

SCHEDULE 2

Regulation 8

Consequential Amendments

1. In the Personal Pension Schemes (Transfer Values) Regulations 1987(1),

(a) in regulation 1(2) (interpretation)—

(i) in the appropriate alphabetical place, insert—

““initial cash equivalent” means the amount calculated in accordance with regulation 3(2) to (4);”;

(ii) for the definition of “personal pension scheme”, substitute—

““personal pension scheme” has the same meaning as in section 181(1) of the Act;”;

(iii) omit the definitions of “the Board for Actuarial Standards” and “money purchase benefits”;

(b) for regulation 3 (manner of calculation and verification of cash equivalents), substitute—

“Manner of calculation and verification of cash equivalents

3.—(1) Cash equivalents are to be calculated and verified by calculating the initial cash equivalent in accordance with this regulation and then making any increases or reductions in accordance with regulation 4.

(2) The initial cash equivalent is the realisable value of any benefits to which the member is entitled.

(3) The trustees must calculate that realisable value—

(a) in accordance with the scheme rules; and

(b) in a manner which is—

(i) approved by the trustees; and

(ii) consistent with Chapter IV of Part IV of the Act.

(4) The realisable value must include any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules.”;

(c) for regulation 4 (increases and reductions of cash equivalents), substitute—

“Increases and reductions of cash equivalents

4.—(1) Initial cash equivalents may, or as the case may be must, be increased or reduced in accordance with this regulation.

(2) If the whole or any part of the benefits referred to in section 94(1)(b) of the Act (right to cash equivalent)(2) is or has been surrendered, commuted or forfeited before the trustees of the personal pension scheme do what is needed to comply with what the member requires, the initial cash equivalent must be reduced in proportion to the reduction in the total value of the benefits.

(3) If the trustees of a personal pension scheme fail without reasonable excuse to do what is needed to carry out what a member of the scheme requires within 6 months of the relevant date, that member’s initial cash equivalent must be increased by—

(1) S.I. 1987/1112. Relevant amending instruments are S.I.s 1994/1062 and 2007/60.

(2) Section 94 was amended by section 154 of the Pensions Act 1995, paragraph 35 of Schedule 12 to the Welfare Reform and Pensions Act 1999 and paragraph 13 of Schedule 12 to the Pensions Act 2004.

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- (a) the interest on that initial cash equivalent, calculated on a daily basis over the period from the relevant date to the date on which the trustees carry out what the member requires, at the same rate as that payable for the time being on judgment debts by virtue of section 17 of the Judgment Act 1838 (judgment debts to carry interest)(3); or if it is greater,
- (b) the amount, if any, by which that initial cash equivalent falls short of what it would have been if the relevant date had been the date on which the trustees carry out what the member requires.

(4) In a case where both paragraphs (2) and (3) fall to be applied to a calculation, paragraph (2) must be applied first.”

2. In the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(4)—

- (a) in regulation 1(2) (interpretation), omit the definition of “the Board for Actuarial Standards”; and
- (b) for regulation 2 (manner of calculation and verification of protected rights), substitute—

“Manner of calculation and verification of protected rights

2.—(1) For the purposes of section 27(3) of the 1993 Act (identification and valuation of protected rights), the trustees must calculate and verify the value of a member’s protected rights in accordance with regulation 7C of the Occupational Pension Schemes (Transfer Values) Regulations 1996.

(2) In calculating the rights under paragraph (1), the trustees must treat the references to “initial cash equivalent” in regulation 7C as if they were to “protected rights”.

(3) The trustees must adopt methods and assumptions that are consistent with sections 9(3) and (5)(5), 10(6) and 26 to 32 of the 1993 Act(7).”

3. In the Pensions on Divorce etc. (Provision of Information) Regulations 2000(8)—

- (a) in regulation 1(2) (interpretation)—
 - (i) in the appropriate alphabetical places, insert—
 - ““normal pension age” has the meaning given in section 180 of the 1993 Act (normal pension age);”;
 - ““the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996;”;
 - (ii) for the definition of “salary related occupational pension scheme”, substitute—

(3) 1 & 2 Vic. c.110. The rate of interest was amended by [S.I. 1993/564](#).

