

**2003 No.**

**PENSIONS**

**The Occupational Pension Schemes (Transfer Values)  
(Amendment) Regulations 2003**

*Made* - - - -

*Laid before Parliament*

*Coming into force* - -

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 97(1) and (2)(b), 124(1) and 174(1) and (3) of the Pensions Act 1995 (a), and by sections 30(1) and 83(1), (4)(a) and (6) of the Welfare Reform and Pensions Act 1999(b), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2003 and shall come into force on [ ] 2003.

(2) In these Regulations-

“the principal Regulations” means The Occupational Pension Schemes (Transfer Values) Regulations 1996(c).

**Amendment of regulation 8 of the principal Regulations**

2.—(1) Regulation 8 of the principal Regulations shall be amended as provided by paragraph (2) of this regulation.

(2) For paragraph (4) there shall be substituted the following paragraphs:

“(4) Subject to paragraph (4A) below, where a scheme to which section 56 of the 1995 Act applies had, at the date of the actuary’s last report to the trustees or managers of the scheme before the guarantee date under Actuarial Guidance Note GN 11 (Retirement

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(a) 1995 c.26.

(b) 1999 c.30.

(c) S.I.1996/1847 as amended by S.I.1997/786.

Benefit Schemes - Transfer Values), assets which were not sufficient to pay the full amount of the cash equivalent in respect of all scheme members, the trustees or managers may reduce the amount of the cash equivalent by an amount which is no more than the percentage by which the assets are shown in the actuary's report as being insufficient to pay the full amount of the cash equivalent in respect of all scheme members provided, in any case, that the amount of any cash equivalent under the scheme after the reduction is not less than the minimum amount that is required under regulation 7 above to satisfy the liabilities referred to in paragraphs (a), (c)(i) or (d) of section 73(3) of the 1995 Act (preferential liabilities on winding up).

(4A) In the case of a scheme to which section 56 of the 1995 Act applies which had, at the date of the last actuarial valuation under section 57 of the 1995 Act before the guarantee date, assets which were not sufficient to pay the minimum amount of the cash equivalent in respect of the liabilities referred to in paragraphs (a), (c)(i) or (d) of section 73(3) of the 1995 Act (preferential liabilities on winding up), as referred to in paragraph (3)(b)(iv) of regulation 7 above, the trustees or managers of the scheme may reduce the minimum amount of the cash equivalent by a percentage which is no greater than the percentage which is the difference between-

- (a) 100 per cent; and
- (b) the percentage of the liabilities mentioned in the relevant paragraph of section 73(3) of the 1995 Act which the actuarial valuation shows the scheme assets as being sufficient to satisfy.” (a).

### **Consequential amendments to pension sharing regulations**

**3.—**(1) Regulation 4 of the Pensions on Divorce etc. (Provision of Information) Regulations 2000**(b)** (provision of information in response to a notification that a pension sharing order or provision may be made) shall be amended as provided by paragraph (2) of this regulation.

(2) For the words “regulation 8(4), (6) or (12)” in paragraph (2)(c), there shall be substituted the words "regulation 8(4A), (6) or (12)".

**4.—**(1) Regulation 5 of the Pension Sharing (Valuation) Regulations 2000**(c)** shall be amended as provided by the following paragraphs of this regulation.

(2) For paragraph (3) there shall be substituted the following paragraph:

“(3) Subject to paragraph (3A) below, where a scheme to which section 56 of the 1995 Act applies had, at the date of the actuary's last report before the valuation day under Actuarial Guidance Note GN 11 (Retirement Benefit Schemes - Transfer Values), assets which were not sufficient to pay the full amount of the cash equivalent in respect of all scheme members, the trustees or managers may reduce the amount of the cash equivalent by an amount which is no greater than the percentage by which the assets are shown in the actuary's report as being insufficient to pay the full amount of the cash equivalent in respect of all scheme members provided, in any case, that the amount of any cash equivalent under the scheme after the reduction is not less than the minimum amount that is required under regulation 7 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (manner of calculation and verification of cash equivalents) to satisfy the liabilities referred to in paragraphs (a)(c)(i) or (d) of section 73(3) of the 1995 Act (preferential liabilities on winding up).”.

