

2000 No. 1052

PENSIONS

The Pension Sharing (Valuation) Regulations 2000

Made - - - - - *13th April 2000*
Laid before Parliament *19th April 2000*
Coming into force - - *1st December 2000*

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 27(2), 30(1) and (2) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999(a), and of all other powers enabling him in that behalf, after consulting such persons as he considered appropriate(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Sharing (Valuation) Regulations 2000 and shall come into force on 1st December 2000.

(2) In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993(c);

“the 1995 Act” means the Pensions Act 1995(d);

“the 1999 Act” means the Welfare Reform and Pensions Act 1999;

▶¹“the 2004 Act” means the Pensions Act 2004;◀

▶²◀

“employer” has the meaning given by section 181(1) of the 1993 Act;

▶²“initial cash equivalent” means the amount calculated in accordance with regulation 7(1)(a) of the Transfer Values Regulations;◀

“occupational pension scheme” has the meaning given by section 1 of the 1993 Act;

“pension arrangement” has the meaning given by section 46(1) of the 1999 Act;

“relevant arrangement” has the meaning given by section 29(8) of the 1999 Act;

▶³◀

“scheme” means an occupational pension scheme;

▶²◀

“transfer credits” has the meaning given by section 181(1) of the 1993 Act;

▶⁴“transfer day” has the meaning given by section 29(8) of the 1999 Act;◀

“transferor” has the meaning given by section 29(8) of the 1999 Act;

▶²“the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996;◀

“trustees or managers” has the meaning given by section 46(1) of the 1999 Act;

“valuation day” has the meaning given by section 29(7) of the 1999 Act.

¹Defn. of “the 2004 Act” inserted by para. 9(2) of Sch. 3 to S.I. 2005/3377 as from 30.12.05.

²Defns. of “initial cash equivalent” & “the Transfer Values Regulations” inserted and “the Board for Actuarial Standards”, “effective date” & “scheme actuary” omitted by para. 5(a) of Sch. 2 to S.I. 2008/1050 as from 1.10.08.

³Defn. of “relevant benefits” omitted by art. 16(2) of S.I. 2006/744 as from 6.4.06.

⁴Defn. of “transfer day” inserted by reg. 10(2) of S.I. 2000/2691 as from 1.12.00.

(a) 1999 c. 30.

(b) See section 83(11) of the Welfare Reform and Pensions Act 1999.

(c) 1993 c. 48.

(d) 1995 c. 26.

Regs. 2-4

Rights under a pension arrangement which are not shareable

2.—(1) Rights under a pension arrangement which are not shareable are—

- (a) subject to paragraph (2), any rights accrued between 1961 and 1975 which relate to contracted-out equivalent pension benefit within the meaning of section 57 of the National Insurance Act 1965^(a) (equivalent pension benefits, etc.);
- (b) any rights in respect of which a person is in receipt of—
 - (i) a pension;
 - (ii) an annuity ¹or²;
 - (iii) ¹;
 - ²(iv) dependants' income withdrawal within the meaning of paragraph 21 of schedule 28 to the Finance Act 2004 (dependants' income withdrawal),³ by virtue of being the widow, widower ³, surviving civil partner⁴ or other dependant of a deceased person with pension rights under a pension arrangement; and
 - ²(c) any rights which will result in the payment of a benefit which is to be provided solely by reason of the—
 - (i) disablement, or
 - (ii) death,

due to an accident suffered by a person occurring during his pensionable service.⁴

(2) Paragraph (1)(a) applies only when those rights are the only rights held by a person under a pension arrangement.

Calculation and verification of cash equivalents for the purposes of the creation of pension debits and credits

3. For the purposes of section 29 of the 1999 Act (creation of pension debits and credits), cash equivalents may be calculated and verified—

- (a) where the relevant arrangement is an occupational pension scheme in accordance with ⁴regulation 4⁵; or
- (b) in any other case, in accordance with ⁴regulations 5 and 7⁵.

⁵Manner of calculation and verification of cash equivalents: occupational pension schemes

4.—(1) Subject to this regulation, cash equivalents for members of occupational pension schemes are to be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations.

(2) Reductions to initial cash equivalents can only be made in accordance with regulation 7D of, and paragraphs 1 to 6 and 12 to 14 of Schedule 1A to, those Regulations.

(3) The reduction referred to in paragraph 2 of Schedule 1A to the Transfer Values Regulations must not be applied to a case where liability in respect of a pension credit is to be discharged in accordance with—

- (a) paragraph 1(2) of Schedule 5 to the 1999 Act (pension credits: mode of discharge - funded pension schemes); or
- (b) paragraph 1(3) of that Schedule, in a case where regulation 7(2) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (funded pension schemes)^(b) applies.

¹Words added to reg. 2(1)(b)(ii) & sub-para (b)(iii) omitted by reg. 12(a) & (b) of S.I. 2011/1245 as from 6.4.12.

²Paras. (1)(b)(iv) & (1)(c) substituted by art. 16(3)(a) & (b) of S.I. 2006/744 as from 6.4.06.

³Words inserted in reg. 2(1)(b) by para. 3 of Sch. 1 to S.I. 2005/2877 as from 5.12.05.

⁴Words in reg. 3(a) & (b) substituted by reg. 5(2)(a) & (b) of S.I. 2010/499 as from 6.4.10.

⁵Regs. 4 & 5 substituted for regs. 4-6 by para. 5(b) of Sch. 2 to S.I. 2008/1050 as from 1.10.08.

