



STATUTORY INSTRUMENTS.

S.I. No. 153 of 2014

EUROPEAN UNION (TRANSFER OF PENSION RIGHTS TO AND
FROM PENSION SCHEME OF EUROPEAN UNION'S INSTITUTIONS)
REGULATIONS 2014

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I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Article 11 of Annex VIII to Regulation (EEC, Euratom, ECSC) No. 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission¹, hereby make the following Regulations:

PART 1

PRELIMINARY

Citation.

1. These Regulations may be cited as the European Union (Transfer of Pension Rights to and from Pension Scheme of European Union's Institutions) Regulations 2014.

Commencement.

2. These Regulations come into operation on 25 March 2014.

Definitions.

3. (1) In these Regulations, unless the context otherwise requires—

“contribution year” has the meaning given to it by section 2(1) of the Principal Act;

“employed contributor” has the meaning given to it by section 12(1) of the Principal Act;

“employment contribution” has the meaning given to it by section 6(1)(a) of the Principal Act;

“European Pension Services” means the Pension Services of such institution, body or agency of the European Union, as appropriate, where a relevant person is or has been serving as an official of such an institution, body or agency;

“insured person” has the meaning given to it by section 2(1) of the Principal Act;

“Minister” means the Minister for Social Protection;

¹Official Journal of the European Communities L 56, 4.3.1968.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 1st April, 2014.*

“pension rights” means the pension rights referred to in Article 11 of Annex VIII to the Staff Regulations;

“Principal Act” means the Social Welfare Consolidation Act 2005;

“qualifying contribution” has the meaning given to it by section 2(1) of the Principal Act;

“Regulations of 1996” means the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996);

“relevant person” means a person—

- (a) who is or has been an official of an institution, body or agency of the European Union, and
- (b) to whom Article 11 of Annex VIII to the Staff Regulations applies;

“self-employed contributor” has the meaning given to it by section 20 of the Principal Act;

“self-employment contribution” has the meaning given to it by section 6 of the Principal Act;

“Social Insurance Fund” means the Fund to which section 9 of the Principal Act relates;

“Social Welfare Acts” means the Principal Act and every enactment which is to be read together with it as one;

“Staff Regulations” means Regulation (EEC, Euratom, ECSC) No. 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission;

“voluntary contribution” has the meaning given to it by section 25 of the Principal Act.

(2) In these Regulations, a reference to the Social Welfare Acts shall be read as including a reference to regulations made under or applying the provisions of those Acts.

Interpretation.

4. In these Regulations, unless the context otherwise requires—

- (a) a reference to a Part or an article is a reference to a Part or an article of these Regulations, and
- (b) a reference to a sub-article, paragraph or subparagraph is a reference to a sub-article, paragraph or subparagraph of the article in which the reference occurs.

PART 2

TRANSFER OF PENSION RIGHTS FROM SOCIAL INSURANCE FUND
TO PENSION SCHEME OF EUROPEAN UNION'S INSTITUTIONS*Provision of information by Minister to European Pension Services.*

5. (1) For the purposes of Article 11(2) of Annex VIII to the Staff Regulations, the Minister shall, whenever requested, provide the following information to the European Pension Services in relation to the pension rights of a relevant person acquired under the Social Welfare Acts—

- (a) the period during which that person has contributions to which this article applies,
 - (b) the capital value of the pension rights acquired by virtue of those contributions, calculated in accordance with article 6, and
 - (c) the capital value of the pension rights referred to in paragraph (b), adjusted in accordance with article 7.
- (2) This article applies to—
- (a) self-employment contributions,
 - (b) voluntary contributions, and
 - (c) employment contributions that are reckoned as qualifying contributions for the purposes of the contribution conditions for entitlement to any one or more of the pensions specified in sub-article (3),

where those contributions have been paid by or on behalf of an insured person before that person becomes a relevant person.

(3) The following pensions are specified for the purposes of sub-article (2)(c)—

- (a) State pension (contributory) under Chapter 15 of Part 2 of the Principal Act,
- (b) State pension (transition) under Chapter 16 of Part 2 of the Principal Act, and
- (c) widow's (contributory) pension, widower's (contributory) pension and surviving civil partner's (contributory) pension under Chapter 18 of Part 2 of the Principal Act.

Calculation of capital value of pension rights of relevant person.

6. (1) For the purposes of sub-article (1)(b) of article 5, the capital value of the pension rights of a relevant person acquired under the Social Welfare Acts by virtue of contributions to which article 5 applies, shall be calculated in accordance with this article.

