STATUTORY INSTRUMENTS

1989 No. 1115

INCOME TAX

The Personal Pension Schemes (Transfer Payments) (Amendment) Regulations 1989

Made - - - -	*4th July 1989*
Laid before the House of Commons	*4th July 1989*
Coming into force	*25th July 1989*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 638(2) of the Income and Corporation Taxes Act 1988**(a)**, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal Pension Schemes (Transfer Payments) (Amendment) Regulations 1989 and shall come into force on 25th July 1989.

Interpretation

2. In these Regulations "the Principal Regulations" means the Personal Pension Schemes (Transfer Payments) Regulations 1988**(b)**.

Amendments to the Principal Regulations

3. In regulation 2 of the Principal Regulations–

(a) at the end of the definition of "appropriate personal pension scheme" there shall be added "and Articles 2(2) and 3(8) of the Social Security (Northern Ireland) Order 1986**(c)**";

(b) at the end of the definition of "guaranteed minimum pension" there shall be added "and Article 28(2) of the Social Security Pensions (Northern Ireland) Order 1975**(d)**";

(c) at the end of the definition of "personal pension protected rights premium" there shall be added "and Article 7(4) of the Social Security (Northern Ireland) Order 1986";

(d) at the end of the definition of "protected rights" there shall be added "and Schedule 1 to the Social Security (Northern Ireland) Order 1986**(e)**"; and

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(a) 1988 c.1.
(b) S.I. 1988/1014.
(c) S.I. 1986/1888 (N.I. 18).
(d) S.I. 1975/1503 (N.I. 15); Article 28(2) was amended by the Social Security (Northern Ireland) Order 1986, Article 83(1) and Schedule 9, paragraph 3(b).
(e) Schedule 1 was modified by the Social Security Pensions (Northern Ireland) Order 1975, Article 34(2B) inserted by the Social Security (Northern Ireland) Order 1986, Article 8 and Schedule 2, paragraph 6(b).

(e) at the end of the definition of "the relevant date" there shall be added "and paragraph 12 of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975(a)";

(f) after the definition of "the relevant date" there shall be inserted–

"relevant statutory scheme" shall be construed in accordance with Chapter I of Part XIV of the Act(b);".

4. In regulation 3 of the Principal Regulations–

(a) in paragraph (1)(c) for the words "statutory scheme" there shall be substituted "relevant statutory scheme", and

(b) for paragraph (2) there shall be substituted

"(2) A transfer payment shall comprise the whole of the accumulated fund held in connection with any arrangements made by the individual in accordance with the scheme except that, where the fund–

(a) includes protected rights, or

(b) has been, or will be, used to pay a personal pension protected rights premium,

the amount of the fund which represents those rights or has been, or will be, so used may be excluded."

5. In regulation 4 of the Principal Regulations for the words from "any part of the payment" to the end of the regulation there shall be substituted–

"(a) any part of the payment which had its origin in a transfer payment from–

(i) a retirement benefits scheme, or

(ii) a statutory scheme; and

(b) any amount of that part which has been certified to him as payable under the rules of the scheme to the individual in respect of whom the transfer payment is made by way of lump sum together with any amount by which that amount has been enhanced at the date of the transfer payment to another personal pension scheme by virtue of regulation 11."

6. After regulation 4 of the Principal Regulations there shall be inserted–

"**4A.**—(1) If a transfer payment is made to a retirement benefits scheme or a relevant statutory scheme, and the payment or any part of it had its origin in a previous transfer payment from a retirement benefits scheme or a statutory scheme, the administrator of the personal pension scheme from which the payment is made (in this regulation referred to as "the paying scheme") shall, within 30 days after the date on which it is made, provide the administrator of the scheme which receives it with a certificate signed by him which shows separately the maximum amount of the transfer payment, calculated in accordance with paragraphs (2) and (3), which is payable to the individual by way of lump sum.

(2) The maximum amount of a transfer payment which is payable to the individual by way of lump sum is the sum of–

(a) the amount of any previous transfer payment in respect of that individual from a retirement benefits scheme or statutory scheme which has been certified to the administrator of the paying scheme as the amount of that payment which was payable under the rules of the scheme to the individual by way of lump sum together with any amount by which that amount has been enhanced at the date of the transfer payment by virtue of regulation 11; and

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(a) Schedule 1A was inserted by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Article 4 and Schedule 1, paragraph 3. Paragraph 12 of Schedule 1A was amended by the Social Security (Northern Ireland) Order 1986, Article 83(1) and Schedule 9, paragraph 24; was modified by the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 294), regulation 2(10) and Schedule 4, paragraph 8; was amended by the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594) (N.I. 2)), Article 10 and Schedule 2, paragraph 3; and was modified by the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985 (S.R. 1985 No. 358), regulation 2C(3) inserted by the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations (Northern Ireland) 1988 (S.R. 1988 No. 127), regulation 2.

(b) Relevant amendments to Chapter I of Part XIV were made by Schedule 6 to the Finance Act 1989 (c.26).

(b) the amount of the balance (if any) of the transfer payment which is payable to the individual by way of lump sum in accordance with section 635 of the Act.

(3) Where a previous transfer payment referred to in paragraph (2)(a) was made before the coming into force of these Regulations, that sub-paragraph shall apply as if the scheme from which the previous transfer payment was made was one to which section 635 of the Act applied and the amounts certified were the amounts payable in accordance with those sections."

7. In regulation 5 of the Principal Regulations in paragraph (c) for the words "a statutory scheme" there shall be substituted "a relevant statutory scheme."

