STATUTORY INSTRUMENTS

2015 No. 1614

PENSIONS

The Unfunded Public Service Defined Benefits Schemes (Transfers) Regulations 2015

Made - - - -	*14th August 2015*
Laid before Parliament	*17th August 2015*
Coming into force in accordance with regulation 1(2)	

The Treasury, in exercise of the powers conferred by sections 95(2A)(d), 95(5A), 182(2) and 182(3) of the Pension Schemes Act 1993(**a**), make the following Regulations.

In accordance with section 185(5A) of that Act(**b**) the Treasury have consulted such persons as they consider appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Unfunded Public Service Defined Benefits Schemes (Transfers) Regulations 2015.

(2) These Regulations come into force on 7th September 2015 but have no effect in relation to an application made under section 95(1) of the 1993 Act before that date.

(3) In these Regulations—

"the 1993 Act" means the Pension Schemes Act 1993;

"the 1996 Regulations" means the Contracting-out (Transfer and Transfer Payment) Regulations 1996(**c**);

"cash equivalent" means a cash equivalent mentioned in section 94(1) of the 1993 Act (right to cash equivalent)(**d**);

"overseas arrangement" has the meaning given in regulation 1(2) of the 1996 Regulations (interpretation)(**e**);

"section 9(2B) rights" has the meaning given in regulation 1(2) of the 1996 Regulations 1996(**f**).

(**a**) 1993 c. 48; sections 95(2A) and 95(5A) were inserted by the Pension Schemes Act 2015 (c. 8), section 68(3) and (4).
(**b**) Section 185(5A) was inserted by the Pension Schemes Act 2015, section 70(2).
(**c**) S.I. 1996/1462.
(**d**) Section 94(1) was substituted by the Pension Schemes Act 2015, Schedule 4, paragraph 8.
(**e**) The definition of "overseas arrangement" was amended by S.I. 2011/1245.
(**f**) The definition of "section 9(2B) rights" was substituted by S.I. 1997/786, and amended by S.I. 1999/3198 and S.I. 2011/1246.

Requirements to be met by receiving arrangements

2.—(1) The prescribed circumstances referred to in section 95(5A) of the 1993 Act (prescribed circumstances regarding the construction of section 95(2A)) are that a member of an unfunded public service defined benefits scheme who has acquired a right to a cash equivalent has required the managers of the scheme to use the cash equivalent for subscribing to an overseas arrangement(**a**).

(2) The prescribed requirements referred to in section 95(2A)(d) of the 1993 Act (cash equivalent to be used for subscribing to pension arrangements not mentioned in section 95(2A)(a) to (c)) are that the pension arrangement to which it is proposed to subscribe—

(a) is an overseas arrangement;

(b) if the cash equivalent is or includes the cash equivalent of accrued section 9(2B) rights, is one to which a transfer payment in respect of such rights may be made in accordance with regulation 11 of the 1996 Regulations (transfer payments to overseas schemes or arrangements in respect of section 9(2B) rights)(**b**);

(c) if the scheme from which rights are transferred is registered under section 153 of the Finance Act 2004 (registration of pension schemes)(**c**), is a qualifying recognised overseas pension scheme as defined in section 169(2) of the Finance Act 2004 (recognised transfers)(**d**); and

(d) may only provide benefits by virtue of the subscription that are not flexible benefits(**e**).

Alun Cairns
Mel Stride

14th August 2015 — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prevent transfers under section 95 of the Pension Schemes Act 1993 ('the 1993 Act') from an unfunded public service defined benefits scheme to a qualifying recognised overseas pension scheme which can provide flexible benefits as a result of the transfer.

Section 68 of the Pension Schemes Act 2015 ('the 2015 Act') restricted, by means of amendments to section 95 of the 1993 Act, transfers out of unfunded public service defined benefits schemes. The restriction does not apply if the scheme to which the transfer is to be made satisfies requirements prescribed in regulations. Section 68(9) of the 2015 Act provides that regulations made under section 95(2)(d) and 95(5)(a) of the 1993 Act apply for the purposes of section 95(2A)(d) and 95(5A) of the 1993 Act respectively, until the coming into force of the first regulations made under the latter provisions. With the coming into force of these Regulations, the first made under section 95(2A)(d) and 95(5A) of the 1993 Act, regulation 12(4) and 12(5) of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (S.I. 1996/1847) will no longer apply for the purposes of those provisions.

An impact assessment has not been produced for this instrument as no impact on the costs of business or the voluntary sector is foreseen.

(**a**) In these Regulations "unfunded public service defined benefits scheme" has the meaning given in section 95(2C) of the 1993 Act (ways of taking right to cash equivalent).
(**b**) Regulation 11 was amended by S.I. 2005/555.
(**c**) 2004 c. 12; section 153 was amended by the Finance Act 2005 (c. 7) Schedule 10, paragraphs 2 and 3, and the Finance Act 2014 (c. 26), Schedule 7, paragraph 2.
(**d**) Section 169(2) was amended by the Finance Act 2013 (c. 29), section 53(3).
(**e**) In these Regulations "flexible benefit" has the meaning given in section 100D of the 1993 Act (interpretation of Chapter).

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