- (2) In the case of employment contributions to which article 5 applies—
- (a) where the relevant person was employed in any one or more of the employments specified in article 81, 82, 83 or 84 of the Regulations of 1996—
 - (i) the pension rights of that relevant person acquired under the Social Welfare Acts shall, for the purposes of article 5(1)(b), be determined by reference to the total amount of those contributions, and
 - (ii) the aggregate value of all such contributions paid by or on behalf of that relevant person shall, for the purposes of article 5(1)(b), be taken to be the capital value of the pension rights acquired by virtue of those contributions,

and
 - (b) in any other case—
 - (i) the pension rights of a relevant person acquired under the Social Welfare Acts shall, for the purposes of article 5(1)(b), be determined by reference to 52% of the total amount of those contributions or such other percentage of the total amount of those contributions as the Minister may, from time to time, determine, having regard to the proportion of Social Insurance Fund expenditure incurred in respect of pensions, and
 - (ii) the aggregate value of that percentage of all such contributions paid by or on behalf of that relevant person shall, for the purposes of article 5(1)(b), be taken to be the capital value of the pension rights acquired by virtue of those contributions.
- (3) In the case of self-employment contributions to which article 5 applies—
- (a) the pension rights of a relevant person acquired under the Social Welfare Acts shall, for the purposes of article 5(1)(b), be determined by reference to 52% of the total amount of those contributions or such other percentage of the total amount of those contributions as the Minister may, from time to time, determine, having regard to the proportion of Social Insurance Fund expenditure incurred in respect of pensions, and
 - (b) the aggregate value of that percentage of all such contributions paid by that relevant person shall, for the purposes of article 5(1)(b), be taken to be the capital value of the pension rights acquired by virtue of those contributions.
- (4) In the case of voluntary contributions to which article 5 applies—

- (a) the pension rights of a relevant person acquired under the Social Welfare Acts shall, for the purposes of article 5(1)(b), be determined by reference to the total amount of those contributions, and
- (b) the aggregate value of all such contributions paid by that relevant person shall, for the purposes of article 5(1)(b), be taken to be the capital value of the pension rights acquired by virtue of those contributions.

Adjustment of capital value of pension rights calculated in accordance with article 6.

7. The capital value, calculated in accordance with article 6, of the pension rights acquired by a relevant person by virtue of the contributions to which article 5 applies (in this article referred to as the “capital value of contributions”) shall be adjusted in accordance with this article and for this purpose—

- (a) the capital value of contributions in respect of each contribution year during which that relevant person has paid such contributions shall be adjusted by reference to the change in the Consumer Price Index as recorded by the Central Statistics Office between the beginning of that contribution year and the date that the calculation required in accordance with article 5(1)(c) is made, and
- (b) the aggregate of the capital value of contributions so adjusted in respect of each contribution year shall represent the adjusted capital value of the pension rights of that relevant person for the purposes of these Regulations.

Transfer of adjusted capital value of pension rights of relevant person.

8. (1) Subject to this article, where—

- (a) the Minister has provided information in relation to the pension rights of a relevant person to the European Pension Services in accordance with article 5, and
- (b) a request is subsequently made by the European Pension Services for the transfer of the adjusted capital value of the pension rights of that relevant person,

the Minister shall, as soon as practical, transfer the adjusted capital value of the pension rights of that relevant person, calculated in accordance with article 7, from the Social Insurance Fund to the Pension Scheme of the European Union’s Institutions in the manner advised by the European Pension Services.

(2) A transfer in accordance with this article shall not be made in any case where—

- (a) the relevant person has qualified for any of the pensions specified in article 5(3), and

- (b) the adjusted capital value in respect of which the transfer is to be made relates to contributions that have been reckoned as qualifying contributions for the purposes of the contribution conditions for entitlement to any such pension.

Restriction on entitlement to pension following transfer in accordance with article 8.

9. Subject to article 16, where a transfer is made in accordance with article 8, the contributions paid by or on behalf of the relevant person that have been taken into account for the purposes of calculating the adjusted capital value of the pension rights in respect of which that transfer is made shall not be reckoned as qualifying contributions for the purposes of the contribution conditions for entitlement to any of the pensions specified in article 5(3).

Restriction on payment of voluntary contributions following transfer in accordance with article 8.

10. (1) Subject to article 16, where a transfer is made in accordance with article 8, the relevant person in respect of whom that transfer is made shall not be entitled to become a voluntary contributor on or after the date of such transfer.

(2) Where a transfer is made in accordance with article 8 and the relevant person in respect of whom that transfer is made is a voluntary contributor at the date of such transfer, that person shall cease to be a voluntary contributor from that date.

PART 3

TRANSFER OF PENSION RIGHTS FROM PENSION SCHEME OF EUROPEAN UNION'S INSTITUTIONS TO SOCIAL INSURANCE FUND

Circumstances in which transfer under Part 3 shall be made to Social Insurance Fund.

