

2016 No. 289

PENSIONS

**The Pension Sharing (Miscellaneous Amendments) Regulations
2016**

<i>Made</i> - - - -	<i>3rd March 2016</i>
<i>Laid before Parliament</i>	<i>7th March 2016</i>
<i>Coming into force</i> - -	<i>6th April 2016</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 101C(2), 101H(3), 101J(6)(a), 101L(1), 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(a), sections 23(1)(a), (b)(i), (c) and (d) and (3), 26(1), 27(2), 30(1), 41(1), (2) and (7) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999(b), section 145(1) of the Pensions Act 2008(c) and sections 48(2), (3)(a) and (4), 83 and 86 of the Pension Schemes Act 2015(d).

Before making these Regulations, in accordance with sections 185(1) of the Pension Schemes Act 1993(e) and 83(11) of the Welfare Reform and Pensions Act 1999, the Secretary of State consulted such persons as the Secretary of State considered appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the Pension Sharing (Miscellaneous Amendments) Regulations 2016.

(2) These Regulations come into force on 6th April 2016.

Amendments to the Pensions on Divorce etc. (Provision of Information) Regulations 2000

2.—(1) The Pensions on Divorce etc. (Provision of Information) Regulations 2000(f) are amended as follows.

(2) In regulation 1(2) (interpretation)(g)—

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- (a) 1993 c.48. Part IVA (sections 101A to 101Q) was inserted by the Welfare Reform and Pensions Act 1999 (c.30) (“the 1999 Act”), section 37. 101J(6)(a) was amended by the Pensions Act 2004 (c.35) (“the 2004 Act”) section 319(1) and Schedule 12, paragraphs 9 and 15(b). Section 181(1) is cited for the meaning it gives to “prescribe” and “regulations”. Section 183 was amended by the Pensions Act 1995 (c.26), sections 151, 173 and 177 and Schedule 5, paragraph 79, Schedule 6, paragraph 15(a) and Schedule 7, Parts III and IV.
- (b) 1999 c.30. Section 23(1)(a) and (b) was amended by the Civil Partnership Act 2004 (c.33), section 261(1) and (4) and Schedule 27, paragraph 157 and Schedule 30. Sections 26(1) and 41(7) are cited for the meanings they give to “prescribed”.
- (c) 2008 c.30.
- (d) 2015 c.8.
- (e) Section 185(1) was amended by the Pensions Act 1995 (c.26), sections 122, 151 and 177 and Schedule 3, paragraph 46, Schedule 5, paragraph 80(a), (d) and (f) and Schedule 7, Part 1.
- (f) S.I. 2000/1048.
- (g) There are amendments to regulation 1(2) that are not relevant to these Regulations.

- (a) after the definition of “pensionable service”, insert—
- ““pensioner member” has the meaning given by section 124(1) of the 1995 Act(a);”;
- (b) in the definition of ““the party with pension rights” and “the other party”” for “Matrimonial Causes Act 1997;” substitute “Matrimonial Causes Act 1973(b);”.
- (3) In regulation 2(4) (basic information about pensions and divorce or dissolution of a civil partnership)(c), after “which is not specified in” substitute—
- “Schedules 2 to 5 (basic information; information to be given on request; summary funding statements; statements of benefits: non money purchase benefits) and Schedule 6 (statements of benefits: money purchase benefits and cash balance benefits) or 7 (information to be given by schemes that relates to accessing benefits) (whichever is relevant) to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(d), in a case where those Regulations apply.”.
- (4) In regulation 3 (information about pensions and divorce and dissolution of a civil partnership: valuation of pension benefits)(e)—
- (a) in paragraph (1)—
- (i) for sub-paragraph (a) substitute—
- “(a) paragraphs (3) and (4), if the person with pension rights is an active member, a deferred member or a pensioner member of an occupational pension scheme;”;
- (ii) omit sub-paragraph (b);
- (iii) for paragraph (ii) of sub-paragraph (d) substitute—
- “(ii) the rights of the person with pension rights are contained in an insurance policy or annuity contract other than a retirement annuity contract;”;
- (b) for paragraphs (3) and (4) substitute—
- “(3) Where a person with pension rights is an active member, a deferred member or a pensioner member of an occupational pension scheme, the value of those rights in relation to a category of benefits referred to in section 93(6) of the 1993 Act (category of benefits)(f) must be calculated and verified in accordance with regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations (calculation and verification of cash equivalent)(g), as if—
- (a) in the case of benefits other than money purchase benefits, the member has made an application for a statement of entitlement under section 93A of the 1993 Act (right to statement of entitlement: benefits other than money purchase)(h) on the date that the request for the valuation was received; or
- (b) in the case of money purchase benefits, the member has made an application under section 95 of the 1993 Act (ways of taking right to cash equivalent)(i) to take the cash equivalent of those benefits on the date that the request for the valuation was received.
- (4) Where the person with pension rights is continuing to accrue rights to benefits in the category of benefits to be valued, paragraph (3) applies as if the person had ceased to accrue rights in that category of benefits on the date that the request for the valuation was received.”;

