minimum pensions, the modification of section 46 <sup>M11</sup> (effect of entitlement to guaranteed minimum pensions on payment of social security benefits) specified in paragraph 2 of Schedule 2.

- F59** Words in reg. 12 omitted (6.4.2018) by virtue of [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(6)(a)**
- F60** Reg. 12(a) omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(8)(a)** (with art. 5(1))
- F61** Word in reg. 12(b) substituted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(8)(c)** (with art. 5(1))
- F62** Words in reg. 12(b) inserted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(6)(b)(i)**
- F63** Words in reg. 12(b) substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(6)(b)(ii)**
- F64** Words in reg. 12(c) substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(6)(c)(i)**
- F65** Words in reg. 12(c) substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(6)(c)(ii)**

#### Marginal Citations

- M7** [S.I. 1985/1323](#), amended by [S.I. 1986/317](#), [S.I. 1986/1716](#), [S.I. 1987/1099](#), [S.I. 1987/1114](#), [S.I. 1988/475](#) and [S.I. 1994/1062](#).
- M8** Section 14 was amended by paragraph 27 of Schedule 5 to the Pensions Act 1995.
- M9** Section 8 was amended by section 136(2) of and paragraph 23 of Schedule 5 to the Pensions Act 1995.
- M10** Section 159 was amended by paragraph 41 of Schedule 3 to the Pensions Act 1995.
- M11** Section 46 was amended by paragraph 44 of Schedule 5 to the Pensions Act 1995.

### Modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts

13. Where a transfer to a [<sup>F66</sup>scheme that was a] salary-related contracted-out scheme, or a transfer payment to an overseas scheme, in respect of an earner's accrued rights to guaranteed minimum pensions has taken place from an appropriate policy in accordance with regulation 3 or 6 (or with regulation 2A of the Contracting-out (Transfer) Regulations 1985), the 1993 Act shall have effect subject to the following modifications—

- (a) [<sup>F67</sup>where the earner was in employment which was contracted-out by reference to the receiving scheme, the modification of section 14(1) specified in paragraph 7 of Schedule 2;]

- (b) [<sup>F68</sup>where the earner was in employment which was not contracted-out by reference to the receiving scheme,] the modifications of sections 8(2), 20(6) and 159 specified in [<sup>F69</sup>paragraphs 5, 6 and 8] of Schedule 2;
- (c) in the case of any transfer payment to an overseas scheme, the modification of section 46 specified in paragraph 2 of Schedule 2.

<b>F66</b>	Words in reg. 13 inserted (6.4.2016) by <a href="#">The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200)</a> , arts. 1(2), <b>4(9)(a)</b>
<b>F67</b>	Reg. 13(a) omitted (6.4.2016) by virtue of <a href="#">The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200)</a> , arts. 1(2), <b>4(9)(b)</b> (with art. 5(2))
<b>F68</b>	Word in reg. 13(b) omitted (6.4.2016) by <a href="#">The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200)</a> , arts. 1(2), <b>4(9)(c)</b> (with art. 5(2))
<b>F69</b>	Words in reg. 13(b) substituted (6.4.1997) by <a href="#">The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786)</a> , reg. 1, <b>Sch. 1 para. 7(6)</b>

<sup>F70</sup>**13A.** . . . . .

<b>F70</b>	Reg. 13A omitted (6.4.2016) by virtue of <a href="#">The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200)</a> , arts. 1(2), <b>4(10)</b>
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<sup>F71</sup>**Modification of section 16: revaluation after transfer from another scheme**

**13B.**—(1) This regulation applies [<sup>F72</sup>where an earner’s service in contracted-out employment ended on the second abolition date and] where the following conditions are satisfied—

- (a) on or after 5th April 1983, a transfer of the earner’s accrued rights to guaranteed minimum pensions under a scheme (“scheme A”) was made (under or by virtue of section 20(1) of the 1993 Act) to another scheme (“scheme B”) that was at the time a contracted-out scheme;
- (b) the earner commenced employment that was contracted-out by reference to scheme B;
- (c) by virtue of section 14(1) of the 1993 Act, as modified by regulation 12(a), the calculation, under the provisions of scheme B, of the earner’s guaranteed minimum pension for the purposes of section 14(2) falls to include earnings factors arising out of contracted-out employment in any period of linked qualifying service that was contracted-out employment by reference to scheme A; and
- (d) either—
  - (i) scheme B provides for the earnings factors to be increased at the rate by which they fell to be increased under the provisions of scheme A, or would have fallen to be increased under the provisions of that scheme relating to an earner whose pensionable service under the scheme terminated before the earner attained pensionable age;
  - (ii) if scheme A provided for those earning factors to be increased by reference to orders under section 148 of the Administration Act, scheme B provides for them to be increased in accordance with the provisions of section 16(2) and (3) of the 1993 Act;