11. A transfer to the Social Insurance Fund of the actuarial equivalent of the pension rights of a relevant person that have accrued under the Pension Scheme of the European Union's Institutions shall only be made where the relevant person is an insured person, other than an insured person by virtue of section 12(1)(b) of the Principal Act only.

Provision of information by Minister to relevant person.

12. For the purposes of Article 11(1) of Annex VIII to the Staff Regulations, the Minister shall provide the following information to a relevant person in relation to a request for a transfer to the Social Insurance Fund of the actuarial equivalent of his or her pension rights that have accrued under the Pension Scheme of the European Union's Institutions—

- (a) the type and nature of contribution under the Social Welfare Acts, determined in accordance with sub-articles (1) and (2) of article 13, that shall be treated as having been paid in respect of that relevant person,

- (b) the period, determined in accordance with article 13(3), during which such contributions shall be treated as having been paid in respect of that relevant person,
- (c) the capital value, determined in accordance with article 13(4), of the contributions to be treated as having been paid in respect of that relevant person, and
- (d) the pensions, determined in accordance with article 13(5), in respect of which such contributions shall be reckoned as qualifying contributions for the purposes of satisfying the contribution conditions for entitlement to such pension,

if a transfer, referred to in article 15(1), was to be made.

Determination of type, nature, period, capital value etc. of contributions to be treated as having been paid in respect of relevant person.

13. (1) Subject to sub-article (2), for the purposes of article 12(a)—

- (a) the type of contribution to be treated as having been paid in respect of a relevant person shall be either—
 - (i) an employment contribution, or
 - (ii) a self-employment contribution,
 and
- (b) the type and nature of such contribution to be treated as having been paid in respect of a relevant person shall be determined—
 - (i) where that person was an employed contributor, other than an employed contributor to whom subparagraph (ii)(II) applies, or a self-employed contributor before becoming a relevant person, by reference to the type and nature of the last contribution paid by that person under the Social Welfare Acts in the last contribution year in respect of which employment or self-employment contributions, that are reckoned as qualifying contributions for the purposes of the contribution conditions for entitlement to any one or more of the pensions specified in article 5(3), have been paid by or in respect of that person before a request referred to in article 12 is made, or
 - (ii) where that person—
 - (I) was not an employed contributor or a self-employed contributor before becoming a relevant person, or
 - (II) was an employed contributor by virtue of section 12(1)(b) of the Principal Act only before becoming a relevant person,

by reference to the type and nature of the first contribution paid by that person under the Social Welfare Acts in the first contribution year in respect of which employment or self-employment contributions that are reckoned as qualifying contributions for the purposes of the contribution conditions for entitlement to any one or more of the pensions specified in article 5(3) are paid by or in respect of that person.

(2) Where a relevant person has paid both employment contributions and self-employment contributions under the Social Welfare Acts—

- (a) in the last contribution year as determined in accordance with sub-article (1)(b)(i), or
- (b) in the first contribution year as determined in accordance with sub-article (1)(b)(ii),

the type of contribution to be treated as having been paid in respect of that person for the purposes of article 12(a) shall be an employment contribution.

(3) The period during which contributions are to be treated as having been paid in respect of a relevant person for the purposes of article 12(b) shall be determined by having regard to—

- (a) the period during which the relevant person was an official of an institution, body or agency of the European Union, and
- (b) where that relevant person is a relevant person in respect of whom a transfer in accordance with article 8 has been made, the period referred to in article 5(1)(a).

(4) The capital value of the contributions to be treated as having been paid in respect of a relevant person for the purposes of article 12(c) shall be calculated by having regard to—

- (a) the period during which the relevant person was an official of an institution, body or agency of the European Union,
- (b) the remuneration paid to the relevant person during that period,
- (c) the type and nature of the contribution to be treated as having been paid for the purposes of article 12(a), and
- (d) where appropriate, the adjusted capital value of any transfer of the pension rights of the relevant person previously made in accordance with article 8,

and the same factors that are used under Part 2 of these Regulations for the purposes of—

- (i) calculating the capital value of the pension rights of a relevant person acquired under the Social Welfare Acts, and
- (ii) adjusting the capital value of such pension rights,

shall be used in calculating the capital value of the contributions to be treated as having been paid in respect of a relevant person for the purposes of article 12(c).

(5) For the purposes of article 12(d), the pensions in respect of which contributions referred to in article 12 shall be reckoned as qualifying contributions for the purposes of satisfying the contribution conditions for entitlement to such pension shall—

- (a) be determined by reference to the type and nature of the contribution that is determined in accordance with sub-articles (1) and (2) as having been paid in respect of a relevant person, and
- (b) be any one or more of the pensions specified in article 5(3).

Provision of information by Minister to European Pension Services.