(a) The definition of “pensioner member” was amended by the Child Support, Pensions and Social Security Act 2000 (c.19), section 56 and Schedule 5, Part 1, paragraph 8(3) and S.I. 2006/745.

(b) 1973 c.18.

(c) Regulation 2 was amended by S.I. 2005/2877.

(d) S.I. 2013/2734.

(e) Regulation 3 was amended by S.I. 2005/2877 and 2008/1050.

(f) Section 93(6) was inserted by the Pension Schemes Act 2015 (c.8) (“the 2015 Act”), section 67 and Schedule 4, paragraphs 3 and 8.

(g) Regulations 7 to 7E were amended by S.I. 2008/1050, 2008/2450, 2014/1711 and 2015/498.

(h) Section 93A was substituted by the 2015 Act, section 67 and Schedule 4, paragraphs 3 and 8.

(i) Section 95 was amended by the 2015 Act, sections 67 and 68(1) to (5) and (8), and Schedule 4, paragraphs 3 and 9.

- (c) in paragraph (5), for “section 94(1)(b) of the 1993 Act” substitute “section 94 of the 1993 Act (right to cash equivalent)(a)”;
 - (d) in paragraph (6), for “Chapter IV of Part IV of the 1993 Act by section 93(1)(b) of that Act (scope of Chapter IV)” substitute “Chapter 1 of Part 4ZA of the 1993 Act by section 93(5)(b) of that Act (scope of Chapter 1)(b)”;
 - (e) for paragraphs (8) and (10) substitute—
 - “(8) When calculating and verifying a cash equivalent, regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations are to be read as if—
 - (a) in regulation 7—
 - (i) in paragraph (1)(a), the words “and then making any reductions in accordance with regulation 7D” do not appear;
 - (ii) in paragraph (1)(b), the words “regulation 7E” are replaced with “regulation 7E(1) to (3)”;
 - (iii) in paragraphs (2) and (4), the word “trustees” is replaced with “person responsible for the pension arrangement”;
 - (iv) in paragraph (3), the words “trustees are” are replaced with “person responsible for the pension arrangement is”;
 - (v) in paragraph (5), the words “trustees of the scheme in question have” are replaced with “person responsible for the pension arrangement has”;
 - (b) in regulations 7A and 7B, in each place where it appears, the word “trustees” is replaced with “person responsible for the pension arrangement”;
 - (c) in regulation 7C—
 - (i) in paragraph (3), in both places where it appears, the word “trustees” is replaced with “person responsible for the pension arrangement”;
 - (ii) in paragraph (4)(b)(iv), the words “trustees determine” are replaced with “person responsible for the pension arrangement determines”;
 - (d) in regulation 7E—
 - (i) in paragraph (1), the words “trustees have” are replaced with “person responsible for the pension arrangement has”;
 - (ii) in paragraph (2), the word “trustees” is replaced with “person responsible for the pension arrangement”.
- (5) In regulation 4(2) (provision of information in response to a notification that a pension sharing order or provision may be made)(c)—
- (a) at the end of sub-paragraph (b)(i), omit “and”;
 - (b) at the end of sub-paragraph (b)(ii), insert—
 - “and
 - (iii) whether the member’s rights to benefit are to be or are likely to be reduced in accordance with sections 73 to 74 of the 1995 Act (winding up provisions)(d);”;
 - (c) in sub-paragraph (c), after the words “(reductions in initial cash equivalents)” insert “if the member were to transfer the cash equivalent of those rights out of the scheme”.