(4) [S.I. 1996/1537](#). Relevant amendments were made by Schedule 2 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2) and [S.I. 2007/60](#).

(5) Section 9 was amended by section 136(4) of, and paragraph 24 of Schedule 5 to, the Pensions Act 1995 and paragraph 35 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc) Act 1999.

(6) Section 10 was amended by paragraph 25 of Schedule 5 to the Pensions Act 1995, section 32 of the Welfare Reform and Pensions Act 1999, paragraph 36 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 and paragraph 22 of Schedule 11 to the Proceeds of Crime Act 2002 (c.29).

(7) Section 28 was amended by sections 142 and 146 of, and paragraph 34 of Schedule 5 to, the Pensions Act 1995, paragraph 5 of Schedule 2 to the Welfare Reform and Pensions Act 1999, paragraphs 2 and 3 of Schedule 5 to the Child Support, Pensions and Social Security Act 2000, section 284 of the Pensions Act 2004 and S.I.s [2005/2050](#) and [2006/745](#). Sections 28A and 28B were inserted by section 143 of the Pensions Act 1995. Section 28A was amended by S.I.s [2005/2050](#) and [2006/745](#). Sections 28B and 30 were amended by paragraphs 41 and 42 respectively of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc) Act 1999. Section 29 was amended by section 144 of, and paragraph 35 of Schedule 5 to, the Pensions Act 1995, section 284 of the Pensions Act 2004 and S.I.s [2001/3649](#) and [2005/2050](#). Section 31 was amended by paragraph 36 of Schedule 5 to the Pensions Act 1995 and paragraph 43 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc) Act 1999.

(8) [S.I. 2000/1048](#). Relevant amending instruments are S.I.s [2000/2691](#), [2003/1727](#), [2005/2877](#), [2006/744](#) and [2007/60](#).

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- ““salary related occupational pension scheme” has the meaning given by regulation 1A of the Transfer Values Regulations;” and
- (iii) omit the definition of “the Board for Actuarial Standards”;
- (b) in regulation 3 (information about pensions and divorce and dissolution of a civil partnership: valuation of pension benefits)—
- (i) in paragraph (1)(d)—
- (aa) for “paragraphs (7) to (9)” substitute “paragraphs (7) and (8)”; and
- (bb) after head (iii), insert—
- “; or
- (iv) the pension of the person with pension rights is not in payment and the person has attained normal pension age.”;
- (ii) for paragraph (4)(b), substitute—
- “(b) in accordance with regulation 11 of, and Schedule 1 to, the Transfer Values Regulations (disclosure).”;
- (iii) for paragraphs (7) to (9), substitute—
- “(7) Cash equivalents are to be calculated and verified in accordance with regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations as appropriate.
- (8) But when calculating and verifying a cash equivalent in accordance with those regulations—
- (a) references to “trustees” must be read as references to “person responsible for the pension arrangement”;
- (b) where the person with pension rights is a pensioner member on the date on which the request for the valuation is received, the value of his pension must be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations as appropriate;
- (c) where the person is over normal pension age but not in receipt of a pension—
- (i) the value of his pension must be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations as appropriate; and
- (ii) the person responsible for the pension arrangement must assume that the pension came into payment on the date on which the request for the valuation was received; and
- (d) the date by reference to which the cash equivalent is to be calculated and verified is to be the date on which the request for the valuation was received.”; and
- (iv) in paragraph (10), for “paragraph (3), (4) or (9)” substitute “paragraph (3), (4) or (7)”; and
- (c) in regulation 4(2)(c) (provision of information in response to a notification that a pension sharing order or provision may be made), for the words from “regulation 8(4)” to the end, substitute “paragraphs 2, 3 and 12 of Schedule 1A to the Transfer Values Regulations (reductions in initial cash equivalents);”.

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4. In the Pensions on Divorce etc. (Charging) Regulations 2000⁽⁹⁾ in regulation 9(2)(f)(i) (charges in respect of pension sharing activity — method of recovery), for “regulation 7” substitute “regulations 7 to 7E”.