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(iii) if scheme A provided for those earnings factors to be increased in accordance with the provisions of section 16(2) and (3) of the 1993 Act, scheme B includes provision for them to be increased by reference to orders under section 148 of the Administration Act from the date of termination of the earner's pensionable service under the scheme; or

(iv) if a transfer of the earner's accrued rights to scheme B is not one to which paragraph (iii) applies and those rights were previously being increased at a rate calculated by reference to orders under section 148 of the Administration Act, scheme B includes provision for those earnings factors to be increased at a rate calculated otherwise than by reference to orders under that section.

(2) In paragraph (1), references to earnings factors include the weekly equivalent mentioned in section 14(2) of the 1993 Act.

(3) Where this regulation applies section 16(1) of the 1993 Act applies as if there were added at the end "or, in respect of the earner's earnings factor (or the weekly equivalent mentioned in section 14(2)) for any relevant year in a period of linked qualifying service, shall be taken to be that factor (or weekly equivalent) as increased in accordance with the provisions of the scheme under regulations made under subsection (3)".

(4) Where this regulation applies, the modifications of section 16(2) and (3) contained in paragraph (5) apply where earnings factors of an earner whose accrued rights to guaranteed minimum pensions, including such rights derived from linked qualifying service, have been transferred under or by virtue of section 20(1) of the 1993 Act to another scheme that was contracted-out.

(5) The modifications referred to in paragraph (4) are that section 16(2) and (3) of the 1993 Act applies as if it permitted that scheme to provide for those earnings factors to be determined for the purpose of section 14(2) of the 1993 Act without reference to any order coming into force under section 148 of the Administration Act—

(a) where such earnings factors had previously fallen to be determined by reference to orders under section 148 of the Administration Act, after the relevant year in which the earner's pensionable service under the scheme, from which those rights were transferred, was terminated; or

(b) in any other case, in and after the relevant year in which that service was terminated, and as if section 16(3) of the 1993 Act had effect accordingly, save, in a case to which paragraph (b) applies, for treating the reference to the amount of the increase in section 16(3) as a reference to the amount by which the earnings factors relevant to the weekly equivalent would be increased.]

**F71** Reg. 13B inserted (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#), regs. 1(2)(b), **30(3)**

**F72** Words in reg. 13B(1) inserted (6.4.2017) by [The Occupational Pension Schemes and Social Security \(Schemes that were Contracted-out and Graduated Retirement Benefit\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/354\)](#), regs. 1(2), **2**

## PART V

### REVOCATIONS AND TRANSITIONAL PROVISIONS

#### Revocations and transitional provisions

**14.**—(1) Subject to paragraphs (2) and (3) and to Schedule 4, the regulations listed in column 2 of Schedule 3 (some of which are spent) are revoked to the extent specified in column 3 of that Schedule.

(2) Where a transfer such as is mentioned in regulation 12 has taken place in accordance with regulation 2 of the Contracting-out (Transfer) Regulations 1985, then paragraph 6 of Schedule 3 to those Regulations (as in force immediately before these Regulations came into force) shall continue to have effect in relation to any state scheme premium which has been paid before the principal appointed day or is payable immediately before that day.

(3) Where an application under section 95 of the 1993 Act (ways of taking right to cash equivalent) has been made before the principal appointed day, for the purposes of dealing with that application regulations 2 to 11 of these Regulations shall not apply and regulations 1, 2, 2A and 2B of the Contracting-out (Transfer) Regulations 1985 (as in force immediately before these Regulations came into force) shall continue to apply subject to the modifications set out in Schedule 4.

Signed by authority of the Secretary of State for Social Security.