(a) Section 94 was amended by the 2015 Act, section 67 and Schedule 4, paragraphs 3 and 8.
 (b) Chapter 1 of Part 4ZA, including section 93, was amended by the 2015 Act, section 67 and Schedule 4, paragraphs 2 and 8 to 14.
 (c) Regulation 4 was amended by S.I. 2000/2691 and 2008/1050.
 (d) Sections 73 to 73B were substituted by the 2004 Act, section 270(1). Section 73 was amended by the 2015 Act, section 67 and Schedule 4, paragraphs 28 and 30. Section 73A was amended by the 2015 Act, section 58(1). Section 73B was amended by the 2015 Act, sections 58(2) and 67 and Schedule 4, paragraphs 28 and 31. Section 74 was amended by the 1999 Act, section 84(1) and Schedule 12, paragraphs 43 and 56; the 2004 Act, sections 270(2) and 320 and Schedule 13 and S.I. 2001/3649.

Amendments to the Pensions on Divorce etc. (Charging) Regulations 2000

- 3.**—(1) The Pensions on Divorce etc. (Charging) Regulations 2000(a) are amended as follows.
- (2) In regulation 2(4)(a) (general requirements as to charges)(b)—
- (a) in paragraph (i), for “(salary related schemes: right to statement of entitlement, and right to cash equivalent)” substitute “(right to statement of entitlement: benefits other than money purchase and right to cash equivalent)”;
 - (b) for paragraph (iii) substitute—
 - “(iii) regulation 17 (statements of benefits: money purchase benefits) or any of the provisions of Part 6 (statements of benefits; lifestyling and accessing benefits) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(c);”.
- (3) In regulation 3(2) (charges recoverable in respect of the provision of basic information)—
- (a) for sub-paragraph (d) substitute—
 - “(d) any costs incurred by the trustees or managers of an occupational or personal pension scheme in connection with the provision of information under regulation 6 (basic scheme information) or 7 (basic scheme information to be given by certain schemes) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, that the trustees or managers provide to the member free of charge under those Regulations;”;
 - (b) for paragraph (iii) of sub-paragraph (e) substitute—
 - “(iii) regulation 17 or any of the provisions of Part 6 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013; or”.
- (4) For sub-paragraph (f) of regulation 9(2) (charges in respect of pension sharing activity – method of recovery) substitute—
- “(f) deduction from the amount of a transfer value which is calculated in accordance with regulation 24 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (manner of calculation and verification of cash equivalents)(d).”.

Amendments to the Pension Sharing (Valuation) Regulations 2000

- 4.**—(1) The Pension Sharing (Valuation) Regulations 2000(e) are amended as follows.
- (2) In regulation 1(2) (interpretation), omit the definition of “initial cash equivalent”(f).
- (3) In regulation 2(1) (rights under a pension arrangement which are not shareable)(g)—
- (a) in sub-paragraph (b)—
 - (i) for paragraph (iv) substitute—
 - “(iv) dependants’, nominees’ or successors’ income withdrawal within the meaning of, as the case may be, paragraph 21 (dependants’ income withdrawal), 27D (nominees’ income withdrawal) or 27J (successors’ income withdrawal) of Schedule 28 to the Finance Act 2004(h);”;
 - (ii) after “surviving civil partner”, insert “, nominee, successor”;

(a) S.I. 2000/1049.

(b) There are amendments to regulation 2 that are not relevant to these Regulations.

(c) Part 6 was amended by S.I. 2015/482.

(d) S.I. 2000/1054. Regulation 24 was substituted by S.I. 2008/1050.

(e) S.I. 2000/1052.

(f) The definition of “initial cash equivalent” was inserted by S.I. 2008/1050.

(g) Regulation 2 was amended by S.I. 2005/2877, 2006/744 and 2011/1245.

(h) 2004 c.12. Paragraph 21 was substituted by the Finance Act 2011 (c.11) (“the 2011 Act”), section 65 and Schedule 16, Part 1, paragraphs 12 and 15 and was amended by the Taxation of Pensions Act 2014 (c.30) (“the 2014 Act”), section 1 and Schedule 1, Part 1, paragraphs 5 and 20. Paragraphs 27D and 27J were inserted by the 2014 Act, section 3 and Schedule 2, Part 1, paragraph 3(1).