(a) 1965 c. 51. Section 57 is continued in force by virtue of regulation 3 of S.I. 1974/2057.

(b) Regulation 7(2) was amended by S.I. 2000/2691.

(4) When calculating and verifying the cash equivalent, the Transfer Values Regulations are to be read as if—

(a) in regulation 1(2) (interpretation), there were inserted at the appropriate alphabetical places—

““normal pension age” has the meaning given by section 180 of the 1993 Act (normal pension age);”;

““occupational pension scheme” has the meaning given by section 1 of the 1993 Act (categories of pension schemes)(a);”;

““transfer day” has the meaning given by section 29(8) of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits);”;

““valuation day” has the meaning given by section 29(7) of the Welfare Reform and Pensions Act 1999;”;

(b) in regulation 7(1) (manner of calculation and verification of cash equivalents - general provisions), for “paragraphs (4) and (7)” there were substituted “paragraphs (4), (7) and (8) to (11)”;

(c) after regulation 7(7), there were inserted—

“(8) Where the person with pension rights is a deferred member of an occupational pension scheme on the transfer day, the value of the benefits which he has accrued under that scheme must 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 (right to cash equivalent) on the termination of his pensionable service, calculated and verified on the assumption that he has made an application under section 95(1) of that Act (ways of taking right to cash equivalent)(b); or

(b) in the case of a 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 if he had made an application under section 95(1) of that Act.

(9) Where the person with pension rights is an active member of an occupational pension scheme on the transfer day, the value of the benefits which he has accrued under that scheme must be calculated and verified on the assumption that the member had made a request for an estimate of the cash equivalent that would be available to him were his pensionable service to terminate on the transfer day.

(10) Where the person with pension rights is a pensioner member of an occupational pension scheme on the transfer day, the value of his pension must be calculated and verified in accordance with this regulation and regulations 7A to 7C and 7E(1) to (3) as appropriate.

(11) Where the person with pension rights attains, or is over, normal pension age and is not in receipt of a pension—

(a) the pension must be calculated and verified in accordance with this regulation and regulations 7A to 7C and 7E(1) to (3) as appropriate; and

(b) the trustees must assume that the member’s pension comes into payment on the transfer day.”;

(d) in regulation 7A(2), the reference to “guarantee date” was a reference to “valuation day”; and

(e) in paragraph 12 of Schedule 1A, the reference to “guarantee date” was a reference to “valuation day”.

(a) The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004 and amended by S.I. 2000/3014.

(b) Section 95(1) was amended by paragraph 3 of Schedule 6 to the Pensions Act 1995.

Regs. 5-7

Manner of calculation and verification of cash equivalents: other relevant arrangements

5.—(1) Subject to this regulation, cash equivalents for members of a relevant arrangement other than an occupational pension scheme are to be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations.

(2) When calculating and verifying the cash equivalent, the Transfer Value Regulations are to be read as if—

- (a) in regulation 1(2)—
 - (i) for the definition of “trustees” there were substituted—
 - ““trustees” means the person responsible for the relevant arrangement;”;
 - and
 - (ii) there were inserted at the appropriate alphabetical places—
 - ““personal pension scheme” has the meaning given by section 1 of the 1993 Act (categories of pension scheme);”;
 - ““transfer day” has the meaning given by section 29(8) of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits);”;
- (b) in regulation 7(1) (manner of calculation and verification of cash equivalents - general provisions), for “paragraphs (4) and (7)” there were substituted “paragraphs (4), (7) and (8)”;
- (c) after regulation 7(7), there were inserted—
 - “(8) Where the person 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 accrued under that scheme or contract on the transfer day must be taken to be the cash equivalent to which he would have acquired a right under section 94(1)(b) of the 1993 Act (right to cash equivalent), if he had made an application under section 95(1) of that Act (ways of taking right to cash equivalent) on the date on which the request for the valuation was received”.

(3) In relation to a personal pension scheme which is comprised in a retirement annuity contract made before 4th January 1988, this regulation applies 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).◀

Other relevant arrangements: reduction of cash equivalents

¹Reg. 7 renumbered 7(1) & 7(2) inserted by para. 5(c) & (d) of Sch. 2 to S.I. 2008/1050 as from 1.10.08.

7.▶¹—(1)◀ Where all or any of the benefits to which a cash equivalent relates have been surrendered, commuted or forfeited before the date on which the person responsible for the relevant arrangement discharges his liability for the pension credit in accordance with the provisions of Schedule 5 to the 1999 Act, the cash equivalent of the benefits so surrendered, commuted or forfeited shall be reduced in proportion to the reduction in the total value of the benefits.

▶¹(2) This regulation does not apply to occupational pension schemes.◀

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

13th April 2000

Jeff Rooker
Minister of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the types of pension rights which are not subject to pension sharing, and make provision for the calculation and verification of cash equivalents for the purpose of creating pension debits and credits.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 specifies rights under a pension arrangement which are not subject to pension sharing.

Regulation 3 specifies that the calculation and verification of cash equivalents for the purposes of creating pension debits and credits may be made by reference to these Regulations.

Regulations 4 and 5 specify how cash equivalents in respect of rights in occupational pension schemes may be calculated and verified.

Regulations 6 and 7 specify how cash equivalents in respect of rights in pension arrangements other than occupational pension schemes may be calculated and verified.

An assessment of the cost to business of the provisions of the Welfare Reform and Pensions Act 1999, including these Regulations, is detailed in the Regulatory Impact Assessment for that Act. A copy of this Assessment has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Pensions on Divorce, 3rd Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