*Oliver Heald*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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SCHEDULE 1

Regulation 3

FURTHER CONDITIONS FOR TRANSFERS OF GUARANTEED MINIMUM PENSIONS

PART I

[<sup>F73</sup>Further Conditions for Transfer to <sup>F74</sup>... a Salary-related <sup>F74</sup>... Scheme of Accrued Rights to Guaranteed Minimum Pensions]

- F73** Sch. 1 Pt. I heading substituted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(11)(a)**
- F74** Words in Sch. 1 Pt. I heading omitted (6.4.2018) by virtue of [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(a)**

1. Subject to paragraphs 2 to 4, the receiving scheme must in respect of the rights transferred—
  - (a) provide for pensions payable at the rates at which guaranteed minimum pensions would have been payable by the transferring scheme if the transfer had not taken place; <sup>F75</sup>...
  - (b) contain the same provision for commencement and continuation of payment of those pensions and (if any) for commutation, suspension and forfeiture as for guaranteed minimum pensions provided by the receiving scheme in accordance with [<sup>F76</sup>section 13 or (as the case may be) 17 of the 1993 Act].

[<sup>F77</sup>(c) comply with sections 13 to 24E of the 1993 Act in respect of accrued rights.]

- F75** Word in Sch. 1 para. 1(a) omitted (6.4.2018) by virtue of [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(b)(i)**
- F76** Words in Sch. 1 para. 1(b) substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(b)(ii)**
- F77** Sch. 1 para. 1(c) inserted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(7)(b)(iii)**

2. Subject to paragraphs 3 and 4, the arrangements for the transfer (in this Schedule called “the arrangements”) must contain provision that the earner’s earnings factors which are attributable to any particular period of service, or the weekly equivalent derived therefrom, will be increased at the same rate under the receiving scheme as that at which they or it would have fallen to be increased under the transferring scheme if—

- <sup>F78</sup>(a) .....
- (b) the transfer had not taken place.

- F78** Sch. 1 para. 2(a) and word omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(11)(b)**

3. If the weekly equivalent derived from the earnings factors which are attributable to any particular period of service was not, before the transfer, affected by a provision made, or a provision analogous to one made, under section 16(2) and (3) of the 1993 Act, the arrangements may contain a provision analogous to one made under section 16(2) and (3) in relation to it.



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4. If the weekly equivalent derived from the earnings factors which are attributable to any particular period of service was, before the transfer, affected by a provision made, or a provision analogous to one made, under section 16(2) and (3) of the 1993 Act, the arrangements may contain a provision that those earnings factors will be increased under the receiving scheme at the same rate as that at which they would have fallen to be increased if—

- (a) there had never been a provision made, or a provision analogous to one made; or
- (b) in the case only of the first transfer of the rights in question, a different provision had been made

under section 16(2) and (3) relating to that weekly equivalent.

## PART II

### [<sup>F79</sup>Further Conditions for Transfer from an Appropriate Policy to a Scheme that was a Salary-related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions]

**F79** Sch. 1 Pt. II substituted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), 4(11)(c)

5. The receiving scheme must provide for pensions to be paid which are of at least equal value to the annuity which would have been payable by the transferring policy, had the transfer not taken place, in respect of the earner's accrued rights to guaranteed minimum pensions.

## PART III

### FURTHER CONDITIONS FOR TRANSFER OF LIABILITY FOR THE PAYMENT OF A GUARANTEED MINIMUM PENSION TO OR IN RESPECT OF A PERSON WHO HAS BECOME ENTITLED TO IT

[<sup>F80</sup>6.—(1) The date of commencement of the pension the liability for which is transferred—

- (a) if the pension is payable to the person who has become entitled to it, must be the date from which liability for payment is assumed by the receiving scheme; and
- (b) if the pension is payable to the widow, widower or surviving civil partner of that person, must be the same as it would have been under the provisions of the transferring scheme.

(2) The receiving scheme must contain the same provision (if any) for suspension and forfeiture of that pension as for guaranteed minimum pensions provided by the receiving scheme in accordance with section 13 or (as the case may be) 17 of the 1993 Act.

(3) The receiving scheme must provide for the payment of guaranteed minimum pensions to or in respect of a person who has become entitled to them at a rate that is no lower than the rate at which they would have been paid by the transferring scheme, taking into account any increases to the rate which are required by virtue of section 109 of the 1993 Act.]