- (iii) omit “and” at the end;
 - (b) after sub-paragraph (b), insert—
 - “(ba) any rights relating to sums and assets held for the purposes of—
 - (i) a dependant’s drawdown pension fund or flexi-access drawdown fund within the meaning of, as the case may be, paragraph 22 (dependant’s drawdown pension fund) or 22A (dependant’s flexi-access drawdown fund) of Schedule 28 to the Finance Act 2004(a);
 - (ii) a nominee’s or successor’s flexi-access drawdown fund within the meaning of, as the case may be, paragraph 27E (nominee’s flexi-access drawdown fund) or 27K (successor’s flexi-access drawdown fund) of Schedule 28 to the Finance Act 2004(b);”;
 - (c) after the words “pensionable service” in sub-paragraph (c), insert—
 - “; and
 - (d) any rights in respect of a cash transfer sum or contribution refund that the member would be entitled to under section 101AB of the 1993 Act (right to cash transfer sum and contribution refund)(c) if pensionable service were to be terminated.”.
- (4) For regulation 4 (manner of calculation and verification of cash equivalents: occupational pension schemes)(d) substitute—

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

4.—(1) Subject to this regulation, where a person with pension rights is, for the purposes of Part I of the 1995 Act, an active member, a deferred member or a pensioner member of an occupational pension scheme, or where a person with pension rights attains, or is over, normal pension age and is not in receipt of the pension, the value of rights in relation to a category of benefits referred to in section 93(6) of the 1993 Act (category of benefits) must be calculated and verified in accordance with regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations (calculation and verification of cash equivalents), as if—

- (a) in the case of benefits other than money purchase benefits, the member has made an application for a statement of entitlement under section 93A of the 1993 Act (right to statement of entitlement: benefits other than money purchase); or
- (b) in the case of money purchase benefits, the member has made an application under section 95 of the 1993 Act (ways of taking right to cash equivalent) to use the cash equivalent of those benefits.

(2) Where a person with pension rights is continuing to accrue rights to benefits in the category of benefits to be valued, paragraph (1) applies as if the person had ceased to accrue rights in that category of benefits on the valuation day.

(3) Where a person with pension rights is entitled to present payment of the pension, but the pension is not yet in payment, the cash equivalent must be calculated and verified on the assumption that the pension comes into payment on the transfer day.

(4) When calculating and verifying the cash equivalent, regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations are to be read as if—

- (a) in regulation 7—

(a) Paragraph 22 was amended by the Finance Act 2005 (c.7), section 101 and Schedule 10, paragraphs 1 and 21; the 2011 Act, section 65 and Schedule 16, Part 1, paragraph 16 and the 2014 Act, section 1 and Schedule 1, Part 1, paragraphs 5 and 21. Paragraph 22A was inserted by the 2014 Act, section 1 and Schedule 1, Part 1, paragraph 4(1).

(b) Paragraphs 27E and 27K were inserted by the 2014 Act, section 3 and Schedule 2, Part 1, paragraph 3(1). Paragraph 27E was amended by the 2011 Act, section 34 and Schedule 4, Part 1, paragraphs 1 and 13(1), (4) and (5). Paragraph 27K was amended by the Finance Act 2015 (c.11), section 34 and Schedule 4, Part 1, paragraphs 1 and 13(1) and (6).

(c) Section 101AB was inserted by the 2004 Act, section 264.

(d) Regulation 4 was substituted by S.I. 2008/1050.

- (i) in paragraph (1)(a), the words “and then making any reductions in accordance with regulation 7D” do not appear;
- (ii) in paragraph (1)(b), the words “regulation 7E” are replaced with “regulation 7E(1) to (3)”;
- (b) in regulation 7A(2), the words “guarantee date” are replaced with “valuation day”;
- (c) in regulation 7C(2), the words “at the date of calculation” are replaced with “on the valuation day”; and
- (d) “valuation day” has the meaning given by section 29(7) of the 1999 Act (meaning of valuation day).”.