5. In the Pension Sharing (Valuation) Regulations 2000⁽¹⁰⁾—

(a) in regulation 1(2) (interpretation)—

(i) in the appropriate alphabetical places, insert—

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

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

(ii) omit the definitions of “the Board for Actuarial Standards”, “effective date” and “scheme actuary”;

(b) for regulations 4 to 6, substitute—

“Manner 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)⁽¹¹⁾ applies.

(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)⁽¹²⁾;”;

““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;”;

⁽⁹⁾ S.I. 2000/1049.

⁽¹⁰⁾ S.I. 2000/1052. Relevant amending instruments are S.I.s 2000/2691, 2003/1727, 2005/706 and 3377, 2006/34 and 2007/60.

⁽¹¹⁾ Regulation 7(2) was amended by S.I. 2000/2691.

⁽¹²⁾ The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004 and amended by S.I. 2007/3014.

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- (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)(13); 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”.

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—

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

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- (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)”; and
 - (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).”;
 - (c) regulation 7 (other relevant arrangements: reduction of cash equivalents) becomes paragraph (1) of regulation 7; and
 - (d) in regulation 7, after paragraph (1) insert—

“(2) This regulation does not apply to occupational pension schemes.”.
- 6. In the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(14)—**
- (a) in regulation 1(2) (interpretation)—
 - (i) in the appropriate alphabetical place, insert—

““the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996;”; and
 - (ii) omit the definitions of “the Board for Actuarial Standards”, “effective date” and “scheme actuary”;
 - (b) for regulation 10 (calculation of the value of appropriate rights), substitute—

“Calculation of the value of appropriate rights

10. The value of rights conferred on a person entitled to a pension credit are to be calculated in a manner which is consistent with the methods adopted and assumptions made when transfers of other pension rights are received by the person responsible for the pension arrangement.”; and

(14) S.I. 2000/1053. Relevant amending instruments are S.I.s 2000/2691, 2003/1727, 2005/706 and 3377 and 2007/60.

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- (c) for paragraphs (2) to (3) of regulation 16 (adjustments to the amount of the pension credit—occupational pension schemes which are underfunded on the valuation day), substitute—

“(2) Reductions may be made to a pension credit in accordance with paragraphs 2 to 6 of Schedule 1A to the Transfer Values Regulations modified as if—

- (a) in paragraph 2, the reference to “initial cash equivalent” were a reference to “pension credit”;
- (b) in paragraph 3(b), the words “in respect of which the member’s cash equivalent is being calculated and verified” were “to which the pension credit relates”;
- (c) in paragraph 4, the words “member’s initial cash equivalent that is payable in respect of” were “pension credit that relates to”; and
- (d) in paragraph 5, the words “a member’s initial cash equivalent” were “the pension credit”.

7. In the Pension Sharing (Pension Credit Benefit) Regulations 2000(15)—

- (a) in regulation 1(2) (interpretation)—
 - (i) in the appropriate alphabetical place, insert—

““the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996;”;
 - (ii) omit the definitions of “the Board for Actuarial Standards” and “effective date”;
- (b) in regulation 23(2) (statements of entitlement), omit the words—
 - (i) “to obtain the information required”; and
 - (ii) “as a result of that inability”;
- (c) for regulation 24 (manner of calculation and verification of cash equivalents), substitute—

“Manner of calculation and verification of cash equivalents

24.—(1) Subject to paragraph (2), cash equivalents are to be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations as appropriate.

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

- (a) in regulation 1(2) (interpretation), there were inserted at the appropriate alphabetical places—
 - ““eligible member” has the meaning given by section 101P(1) of the 1993 Act (interpretation)(16);”;
 - ““valuation date” has the meaning given by section 101J(7) of the 1993 Act (time for compliance with transfer notice)(17);”;
- (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) in regulations 7 to 7C and Schedule 1A, references to “member” were references to “eligible member”;
- (d) after regulation 7(7), there were inserted—

(15) S.I. 2000/1054. Relevant amending instruments are S.I.s 2000/2691, 2003/1727, 2005/706 and 3377, 2006/34 and 2007/60.