**F80** Sch. 1 para. 6 substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, 2(7)(c)

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## SCHEDULE 2

Regulations 12 and 13

## MODIFICATIONS OF PART III OF THE 1993 ACT

1. Section 8(2) shall have effect as if for the definition of “guaranteed minimum pension” there were substituted—

[<sup>F81</sup>“guaranteed minimum pension” means any pension which is provided—

- (a) by a scheme that was a salary-related contracted-out scheme in accordance with the requirements of sections 13 and 17; or
- (b) by a salary-related scheme in compliance with the condition set out in paragraph 1 or 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in paragraph 1 or 5 of Schedule 2 to the Contracting-out (Transfer) Regulations 1985),

to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s widow’s, widower’s or surviving same sex spouse’s or surviving civil partner’s guaranteed minimum, as determined for the purposes of those sections or, as the case may be, conditions;]

**F81** Words in Sch. 2 para. 1 substituted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(8)(a)**

[<sup>F82</sup>**1A.** Section 24A(1)(a) shall have effect as if after “17(1)” there were inserted “and in paragraphs 1 and 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996.]

**F82** Sch. 2 para. 1A inserted (6.4.2018) by [The Contracting-out \(Transfer and Transfer Payment\) \(Amendment\) Regulations 2018 \(S.I. 2018/234\)](#), regs. 1, **2(8)(b)**

2. Section 46 shall have effect as if the reference in subsection (1)(b) to one or more guaranteed minimum pensions included the guaranteed minimum pensions which would have been payable if they had been preserved in and paid by the transferring scheme or policy.

3. [<sup>F83</sup>Section 14(1) shall have effect as if the reference to employment which [<sup>F84</sup>was contracted-out] by reference to the scheme included a reference to employment in any period of linked qualifying service which was contracted-out by reference to the transferring scheme.]

**F83** Sch. 2 para. 3 omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(12)(c)** (with art. 5(1))

**F84** Words in Sch. 2 para. 3 substituted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(12)(b)**

4. Section 20(6) shall have effect as if after the words “sections 13 and 17” there were inserted the words [<sup>F85</sup>“or in compliance with the condition set out in] paragraph 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, [<sup>F85</sup>in paragraph 5] of Schedule 2 to the Contracting-out (Transfer) Regulations 1985) or in compliance with the condition set out in paragraph 1 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in paragraph 1 of Schedule 2 to the Contracting-out (Transfer) Regulations 1985)”.

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**F85** Words in Sch. 2 para. 4 substituted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 7(8)(b)**

5. Section 159 shall have effect as if subsections (1)(b) and (3) were omitted.

<sup>F86</sup> 6. Section 8(2) shall have effect as if for the definition of “guaranteed minimum pension” there were substituted—

“guaranteed minimum pension” means any pension which is provided <sup>F87</sup>by a scheme that was a salary-related contracted-out scheme]—

- (a) in accordance with the requirements of sections 13 and 17, or
- (b) in compliance with the condition set out in paragraph 5 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in regulation 2A(4) of the Contracting-out (Transfer) Regulations 1985),

to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s widow’s <sup>F88</sup>or widower’s<sup>F88</sup>, widower’s or surviving same sex spouse’s<sup>F89</sup>]]<sup>F89</sup>or surviving civil partner’s guaranteed minimum,] as determined for the purposes of those sections or, as the case may be, condition;”;

**F86** Sch. 2 para. 6 substituted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 7(8)(c)**

**F87** Words in Sch. 2 para. 6 substituted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(12)(a)**

**F88** Words in Sch. 2 para. 6 substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential Provisions\) Order 2014 \(S.I. 2014/107\)](#), art. 1(2), **Sch. 1 para. 18(3)(a)**

**F89** Words in Sch. 2 para. 6 substituted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential Provisions\) Order 2014 \(S.I. 2014/107\)](#), art. 1(2), **Sch. 1 para. 18(3)(b)**

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

**C2** Sch. 2 para. 6 amendment to earlier affecting provision S.I. 1997/786 Sch. 1 para. 7(8)(b) (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 6 para. 13(3)**

7. <sup>F90</sup>Section 14(1) shall have effect as if the reference to employment which <sup>F91</sup>was contracted-out] by reference to the scheme included a reference to employment in any period of linked qualifying service which was contracted-out by reference to the transferring scheme.]

**F90** Sch. 2 para. 7 omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(12)(d)** (with art. 5(2))

**F91** Words in Sch. 2 para. 7 substituted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **4(12)(b)**

8. Section 20(6) shall have effect as if after the words “sections 13 and 17” there were inserted the words “or in compliance with the condition set out in paragraph 5 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (or, as the case may be, in regulation 2A(4) of the Contracting-out (Transfer) Regulations 1985)”.