(5) In regulation 5 (manner of calculation and verification of cash equivalents: other relevant arrangements)(a)—

- (a) in paragraph (1), for “7 to 7E of the Transfer Values Regulations” substitute “7 to 7C and 7E(1) to (3) of the Transfer Values Regulations, as if the person with the pension rights had made a valid application under section 95 of the 1993 Act to use the cash equivalent of the rights to benefits”;
- (b) in paragraph (2), before sub-paragraph (a) insert—
 - “(za) in regulation 7(1)(a), the words “and then making any reductions in accordance with regulation 7D” do not appear;
 - (zb) in regulation 7(1)(b), the words “regulation 7E” are replaced with “regulation 7E(1) to (3)”;
- (c) in paragraph (3), for “Chapter IV of Part IV of the 1993 Act by section 93(1)(b) of that Act (scope of Chapter IV)” substitute “Chapter 1 of Part 4ZA of the 1993 Act by section 93(5)(b) of that Act (scope of Chapter 1)”.

Amendments to the Pension Sharing (Pension Credit Benefit) Regulations 2000

5.—(1) The Pension Sharing (Pension Credit Benefit) Regulations 2000 are amended as follows.

(2) In regulation 1(2) (interpretation)(b)—

- (a) after the definition of “base rate”, insert—
 - ““categories of benefits” refers to the categories listed in paragraphs (a) to (c) of section 101F(6B) of the 1993 Act(c);”;
- (b) for the definition of “pension credit benefit” substitute—
 - ““pension credit benefit” has the meaning given by section 101B of the 1993 Act(d) insofar as that expression is used in Part II of these Regulations;”;
- (c) omit the definition of “statement of entitlement”.

(3) In regulation 3(a) (pension credit benefit in lump sum form)(e), after “(a), (b),” insert “(ba),”.

(4) In regulation 21(1) (requirements of other pension arrangements)(f), for “pension credit benefit” substitute “pension credit rights”.

(5) In regulation 23 (statements of entitlement)(g)—

- (a) for the title “Statements of entitlement” substitute “Written statement of the amount of the cash equivalent of the member’s pension credit rights”;
- (b) in paragraph (1)—

(a) Regulation 5 was substituted by S.I. 2008/1050.

(b) There are amendments to regulation 1(2) that are not relevant to these Regulations.

(c) Section 101F(6B) was substituted by the 2015 Act, section 67 and Schedule 4, paragraphs 3 and 15(1) and (5).

(d) Section 101B was inserted by the 1999 Act, section 37 and amended by the 2015 Act, section 82(1) and (2).

(e) Regulation 3 was substituted by S.I. 2009/2930.

(f) Regulation 21(1) was amended by S.I. 2006/744 and 2009/598.

(g) Regulation 23 was amended by S.I. 2008/1050.

- (i) for “salary related schemes: statements of entitlement” substitute “benefits other than money purchase: statements of entitlement”;
- (ii) for “statement of entitlement” substitute “written statement of the amount of the cash equivalent of the member’s pension credit rights”;
- (c) after paragraph (1), insert—
 - “(1A) Where an eligible member has transferrable rights under Part IVA of the 1993 Act in relation to two categories of benefits other than money purchase benefits, the trustees or managers must provide the member with a written statement setting out a separate cash equivalent in relation to each of the categories of benefits, unless the member’s application relates to one of the categories of benefits only.”;
- (d) in paragraphs (3) and (4), in both places where the words appear, for “statement of entitlement” substitute “written statement”.
- (6) In regulation 24(2)(f) (manner of calculation and verification of cash equivalents), for “paragraphs 7 and 9” substitute “paragraph 7”.
- (7) In regulation 26 (extension of time limits for payment of cash equivalents)—
 - (a) after the words “section 101J(1)(a)”, in both places where they appear, insert “or (b)”;
 - (b) in paragraph (a)(vi)—
 - (i) for “statement of entitlement” substitute “written statement”;
 - (ii) for “regulation 27 or 28” substitute “regulation 28”.
- (8) In regulation 28 (increases and reductions of cash equivalents once the statement of entitlement has been sent to the eligible member)(a)—
 - (a) in the title, for “statement of entitlement” substitute “written statement”;
 - (b) in paragraph (1)—
 - (i) for “statement of entitlement” substitute “written statement”;
 - (ii) for “of a salary related scheme by the trustees or managers of that scheme” substitute “by the trustees or managers of a scheme”;
 - (c) in paragraph (3), for “the winding up provisions (as defined in regulation 27(13))” substitute “sections 73 to 74 of the 1995 Act”.
- (9) In regulation 29 (increases of cash equivalents on late payment), in both places where it appears, omit “, 27”.
- (10) In regulation 30(1) (personal pension schemes: increases and reductions of cash equivalents), for “pension credit benefit” substitute “pension credit rights”.