(16) Section 101P was inserted by section 37 of the Welfare Reform and Pensions Act 1999.

(17) Section 101J was inserted by section 37 of the Welfare Reform and Pensions Act 1999.

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- “(8) Cash equivalents are to be calculated and verified in relation to the valuation date.”;
- (e) in regulation 7A(2), the reference to “guarantee date” was a reference to “valuation date”;
 - (f) paragraphs 7 and 9 of Schedule 1A were omitted; and
 - (g) in paragraph 12 of Schedule 1A, the words “a cash equivalent mentioned in section 93A of the 1993 Act, before the guarantee date” were “a cash equivalent such as is mentioned in section 101H of the 1993 Act, before the valuation date.”; and
- (d) omit regulation 27 (increases and reductions of cash equivalents before a statement of entitlement has been sent to the eligible member).
- 8.** In the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006(**18**)—
- (a) in regulation 1(2) (interpretation)—
 - (i) in the appropriate alphabetical places, insert—
 - ““actuary” means—
 - (a) the actuary mentioned in section 47(1)(b) of the 1995 Act (professional advisers); or
 - (b) in relation to a scheme to which that section does not apply—
 - (i) a Fellow of the Faculty of Actuaries;
 - (ii) a Fellow of the Institute of Actuaries; or
 - (iii) a person with other actuarial qualifications who is approved, at the request of the trustees of the scheme in question, by the Secretary of State as being a proper person to act for the purposes of these Regulations in connection with that scheme;”;
 - ““discount rates” means the interest rates used to discount future payments of benefit for the purposes of placing a current value on them;”;
 - ““initial cash transfer sum” means the amount calculated in accordance with regulation 2(1)(a);”;
 - ““insufficiency report” means the actuary’s last relevant report before the date on which the member’s pensionable service terminated, as provided for by regulation 7D of, and Schedule 1B to, the Transfer Values Regulations (reductions to initial cash equivalents);”;
 - ““insufficiency report liabilities” has the meaning given in paragraph 7 of Schedule 1B to the Transfer Values Regulations;”;
 - ““salary related benefits” means benefits that are not money purchase benefits;”;
 - ““the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996;”;
 - (ii) omit the definition of “the Board for Actuarial Standards”;
- (b) for regulation 2 (calculation and verification of cash transfer sum), substitute—

(18) S.I. 2006/33. Relevant amending instrument is S.I. 2007/60.

“Manner of calculation and verification of cash transfer sums - general provisions

2.—(1) Subject to paragraphs (4) and (7), cash transfer sums are to be calculated and verified—

- (a) by calculating the initial cash transfer sum—
 - (i) for salary related benefits, in accordance with regulations 2A and 2B; or
 - (ii) for money purchase benefits, in accordance with regulation 2C, and then making any reductions in accordance with regulation 4; or
- (b) in accordance with regulation 2D.

(2) The trustees or managers must decide whether to calculate and verify the cash transfer sum in accordance with paragraph (1)(a) or (b), but they can only choose paragraph (1)(b) if they have had regard to any requirement for consent to paying a cash transfer sum which is higher than the amount calculated and verified in accordance with paragraph (1)(a).

(3) The trustees or managers are responsible for the calculation and verification of cash transfer sums and initial cash transfer sums.

(4) Where a member, in relation to whom a cash transfer sum is to be calculated and verified, is a member of a scheme modified by—

- (a) the British Coal Staff Superannuation Scheme (Modification) Regulations 1994; or
- (b) the Mineworkers’ Pension Scheme (Modification) Regulations 1994,

the cash transfer sum of his bonus is to be calculated and verified by the trustees or managers, having obtained the advice of the actuary, to reflect the fact that a reduced bonus, or no bonus, may become payable in accordance with the provisions governing the scheme in question.