<sup>F92</sup>9. ....

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**F92** Sch. 2 para. 9 revoked (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, Sch. 1 para. 7(8)(d), **Sch. 2**

## SCHEDULE 3

Regulation 14

## REVOCATIONS

<b>Column 1 Statutory Instrument Number</b>	<b>Column 2 Statutory Instrument</b>	<b>Column 3 Provision revoked</b>
S.I. 1985/1323	The Contracting-out (Transfer) Regulations 1985	The whole of the Regulations
S.I. 1986/317	The Occupational Pension Schemes (Contracting-out) Amendment Regulations 1986	Regulation 3
S.I. 1986/1716	The Contracting-out (Requisite Benefits—Consequential Provisions) Regulations 1986	Regulation 5(2)
S.I. 1987/1099	The Contracting-out (Transfer) Amendment Regulations 1987	The whole of the Regulations
S.I. 1987/1114	The Personal and Occupational Pension Schemes (Consequential Provisions) Regulations 1987	Regulation 6
S.I. 1988/475	The Contracting-out (Miscellaneous Amendments) Regulations 1988	Regulation 4
S.I. 1994/1062	The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations 1994	Schedule 2, paragraph 5

## SCHEDULE 4

Regulation 14

## TRANSITIONAL PROVISIONS

In a case such as is mentioned in regulation 14(3), the Contracting-out (Transfer) Regulations 1985 are modified as follows:

- (a) all references to the Occupational Pensions Board are replaced by references to the Secretary of State;
- (b) the definition of “overseas scheme” is replaced by the definition of “overseas scheme” in these Regulations; and

- (c) the definition of “section 53 money purchase scheme” is replaced by the definition “&4u; “section 53 money purchase scheme” means a scheme which was formerly a money purchase contracted-out scheme and in respect of which section 53 applies ” and the definition of “section 53 salary related scheme” is replaced by the definition “ &4u; “section 53 salary related scheme” means a scheme which was formerly a salary related contracted-out scheme and in respect of which section 53 applies ”.

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## EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Contracting-out (Transfer) Regulations 1985 which are now (subject to transitional provisions) revoked. The Regulations supplement changes introduced by the Pensions Act 1995 to Part III of the Pension Schemes Act 1993. They also consolidate and amend those provisions of the 1985 Regulations which remain relevant. The regulations made by virtue of section 12C of the 1993 Act as inserted by section 136 of the 1995 Act are made within six months of that provision coming into force and as a consequence there is no requirement to consult. As regards those regulations which are neither made only for the purpose of consolidation nor under the 1995 Act, the Occupational Pensions Board has agreed that proposals to make such regulations need not be referred to them.

Part I of the Regulations contains general provisions relating to citation, commencement and interpretation.

Part II of the Regulations makes provision for the circumstances in which and the conditions subject to which a transfer of or transfer payment in respect of an earner’s accrued rights to guaranteed minimum pensions (or the liability for the payment of guaranteed minimum pensions in respect of which entitlement has already arisen) may be made from one pension scheme to another or from an insurance policy or annuity contract to a pension scheme.

Part III of the Regulations makes provision for the circumstances in which and the conditions subject to which a transfer of liability may be made from a pension scheme or from an insurance policy or annuity contract to a pension scheme or arrangement in respect of rights to pensions which have accrued on or after the principal appointed day under a scheme contracted-out by virtue of section 9(2B) of the 1993 Act.

Part IV of the Regulations modifies Part III of the 1993 Act where a transfer or transfer payment has been made under Part I of the Regulations to a scheme which is contracted-out under section 9(2) of that Act (a salary-related contracted-out scheme) so as to ensure that the receiving scheme provides guaranteed minimum pensions in consequence of the transfer or transfer payment.

Part V of the Regulations contains revocations and transitional provisions.

An assessment of the compliance cost for employers of the measures arising from the Pensions Act 1995, including these Regulations, has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Private Pensions Directorate, 11th floor, The Adelphi, 1-11 John Adam Street, London, WC2N 6HT.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Contracting-out (Transfer and Transfer Payment) Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- reg-1 defn(s). revoked by [S.I. 1999/3198 reg 2](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Act modified by [S.I. 1996/1977 reg.4](#)