Amendments to the Divorce etc. (Pensions) Regulations 2000

- 6. In regulation 3(2) (valuation) of the Divorce etc. (Pensions) Regulations 2000(b)—
 - (a) in sub-paragraph (c), for “section 93A or 94(1)(a) or (aa)” substitute “sections 93A and 94(1)”;
 - (b) in sub-paragraph (d), for “section 94(1)(b)” substitute “section 94(2)”.

Amendments to the Divorce etc. (Pensions) (Scotland) Regulations 2000

- 7.—(1) The Divorce etc. (Pensions) (Scotland) Regulations 2000(c) are amended as follows.
- (2) In regulation 2(1) (interpretation)(d), after the definition of “pension arrangement” insert—
 - ““pensioner member” has the meaning given by section 124(1) of the 1995 Act;”.

(a) Regulation 28 was amended by S.I. 2005/706.
 (b) S.I. 2000/1123.
 (c) S.S.I. 2000/112.
 (d) There are amendments to regulation 2(1) that are not relevant to these Regulations.

(3) In regulation 3 (valuation)(a)—

(a) in paragraph (2)—

(i) for sub-paragraph (a) substitute—

“(a) paragraphs (3) and (4), if the party with pension rights is an active member, a deferred member or a pensioner member of an occupational pension scheme;”;

(ii) omit sub-paragraph (b);

(iii) for paragraph (ii) of sub-paragraph (d) substitute—

“(ii) the rights of the party with pension rights are contained in an insurance policy or annuity contract other than a retirement annuity contract;”;

(b) for paragraphs (3) and (4) substitute—

“(3) Where the party with pension rights is an active member, a deferred member or a pensioner member of an occupational pension scheme, the value of those rights in relation to a category of benefits referred to in section 93(6) of the 1993 Act (category of benefits) must be calculated and verified in accordance with regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations (calculation and verification of cash equivalent), as if—

(a) in the case of benefits other than money purchase benefits, the party with pension rights has made an application for a statement of entitlement under section 93A of the 1993 Act (right to statement of entitlement: benefits other than money purchase) on the date that the request for the valuation was received; or

(b) in the case of money purchase benefits, the party with pension rights has made an application under section 95 of the 1993 Act (ways of taking right to cash equivalent) to take the cash equivalent of those benefits on the date that the request for the valuation was received.

(4) Where the party with pension rights is continuing to accrue rights to benefits in the category of benefits to be valued, paragraph (3) applies as if the party had ceased to accrue rights in that category of benefits on the date that the request for the valuation was received.”;

(c) in paragraph (5), for “section 94(1)(b) of the 1993 Act” substitute “section 94 of the 1993 Act (right to cash equivalent)”;

(d) in paragraph (6), for “Chapter IV of Part IV of the 1993 Act by section 93(1)(b) of that Act (scope of Chapter IV)” substitute “Chapter 1 of Part 4ZA of the 1993 Act by section 93(5)(b) of that Act (scope of Chapter 1)”;

(e) for paragraphs (8) and (10) substitute—

“(8) When calculating and verifying a cash equivalent, regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations are to be read as if—

(a) in regulation 7—

(i) in paragraph (1)(a), the words “and then making any reductions in accordance with regulation 7D” do not appear;

(ii) in paragraph (1)(b), the words “regulation 7E” are replaced with “regulation 7E(1) to (3)”;

(iii) in paragraphs (2) and (4), the word “trustees” is replaced with “person responsible for the pension arrangement”;

(iv) in paragraph (3), the words “trustees are” are replaced with “person responsible for the pension arrangement is”;

(v) in paragraph (5), the words “trustees of the scheme in question have” are replaced with “person responsible for the pension arrangement has”;

(a) Regulation 3 was amended by S.S.I. 2008/293.

