STATUTORY INSTRUMENTS

# 2018 No. 234

# PENSIONS

## The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018

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| *Made - - - -* | *22nd February 2018* |
| *Laid before Parliament* | *26th February 2018* |
| *Coming into force - -* | *6th April 2018* |

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 12C, 20(1)(a) and (3), 37A, 181 and 182(2) and (3) of the Pension Schemes Act 1993(**1**), makes the following Regulations.

The Secretary of State has consulted such persons as she considers appropriate, in accordance with section 185(1)(**2**) of the Pension Schemes Act 1993.

### Citation and commencement

**1.** These Regulations may be cited as the Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018, and come into force on 6th April 2018.

### Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

**2.**—(1) The Contracting-out (Transfer and Transfer Payment) Regulations 1996(**3**) are amended as follows.

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

(a) in the definition of "connected employer transfer" and "connected employer transfer payment"—

(i) for the words "from a scheme that was a salary-related contracted-out scheme to a scheme that was a salary-related contracted-out scheme" in both places in which they occur, substitute "from one salary-related scheme to another"; and

(**1**) 1993 c. 48. Section 12C was inserted by section 136(5) of the Pensions Act 1995 (c.26) and is repealed by the Pensions Act 2014 (c.19) subject to savings specified in S.I. 2015/1502, article 2. Section 20(1) was amended, and section 37A inserted, by Schedule 13 to the Pensions Act 2014 and Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c.19). Section 181 is cited for the meaning it gives to "prescribed" and "regulations".

(**2**) Section 185(1) was amended by sections 122, 151 and 177 of, and Schedules 3 and 5 and Part 1 of Schedule 7 to, the Pensions Act 1995.

(**3**) S.I. 1996/1462, amended by S.I. 2011/1245, 2013/459, 2016/200 and 2017/600; there are other amending instruments but none is relevant.

(ii) in paragraph (b)(ii), for "each of the employers is one" substitute "the employers are members";

(b) in the appropriate place, insert—

""salary-related scheme" means a scheme which—

(a) is not a scheme under which all the benefits that may be provided are money purchase benefits, and

(b) does not fall within a class prescribed in regulations made by the Secretary of State under section 100D of the 1993 Act;".

(3) In regulation 7 (general)—

(a) in paragraph (1)—

(i) omit "a scheme that was" in both places where it occurs, and

(ii) omit "contracted-out" in both places where it occurs;

(b) in paragraph (2A)—

(i) for "an occupational pension scheme that was a salary-related contracted-out scheme" substitute "a salary-related scheme", and

(ii) for "that occupational pension scheme" substitute "that scheme".

(4) For regulation 9 (connected employer transfer payments) substitute—

"**Connected employer transfer payments**

**9.** A connected employer transfer payment may be made subject to the condition set out in regulation 12(3) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(**4**) (requirement for an actuarial certificate), irrespective of whether that condition would otherwise apply to the member concerned, and either—

(a) for a transfer to a scheme that was a salary-related contracted-out scheme, the condition set out in regulation 8(c); or

(b) for a transfer to a scheme that has never been a contracted-out scheme, the condition that the benefits (including benefits for the earner's widow, widower or surviving civil partner) to be credited in the receiving scheme in respect of that part of the transfer payment which relates to the earner's accrued section 9(2B) rights, or pensions in payment deriving from section 9(2B) rights, must be such as would have complied with section 12A(1) of the 1993 Act (the statutory standard) as it had effect immediately before 6th April 2016.".

(5) In regulation 11A(1) (transfers in respect of section 9(2B) rights), for "an occupational pension scheme that was a salary-related contracted-out scheme" substitute "a salary-related scheme".

(6) In regulation 12 (modification of Part III of the 1993 Act)—

(a) omit "a scheme that was" and "contracted-out";

(b) in paragraph (b)—

(i) after "(meaning of "guaranteed minimum pension")" insert "24A(1)(a) (conversion of guaranteed minimum pension into other benefits: introduction)";

(ii) for "paragraphs 1, 4 and 5" substitute "paragraphs 1, 1A, 4 and 5";

(c) in paragraph (c)—

(i) for "sections 8(2) and 159" substitute "sections 8(2), 24A(1)(a) and 159";

(**4**) S.I. 1991/167; regulation 12(3) was substituted by S.I. 1993/1822 and 2011/672.