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**(a)** Copies of the publication “Retirement Benefit Schemes - Transfer Values (GN 11)” may be obtained from the Faculty of Actuaries, Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP and the Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ or downloaded from the website [www.actuaries.org](http://www.actuaries.org).

**(b)** S.I. 2000/1048.

**(c)** S.I. 2000/1052 as amended by regulation 10(1) and (4) of S.I. 2000/2691.

(3) After paragraph (3), there shall be inserted the following paragraph:

“(3A) In the case of a scheme to which section 56 of the 1995 Act applies which had, at the date of the last actuarial valuation under section 57 of the 1995 Act before the valuation day, assets which were not sufficient to pay the minimum amount of the cash equivalent in respect of the liabilities referred to in paragraphs (a), (c)(i) or (d) of section 73(3) of the 1995 Act (preferential liabilities on winding up), as mentioned in paragraph (3)(b)(iv) of regulation 7 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (manner of calculation and verification of cash equivalents), the trustees or managers of the scheme may reduce the minimum amount of the cash equivalent by a percentage which is no greater than the percentage which is the difference between-

- (a) 100 per cent; and
- (b) the percentage of the liabilities mentioned in the relevant paragraph of section 73(3) of the 1995 Act which the actuarial valuation shows the scheme assets as being sufficient to satisfy.”.

**5.**—(1) Regulation 16 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(a) (adjustments to the amount of the pension credit - occupational pension schemes which are underfunded on the valuation day) shall be amended as provided by the following paragraphs of this regulation.

(2) For the words “by the percentage which is the difference between” in paragraph (2), there shall be substituted the words “by a percentage which is no greater than the percentage which is the difference between”.

(3) After paragraph (2) there shall be inserted the following paragraph:

“(2A) Where a scheme to which section 56 of the 1995 Act applies had, at the date of the actuary’s last report to the trustees or managers of the scheme before the valuation day under Actuarial Guidance Note GN 11 (Retirement Benefit Schemes - Transfer Values), assets which were not sufficient to pay the full amount of the cash equivalent in respect of all scheme members, the trustees or managers may reduce the amount of the pension credit which relates to the liabilities referred to in paragraphs (a), (aa), (b), (c)(i) or (d) of section 73(3) of the 1995 Act (preferential liabilities on winding up) by a percentage which is no greater than the percentage by which the assets are shown in the actuary’s report as being insufficient to pay the full amount of the cash equivalent to all scheme members provided, in any case, that the amount of any cash equivalent under the scheme after the reduction is not less than the minimum amount that is required under regulation 7 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (manner of calculation and verification of cash equivalents) to satisfy the liabilities referred to in paragraphs (a), (c)(i) or (d) of section 73(3) of the 1995 Act.”.

**6.**—(1) Regulation 27 of the Pension Sharing (Pension Credit Benefit) Regulations 2000(b) (increases and reductions of cash equivalents before a statement of entitlement has been sent to the eligible member) shall be amended as provided by the following paragraphs of this regulation.

(2) In paragraph (4)—

- (i) for the words “each respective part of the cash equivalent”, there shall be substituted the words “each respective part of the minimum amount of the cash equivalent”; and

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(a) S.I. 2000/1053.  
(b) S.I.2000/1054.

(ii) for the words “may be reduced by the percentage which is the difference between”, there shall be substituted the words “may be reduced by a percentage which is no greater than the percentage which is the difference between”.

(3) After paragraph (4) there shall be inserted the following paragraph:

“(4A) Where a scheme to which section 56 of the 1995 Act applies had, at the date of the actuary’s last report before the [date by reference to which the cash equivalent is determined under section 101F(4) of the 1993 Act (power to give transfer notice) under Actuarial Guidance Note GN 11 (Retirement Benefit Schemes - Transfer Values), assets which were not sufficient to pay the full amount of the cash equivalent in respect of all scheme members, the trustees or managers may reduce the amount of the cash equivalent which relates to the liabilities referred to in section 73(3) of the 1995 Act (preferential liabilities on winding up) by an amount which is no greater than the percentage by which the assets are shown in the actuary’s report as being insufficient to pay the full amount of the cash equivalent in respect of all scheme members provided, in any case, that the amount of any cash equivalent under the scheme after the reduction is not less than the minimum amount that is required under regulation 7 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (manner of calculation and verification of cash equivalents) to satisfy the liabilities referred to in paragraph (a), (c)(i) or (d) of section 73(3) of the 1995 Act.”.