- (b) in regulations 7A and 7B, in each place where it appears, the word “trustees” is replaced with “person responsible for the pension arrangement”;
- (c) in regulation 7C—
 - (i) in paragraph (3), in both places where it appears, the word “trustees” is replaced with “person responsible for the pension arrangement”;
 - (ii) in paragraph (4)(b)(iv), the words “trustees determine” are replaced with “person responsible for the pension arrangement determines”;
- (d) in regulation 7E—
 - (i) in paragraph (1), the words “trustees have” are replaced with “person responsible for the pension arrangement has”;
 - (ii) in paragraph (2), the word “trustees” is replaced with “person responsible for the pension arrangement”.

Amendments to the Dissolution etc. (Pensions) Regulations 2005

- 8.** In regulation 3(2) (valuation) of the Dissolution etc. (Pensions) Regulations 2005(a)—
- (a) in sub-paragraph (c), for “section 93A or 94(1)(a) or (aa)” substitute “sections 93A and 94(1)”;
 - (b) in sub-paragraph (d), for “section 94(1)(b)” substitute “section 94(2)”.

Amendments to the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015

9.—(1) The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015(b) are amended as follows.

- (2) In regulation 1(3) (interpretation)—
- (a) in the definition of “cash equivalent”—
 - (i) omit “of the 1993 Act”; and
 - (ii) at the end insert “or, as the case may be, a cash equivalent mentioned in sections 101F (power to give transfer notice) and 101H (benefits other than money purchase) of the 1993 Act(c)”;
 - (b) after the definition of “cash equivalent”, insert—

““eligible member” has the meaning given by section 101P(1) of the 1993 Act (interpretation of Chapter II)(d);”;
 - (c) in the definition of “valuation date”—
 - (i) at the end of paragraph (a) omit “or”;
 - (ii) after paragraph (a), insert—

“(aa) where an eligible member is, under section 101F of the 1993 Act, exercising the right to take an amount equal to the cash equivalent of the eligible member’s pension credit rights, the date determined in accordance with section 101H(2) of that Act; or”;
 - (d) after the definition of “writing”, insert—

““written statement of the amount of the cash equivalent” has the meaning given in section 101H(1) of the 1993 Act.”.

(a) S.I. 2005/2920.

(b) S.I. 2015/742.

(c) Section 101F was inserted by the 1999 Act, section 37 and amended by the 2015 Act, section 67 and Schedule 4, paragraphs 3 and 15(1) to (5) and S.I. 2001/3649. Section 101H was inserted by the 1999 Act, section 37 and amended by the 2015 Act, section 67 and Schedule 4, paragraphs 3 and 17(1) to (3).

(d) Section 101P was inserted by the 1999 Act, section 37.

(3) In regulation 2(a) (transitional provisions), at the end of sub-paragraph (i), omit “or” and insert—

“(ia) an eligible member, before 6th April 2015 and in accordance with section 101F of the 1993 Act, required the trustees or managers to use an amount equal to the cash equivalent of the member’s pension credit rights for an authorised purpose;

(ib) an eligible member made an application for a written statement of the amount of the cash equivalent before 6th April 2015; or”.

(4) In regulation 6 (information to be provided to the member or survivor), at the end of paragraph (b)(i), omit “or” and insert—

“(ia) in the case of a pension credit member, the day on which a written statement of the amount of the cash equivalent is provided; or”.

(5) In regulation 8 (information to be provided on initial enquiry)—

(a) in paragraph (2)—

(i) at the end of sub-paragraph (b), insert “or a written statement of the amount of the cash equivalent”;

(ii) in sub-paragraph (c), after “statement of entitlement” insert “or a written statement of the amount of the cash equivalent”;

(iii) at the end of sub-paragraph (c), omit “or” and insert—

“(ca) by notice in writing, in accordance with section 101F(1) of the 1993 Act, requires the trustees or managers to use an amount equal to the cash equivalent of the member’s pension credit rights for an authorised purpose; or”;

(b) in paragraph (4), for sub-paragraph (a) substitute—

“(a) if the circumstances in paragraph (2)(c) or (ca) apply, where the information has already been provided to the member or survivor because the circumstances in, as the case may be, paragraph (2)(a) or (b) previously applied;”.