(5) For the purposes of paragraph (4) “bonus” means any—

- (a) augmentation of his benefits; or
- (b) new, additional or alternative benefits,

which the trustees or managers of the scheme in question have applied to the member’s benefits, or granted to him in accordance with the provisions governing that scheme, on the basis of findings as to that scheme’s funding position.

(6) Paragraph (7) applies where the cash transfer sum is calculated and verified in accordance with paragraph (1)(a).

(7) Where a portion of the cash transfer sum relates to a salary related benefit and a portion relates to a money purchase benefit, the initial cash transfer sum is to be calculated—

- (a) for the salary related benefit portion, in accordance with regulations 2A and 2B; and
- (b) for the money purchase benefit portion, in accordance with regulation 2C.

Manner of calculation of initial cash transfer sums for salary related benefits

2A.—(1) For salary related benefits, the initial cash transfer sum is to be calculated—

- (a) on an actuarial basis; and

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(b) in accordance with paragraph (2) and regulation 2B.

(2) The initial cash transfer sum is the amount which is required to make provision within the scheme for a member's accrued benefits, options and discretionary benefits mentioned in section 101AA(4)(b) of the Act (scope of Chapter 5)(19).

(3) For the purposes of paragraph (2), the trustees or managers must determine the extent—

- (a) of any options the member has which would increase the value of his benefits under the scheme;
- (b) of any adjustments they decide to make to reflect the proportion of members likely to exercise those options; and
- (c) to which any discretionary benefits should be taken into account, having regard to any established custom for awarding them and any requirement for consent before they are awarded.

Initial cash transfer sum for salary related benefits: assumptions

2B.—(1) The trustees or managers must use the assumptions determined under this regulation in calculating the initial cash transfer sum for salary related benefits.

(2) Having taken the advice of the actuary, the trustees or managers must determine the economic, financial and demographic assumptions.

(3) In determining the demographic assumptions, the trustees or managers must have regard to—

- (a) the main characteristics of the members of the scheme; or
- (b) where the members of the scheme do not form a large enough group to allow demographic assumptions to be made, the characteristics of a wider population sharing similar characteristics to the members.

(4) The trustees or managers must have regard to the scheme's investment strategy when deciding what assumptions will be included in calculating the discount rates in respect of the member.

(5) The trustees or managers must determine the assumptions under this regulation with the aim that, taken as a whole, they should lead to the best estimate of the initial cash transfer sum.

Manner of calculation of initial cash transfer sums for money purchase benefits

2C.—(1) For money purchase benefits, the initial cash transfer sum is to be calculated in accordance with this regulation.

(2) The initial cash transfer sum is the realisable value of any benefits to which the member is entitled.

(3) The trustees or managers must calculate that realisable value—

- (a) in accordance with the scheme rules; and
- (b) in a manner which is—
 - (i) approved by the trustees or managers; and
 - (ii) consistent with Chapter IV of Part IV of the 1993 Act.

(19) Section 101AA was inserted by section 264 of the Pensions Act 2004.

(4) The realisable value must include any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules.

Alternative manner of calculating and verifying cash transfer values

2D.—(1) This regulation applies where the trustees or managers have decided to calculate and verify the cash transfer value in accordance with regulation 2(1)(b).

(2) The cash transfer value is to be calculated and verified in such manner as may be approved by the trustees or managers.

(3) The cash transfer value must be higher than it would be if it was calculated and verified in accordance with regulation 2(1)(a).

(4) For the purposes of calculating and verifying the cash transfer value, the trustees or managers may request an insufficiency report from the actuary in accordance with Schedule 1B to the Transfer Values Regulations.

(5) The trustees or managers may treat the actuary's last relevant GN11 report as an insufficiency report.”;

(c) for regulation 4 (reduction of cash transfer sums and contribution refunds), substitute—

“Reduction of cash transfer sums and contribution refunds

4.—(1) In the case of a scheme to which Part 3 of the 2004 Act (scheme funding) applies⁽²⁰⁾, the member's initial cash transfer sum may be reduced by the trustees or managers if the insufficiency conditions are met.