8. In regulation 6 of the Principal Regulations–

(a) in paragraph (1)(b) for the words "a statutory scheme" there shall be substituted "a relevant statutory scheme";

(b) in paragraph (2)(b) for "£100,000" there shall be substituted "£60,000";

(c) in paragraph (3)(a)–

(i) after the words "the proposed transfer payment" there shall be inserted ", and all other transfer payments proposed to be made at the same time from the paying scheme, together with the cash equivalent of the benefits under all relevant schemes not reflected in the proposed transfer payment or payments,";

(ii) for the words "does not exceed" there shall be substituted "do not exceed";

(iii) for the words "reflected in the transfer payment" to "based on" there shall be substituted–

"and all other relevant schemes being the product of";

(iv) for the definition of NS there shall be substituted–

"NS is–

(i) the number of years of potential service to normal retirement age under the rules of the paying scheme, and

(ii) where a transfer payment has been accepted by the paying scheme from a retirement benefits scheme or statutory scheme, the number of actual years service in respect of which benefits have accrued to the member under the retirement benefits scheme or statutory scheme,

up to a maximum of 40";

(v) in the definition of P after the words "number of potential" there shall be inserted "and actual" and in paragraph (i) of that definition for the words "the end of his actual service" there shall be substituted "the time when benefits started to accrue to him under the scheme, or under any scheme from which a transfer payment has been accepted,";

(d) in paragraph (3)(b) after "the proposed transfer payment" there shall be inserted ", together with any other transfer payment proposed to be made at the same time,";

(e) after paragraph (3) there shall be inserted–

"(3A) For the purposes of paragraph (3) a scheme is a relevant scheme if it is–

(a) a retirement benefits scheme to which an employer of the individual makes or has made contributions;

(b) a relevant statutory scheme; or

(c) a scheme referred to in section 591(2)(h) of the Act to which the individual has made contributions."

9. Regulation 7 of the Principal Regulations shall be omitted.

10. In regulation 8(1) of the Principal Regulations–

(a) after sub-paragraph (b) there shall be inserted–

"or

(c) another personal pension scheme in circumstances where the transfer payment, or part of it, had its origin in a transfer payment from such a scheme as is referred to in sub-paragraph (a) or (b),";

(b) after the words "from the transfer payment" there shall be inserted "or, as the case may be, the part of the payment that originated in a transfer payment from such a scheme".

11. After regulation 9 of the Principal Regulations there shall be added–

"**10.**—(1) Where a personal pension scheme accepts a transfer payment from–

(a) a retirement benefits scheme, or

(b) a statutory scheme, or

(c) another personal pension scheme in circumstances where the transfer payment or part of it, had its origin in a transfer payment from such a scheme as is referred to in sub-paragraph (a) or (b),

(in this regulation referred to as "the paying scheme") paragraph (2) shall apply.

(2) Where this paragraph applies–

(a) no amount of that payment or that part, as the case may be, may be paid to the individual by way of lump sum unless the administrator of the personal pension scheme which has accepted the transfer payment has obtained from the administrator of the paying scheme a certificate signed by him and showing the maximum amount of the transfer payment or part thereof payable to the individual under the rules of the paying scheme or of the scheme from which that part originated, as the case may require; and

(b) the maximum lump sum that may be paid is the aggregate of the maximum amount so certified together with any amount by which that amount has been enhanced at the date of the transfer payment by virtue of regulation 11.

Enhancement of amounts payable by way of lump sum

11. Where any of these Regulations refers to any amount by which an amount payable by way of lump sum has been enhanced by virtue of this regulation, the amount of that enhancement shall be calculated on the basis of the formula $(A \times AV/TP) - A$, where–

A is the amount of the transfer payment or part thereof payable by way of lump sum,

AV is the accumulated value arising from the transfer payment or part thereof at the relevant time, and

TP is the amount of the transfer payment or part thereof."

D. B. Rogers
L. J. H. Beighton

4th July 1989. Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 25th July 1989, amend the Personal Pension Schemes (Transfer Payments) Regulations 1988 ("the Principal Regulations").

Regulation 1 provides for citation and commencement and regulation 2 contains a definition.

Regulation 3 amends regulation 2 of the Principal Regulations by inserting a definition of "relevant statutory scheme" and adding references to certain Northern Ireland provisions.

Regulation 4 amends regulation 3 of the Principal Regulations which imposes general requirements as to the making of transfer payments.

Regulation 5 amends regulation 4 of the Principal Regulations which imposes requirements as to the making of transfer payments from one personal pension scheme to another.

Regulation 6 inserts a new regulation, regulation 4A, in the Principal Regulations which imposes requirements on the making of certain transfer payments from personal pension schemes to retirement benefits schemes or relevant statutory schemes.

Regulation 7 amends regulation 5 of the Principal Regulations by replacing the reference to a "statutory scheme" with a reference to a "relevant statutory scheme".

Regulation 8 amends regulation 6 of the Principal Regulations. Among the amendments made are the substitutions of "a relevant statutory scheme" for "a statutory scheme" (in paragraph (1)(b)), of "£60,000" for "£100,000" (in paragraph (2)(b)) and of the definition of "NS" (in paragraph 3(a)); and the amendment of the definition of "P" in paragraph 3(a).

Regulation 9 provides for the omission of regulation 7 of the Principal Regulations.

Regulation 10 amends regulation 8 of the Principal Regulations so as to secure that it applies where transfer payments made from one personal pension scheme to another include funds which had their origin in retirement benefits schemes or statutory schemes.

Regulation 11 inserts two new regulations, regulations 10 and 11, in the Principal Regulations. Regulation 10 imposes requirements as to the circumstances in which lump sums may be paid to individuals where transfer payments made to personal pension schemes include funds which had their origins in retirement benefits schemes or statutory schemes, and the maximum lump sums that may be paid; and regulation 11 lays down a formula for the calculation of amounts by which lump sums may be enhanced.