(6) In regulation 9 (determination of whether exception applies and check that advice received)—

(a) in paragraph (2)(a) and (b), in both places where the words occur, after “statement of entitlement” insert “or a written statement of the amount of the cash equivalent”;

(b) at the end of paragraph (2)(a), omit “or” and insert—

“(aa) have received a notice in writing, in accordance with section 101F of the 1993 Act, requiring an amount equal to the cash equivalent of an eligible member’s pension credit rights to be used for an authorised purpose; or”;

(c) in paragraph (4)(a), after “statement of entitlement” insert “or a written statement of the amount of the cash equivalent”.

(7) For paragraph (1) of regulation 10 (information to be provided where the value of cash equivalent is increased or reduced) substitute—

“(1) Where the cash equivalent has been increased or reduced in accordance with—

(a) regulation 9(5) of the Transfer Values Regulations (increases and reductions of cash equivalents)(a) after the statement of entitlement has been provided; or

(b) regulation 28 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (increases and reductions of cash equivalents once the written statement has been sent to the eligible member),

the trustees or managers must provide further information to the member in accordance with this regulation, on the day on which written confirmation that the cash equivalent has been increased or reduced, as the case may be, is provided to the member.”.

(a) Regulation 9 was amended by S.I. 2015/498.

Signed by authority of the Secretary of State for Work and Pensions.

3rd March 2016

Altmann
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to secondary legislation concerning pension sharing orders in consequence of the Taxation of Pensions Act 2014 (c.30) (“the 2014 Act”) and the Pension Schemes Act 2015 (c.8) (“the 2015 Act”). These Acts contain provisions designed to provide greater flexibility for pension scheme members in accessing their pension rights. The Regulations also make technical amendments that concern valuation of rights under an occupational pension scheme for the purpose of making a pension sharing order and exclusion of some rights from the scope of a pension sharing order.

Regulation 2 makes amendments to the Pensions on Divorce etc. (Provision of Information) Regulations 2000 (S.I. 2000/1048) that are consequential to amendments to the Pension Schemes Act 1993 (c.48) (“the 1993 Act”) made by the 2015 Act and to the introduction of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734) (“the 2013 Regulations”). This regulation also makes amendments to the provisions governing the valuation of pension rights.

Regulation 3 makes amendments to the Pensions on Divorce etc. (Charging) Regulations 2000 (S.I. 2000/1049) that are consequential to amendments to the 1993 Act made by the 2015 Act and to the introduction of the 2013 Regulations.

Regulation 4 makes amendments to the Pension Sharing (Valuation) Regulations 2000 (S.I. 2000/1052) that are consequential both to the 2014 Act and to amendments to the 1993 Act made by the 2015 Act. This regulation also makes amendments to the provisions governing the valuation of pension rights for the purpose of pension sharing. This regulation excludes the right of an early leaver to a return of contributions or a cash transfer sum from the rights that can be included under a pension sharing order.

Regulation 5 makes amendments to the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054) that are consequential to amendments to section 166 of the Finance Act 2004 (c.12) made by the 2014 Act and to amendments to the 1993 Act made by the 2015 Act. This regulation also makes a consequential amendment following the introduction of the Pensions Act 2008 (c.30).

Regulation 6 makes minor amendments to the Divorce etc. (Pensions) Regulations 2000 (S.I. 2000/1123) that are consequential to amendments to the 1993 Act made by the 2015 Act.

Regulation 7 makes amendments to the Divorce etc. (Pensions) (Scotland) Regulations 2000 (S.S.I. 2000/112) that are consequential to amendments to the 1993 Act made by the 2015 Act.

Regulation 8 makes minor amendments to the Dissolution etc. (Pensions) Regulations 2005 (S.I. 2005/2920) that are consequential to amendments to the 1993 Act made by the 2015 Act.

Regulation 9 amends the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015 (S.I. 2015/742) so that those regulations apply appropriately in relation to the transfer or conversion of pension credit rights that are safeguarded benefits for the purposes of section 48 of the 2015 Act.

There are no additional costs to business, the private sector and civil society organisations as a result of this instrument and, as such, no impact assessment has been prepared.

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