(2) The insufficiency conditions are that the last insufficiency report shows that at the effective date of the report—

(a) the scheme had assets that were insufficient to cover the insufficiency report liabilities in respect of all the members; and

(b) the assets were insufficient to cover in full any category of insufficiency report liabilities that is an equivalent category of liabilities for benefits in respect of which the member's cash transfer sum is being calculated.

(3) If the insufficiency conditions are met the trustees or managers may reduce, by a percentage not exceeding the deficiency percentage, any part of the member's initial cash transfer sum that is payable in respect of such an equivalent category of liabilities as are mentioned in paragraph 2(b).

(4) The deficiency percentage for any such part of a member's initial cash transfer sum is the percentage by which the insufficiency report shows that the assets were insufficient to cover that category of liabilities.

(5) If, by virtue of regulations made under section 232 of the 2004 Act (power to modify provisions of Part 3), Part 3 of that Act applies to a section of a scheme as if that section were a separate scheme, paragraphs (1) and (2) apply as if that section were a separate scheme and as if the reference to a scheme were accordingly a reference to that section.

(6) In a case where a contributions equivalent premium has been paid in respect of a member in accordance with section 55 of the Act (payment of state scheme premiums on termination of certified status), the initial cash transfer sum must be reduced (to nil if need be) to the extent that it represents the member's rights to a cash transfer sum under section 101AB of the Act (right to cash transfer sum and contribution refund)⁽²¹⁾ which

⁽²⁰⁾ Regulation 17(1)(l) of S.I. 2005/3377 provides that Part 3 does not apply where a scheme is winding up.

⁽²¹⁾ Section 101AB was inserted by section 264 of the Pensions Act 2004.

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have been extinguished by virtue of section 60 of the Act (effect of payment of premiums on rights) by payment of that premium.

(7) Where a scheme begins to wind up after the member's pensionable service terminates but before the trustees or managers have discharged the cash transfer sum or paid the contribution refund to the member, the initial cash transfer sum or contribution refund may be reduced to the extent necessary for the scheme to comply with the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act) and regulations made under those provisions.

(8) If, by virtue of regulations made under section 73B(4)(b)(i) of the 1995 Act (sections 73 and 73A: supplementary) by virtue of section 73B(5) of that Act, the winding up provisions (as so defined) apply to a section of a scheme as if that section were a separate scheme, paragraph (7) applies as if that section were a separate scheme and as if the references to a scheme were accordingly references to that section.

(9) A member's initial cash transfer sum or contribution refund under the scheme may be reduced if the member has incurred some monetary obligation due to the employer or to the scheme and arising out of a criminal, negligent or fraudulent act or omission by that member.

(10) A member's initial cash transfer sum or contribution refund under the scheme may be reduced by reason of paragraph (9) to the extent only that the reduction does not exceed the amount of the monetary obligation in question.

(11) A reduction under paragraph (9) must not take effect where there is a dispute as to the amount of the monetary obligation in question, unless the obligation has become enforceable under an order of a competent court or in consequence of an award of an arbitrator, or in Scotland, an arbiter to be appointed (failing agreement between the parties) by the sheriff.

(12) The trustees or managers may reduce an initial cash transfer sum to reflect any reasonable administration costs were the member to leave the scheme and must offset against these costs any reasonable administrative savings.

(13) In a case where two or more paragraphs of this regulation fall to be applied to a cash transfer sum or paragraphs (7) or (9) fall to be applied to a contribution refund, they are to be applied in the order in which they occur in this regulation.”;

(d) in regulation 5(1) and (2)(b) (increases of cash transfer sum and contribution refund), for “regulations 2 and 4” substitute “regulations 2 to 2D and 4”; and

(e) in regulation 7(1) (information), at the end of sub-paragraph (h) insert—

“; and

(i) where the cash transfer sum or contribution refund is subject to variation by virtue of regulation 2C or 3, a statement explaining the reason for the variation.”.

9. In regulation 5(2)(a)(ii) of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006(22) (calculation of the actuarial value of affected member's subsisting rights), for “regulation 7(3)(b)”, substitute “regulations 7 to 7C and 7E(1) to (3) as appropriate”.