14. Where—

- (a) the Minister has provided information to a relevant person in accordance with article 12, and
- (b) the transfer of the actuarial equivalent of the pension rights of that relevant person, which have accrued under the Pension Scheme of the European Union's Institutions, is subsequently authorised by the European Pension Services,

the Minister shall, as soon as practical, provide the European Pension Services with the relevant details to enable such a transfer to be made to the Social Insurance Fund for the benefit of that relevant person.

Transfer of pension rights from Pension Scheme of European Union's Institutions to Social Insurance Fund.

15. (1) Subject to sub-article (2) and article 11, where the Minister has provided the details in accordance with article 14 and a transfer of the actuarial equivalent of the pension rights of a relevant person, that have accrued under the Pension Scheme of the European Union's Institutions, has subsequently been made by the European Pension Services to the Social Insurance Fund for the benefit of that relevant person, contributions shall be treated as paid in respect of that person in the manner determined in accordance with article 13.

(2) A transfer of the actuarial equivalent of the pension rights of a relevant person which have accrued under the Pension Scheme of the European Union's Institutions shall only be accepted by the Minister where the capital value of those accrued rights is sufficient to meet the capital value of the contributions that have been determined in accordance with article 13 to be treated as having been paid in respect of that person.

Cancellation of restrictions provided for in articles 9 and 10(1) in certain circumstances.

16. Where—

- (a) a transfer, referred to in article 15(1), of the actuarial equivalent of the pension rights of a relevant person which have accrued under the Pension Scheme of the European Union’s Institutions has been made by the European Pension Services to the Social Insurance Fund for the benefit of that relevant person, and
- (b) a transfer of the adjusted capital value of the pension rights of that relevant person, calculated in accordance with article 7, has previously been made in accordance with article 8 in respect of that person,

the restrictions provided for in articles 9 and 10(1) shall no longer apply.

Date of entry into insurance in certain circumstances.

17. Notwithstanding section 2(1) and Chapters 15, 16 and 18 of Part 2 of the Principal Act, where—

- (a) contributions are treated as paid in respect of a relevant person in accordance with article 15(1), and
- (b) before becoming a relevant person, that person—
 - (i) has not been an employed contributor or a self-employed contributor, or
 - (ii) has been an employed contributor by virtue of section 12(1)(b) of the Principal Act only,

“entry into insurance” in relation to that person means the first day of the earliest contribution year in respect of which contributions are treated as paid in accordance with article 15(1) and that date shall be regarded as the date of entry into insurance for the purposes of sections 109(1), 115(1) and 125 of the Principal Act.



GIVEN under my Official Seal,
24 March 2014.

JOAN BURTON,
Minister for Social Protection.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

Article 11 of Annex VIII of the Staff Regulations of Officials of the European Communities provides for the rules relating to the transfer, in certain circumstances, of the existing pension rights of persons who—

- (a) become officials of any of the institutions, bodies or agencies of the European Union, or
- (b) leave employment in any of the institutions, bodies or agencies of the European Union.

These Regulations provide for the detailed arrangements for such transfers. Part 2 of the Regulations makes provision for the transfer to the Pension Scheme of the European Union's Institutions of pension rights which have accrued under the Irish PRSI system in relation to—

- State Pension (Contributory),
- State Pension (Transition),
- Widow's (Contributory) Pension,
- Widower's (Contributory) Pension, or
- Surviving Civil Partner's (Contributory) Pension,

where a person who has worked in this State and takes up employment in any of the institutions, bodies or agencies of the European Union so chooses. These arrangements include the provision of information relating to capital value of such pension rights and the adjustment of the value of these rights in line with Consumer Price Index increases.

Where such pension rights are transferred to the Pension Scheme of the European Union's Institutions, Part 2 of the Regulations also provides that the PRSI contributions in respect of which such a transfer has been made will no longer be reckoned for the purposes of calculating entitlement to any of the above pensions.

Part 3 of these Regulations provides for the detailed arrangements for transfers of pension rights which have accrued under the Pension Scheme of the European Union's Institutions to the Irish PRSI system where the person so chooses. These arrangements include the determination of—

- the type and nature of contributions to be awarded under the Irish PRSI system in respect of the accrued pension rights transferred from the Pension Scheme of the European Union's Institutions,

- the period during which such contributions will be awarded under the Irish PRSI system,
- the capital value to be transferred in relation to those contributions, and
- the types of pension for which those contributions will be reckoned.

Where a former EU official transfers his or her pension rights to the Irish PRSI system, having previously transferred PRSI pension rights to the Pension Scheme of the European Union's Institutions, the restriction relating to the reckoning of Irish PRSI contributions for pension purposes arising from the earlier transfer will be lifted.

Part 3 of the Regulations also provides for the determination of the date of entry into insurance for the purposes of entitlement to any of the pensions specified above, in the case of a former EU official who transfers his or her pension rights to the Irish PRSI system.

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