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

2003

*Name*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

**EXPLANATORY NOTE**  
*(This note is not part of the Regulations)*

These Regulations make amendments to the Occupational Pension Schemes (Transfer Values) Regulations 1996 (“the principal Regulations”). They also make consequential amendments to certain regulations which make provision for pension sharing on divorce.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 amends regulation 8 of the principal regulations. Regulation 8(4) of the principal Regulations enables the trustees or managers of an occupational pension scheme to which the minimum funding requirement in section 56 of the Pensions Act 1995 (“the Act”) applies to make adjustments to the amount of a cash equivalent (other than a guaranteed cash equivalent) before the guarantee date in circumstances where the last minimum funding valuation under section 57 of the Act shows that the scheme does not have sufficient funds to pay the full amount of the cash equivalent in respect of all of its members.

Paragraphs (2) and (3) of regulation 2 substitute paragraph (4) of regulation 8 of the principal Regulations with two new paragraphs (4) and (4A). The new paragraph (4) applies to occupational pension schemes to which the requirement in section 56 of the Act applies. Where such a scheme is not sufficiently funded to meet the full amount of the cash equivalent in respect of all of its members, as determined by the actuary for the purposes of the last report to the trustees or managers of the scheme before the guarantee date under Actuarial Guidance Note GN 11 (Retirement Benefit Schemes - Transfer Values), the new provision enables the trustees or managers to reduce the amount of a cash equivalent by an amount which is no greater than the amount by which the actuary’s report shows the scheme assets as being insufficient to pay the full amount of the cash equivalent in respect of all scheme members provided that the amount of the cash equivalent after the reduction is not, in any case, less than the minimum amount which is required under regulation 7 of the principal Regulations to satisfy the liabilities referred to in paragraphs (a), (c)(i) or (d) of section 73(3) of the Act (preferential liabilities on winding up)..

The new paragraph (4A) of regulation 8 enables the trustees or managers of occupational pension schemes to which section 56 of the 1995 Act applies to reduce the minimum amount of the cash equivalent by a percentage which is no greater than the percentage by which the scheme was not, by reference to its last minimum funding valuation under section 57 of the 1995 Act, able to pay the minimum amount of the cash equivalent that is required under regulation 7 of the principal Regulations in respect of the preferential liabilities on winding up. This provision differs from the previous version in that it permits the trustees or managers to reduce the minimum amount of the cash equivalent by a percentage which is less than the percentage by which the last minimum funding valuation shows the scheme assets as being insufficient to satisfy the preferential liabilities on winding up under section 73(3) of the Act.

Regulation 3 amends regulation 4(2)(c) of the Pensions on Divorce etc. (Provision of Information) Regulations 2000 so as to refer to the new regulation 8(4) of the principal Regulations.

Regulation 4 amends regulation 5 of the Pension Sharing (Valuation) Regulations 2000 by substituting paragraph (3) of that regulation so as to make similar provision to that made by the substituted paragraph 8(4) of the principal Regulations and to insert a new paragraph (3A) into that regulation which makes similar provision to that made by the new regulation 8(4A) of the principal Regulations.

Regulation 5 amends regulation 16 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 by amending paragraph (2) of that regulation so as to make similar provision to that made in the new regulation 8(4A) of the principal Regulations and by inserting a new paragraph (2A) into that regulation which reflects the provision made by the new 8(4) of the principal Regulations.

Regulation 6 amends regulation 27 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 by amending paragraph (4) of that regulation so as to make similar provision to that made by the new regulation 8(4A) of the principal Regulations and by inserting a new paragraph (4A) into that regulation which reflects the provision made by the new regulation 8(4) of the principal Regulations.

The provisions of these Regulations will not impose any overall costs to business. A regulatory impact assessment is therefore not necessary.