Transfer Payments

Pensions Manual - Chapter 13

This Manual should be read in conjunction with Part 30 Taxes Consolidation Act 1997

Document last updated August 2025

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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1 Introduction

This chapter of the Pensions Manual addresses the transfer of pension benefits from an occupational pension scheme when an employee leaves service with an employer. The Pensions Act 1990 gives employees a statutory right to transfer their pension benefits within two years of leaving service, provided the scheme rules allow such a transfer.

Section 772(3D)(a) Taxes Consolidation Act 1997 (TCA) provides that a transfer from an occupational pension scheme to a PRSA is only permitted if pension benefits have not yet become payable to the scheme member. The rules of the specific scheme will determine when pension benefits become payable. In most cases, benefits become payable at Normal Retirement Age (NRA). This means that a transfer of benefits is not permitted after the scheme member's NRA.

This chapter also covers transfers to and from overseas pension schemes to Irish pension schemes, and details about how benefits are calculated after transfer into a new scheme.

2 Transfer payments

2.1 Definition and Scope

A transfer payment involves moving benefits from one pension product to another. Under section 772 TCA a scheme member's benefits may be transferred from an exempt approved scheme (as defined in section 774 TCA) provided the benefits have not yet become payable to the member, to:

- another exempt approved scheme,
- an approved buy-out bond (BOB)[1], or
- a Personal Retirement Savings Account (PRSA) (section 772(3D) TCA).

Transfers from an exempt approved scheme which are not permitted include:

- transfers to a Pan-European Pension Product (PEPP),
- transfers after pension benefits become payable to the individual, or
- partial or split transfers, because transfer payments must encompass the entirety of the employee's benefits.

[1] Further details on Buy-out-bonds can be found in the Glossary to the Pensions Manual; a buy-out bond is a retirement benefit scheme for the purposes of section 771 TCA.

2.2 Conditions for transfer

The scheme receiving the transfer (the “receiving scheme”) may treat the transfer payment as representing the employee's contributions only to the extent certified by the administrator of the scheme making the payment. Any amounts representing employee Additional Voluntary Contributions (AVCs) must be clearly identified as such.

The administrator of the scheme making the transfer must be satisfied that the receiving scheme is an exempt approved scheme and must advise the receiving scheme of the benefits attaching to the payment. Details should be given of service, salary, lump sum benefit entitlement or if an employee has irrevocably given up the right to receive a lump sum from such a scheme.

3 Overseas schemes

3.1 Transfers to overseas arrangements

The Occupational Pension Schemes and Personal Retirement Savings Accounts (Overseas Transfer Payments) Regulations 2003[2] set out the conditions which must be satisfied in order for a transfer of deferred benefits to be made to an overseas arrangement, as well as those made from an overseas arrangement to an Irish pension scheme or product. The Regulations are under the remit of the Minister for Social Protection.

The conditions in the Regulations must be satisfied to ensure that a transfer to an overseas pension scheme is a “bona fide” transfer. When facilitating the transfer of an occupational pension scheme or PRSA to an overseas pension scheme, the trustees or PRSA provider must be satisfied that:

(a) the member or PRSA contributor has requested a transfer,

(b) the overseas arrangement provides relevant benefits as defined by section 770 Taxes Consolidation Act 1997 (TCA), and

(c) the overseas arrangement has been approved by the appropriate regulatory authority in the country concerned.

To comply with (b) and (c) above, the trustees or PRSA provider should also obtain written confirmation from the administrator of the overseas arrangement to which the transfer is to be made.

If the transfer is to another EU Member State, the overseas scheme must be operated or managed by an Institution for Occupational Retirement Provision (IORP), within the meaning of the EU Pensions Directive[3], and must be established in a Member State of the EU which has implemented the Directive in its national law. The scheme administrator must

[2] https://www.irishstatutebook.ie/eli/2003/si/716/made/en/print

[3] Directive (EU)2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs).

be resident in an EU Member State.

If the transfer is to a country outside the EU, a transfer may not be made to a country other than the one in which the member is currently employed.

Transfers that comply with the above may be made without prior Revenue approval. When making a transfer payment, the amount that could be taken in lump sum form should be notified to the receiving scheme. Please refer to Chapter 25: Limit on Tax Relieved Pension Funds, because a transfer could be a benefit crystallisation event, which could trigger a charge to chargeable excess tax in certain circumstances.

Only bona fide transfers are acceptable. The use of certain transfer arrangements relating to occupational schemes, to circumvent Revenue rules on the tax treatment of retirement benefits (for example, transfer payments to the UK and back again to Ireland) are not permissible.

Table 1: Overseas Transfer Eligibility

Condition	**Requirement**
Member Request	Transfer must be initiated by the member
Relevant Benefits	Overseas scheme must provide pension, lump sum, or similar benefits
Regulatory Approval	Scheme must be approved by the appropriate overseas authority
EU Transfers	Scheme must be managed by an IORP within EU Member States
Non-EU Transfers	Transfer only to the current country of employment

Transfers complying with the conditions set out in Table 1 do not require prior Revenue approval. However, administrators are required to submit the declaration to Revenue within seven days of the transfer.

3.2 Transfers from an overseas pension to an Irish scheme

The Pensions Act allows schemes established in one Member State to accept, subject to certain conditions, transfers from schemes established or based in another Member State.

Trustees of Irish schemes who accept transfers from overseas pension arrangements must comply with the social and labour laws relevant to schemes, and the information and investment requirements of the other or ‘host’ Member State in respect of the overseas member.

4 Transfers to and from United Kingdom schemes

Transfers from an Irish pension to a UK pension arrangement are treated similarly to transfers within the EU.

HMRC permits transfers from a UK pension scheme to a scheme outside the UK which it recognises as a qualifying recognised overseas pension scheme (QROPS). Further information can be found in the UK Government's guidance on "Overseas pensions: pension transfers" for specific procedures. (NB – Revenue is not responsible for the content of external website or guidance from other bodies.)

5 Buy-out bonds

A buy-out bond (BOB) is an insurance policy or bond purchased by the trustees of a pension scheme in the name of a beneficiary, which replaces the beneficiary's entitlement to claim benefits directly from the scheme. A BOB is treated as a “retirement benefits scheme” because it is a “contract” for the purpose of the definition of that term by section 771 TCA.

Transfers to and from a BOB are dealt with in the same manner as transfers between exempt approved schemes. Trustees can transfer the capital value of the pension to the BOB, securing the beneficiary's benefits until retirement.

6 New employer

When an employee joins a new employer and transfers their pension benefits from their previous employer, the new employer's scheme can provide maximum benefits appropriate to the employee's service with the new employer, and benefits purchased with the amount transferred from the employee’s previous scheme, subject to limits.

6.1 Maximum Pension Payment

The receiving scheme may offer benefits up to 2/3rds of the employee's final remuneration, ensuring that the combined benefits from employment and transfer payments do not exceed statutory limits in section 772(3) TCA.

Example:
An employee with a final remuneration of €60,000 transfers their pension benefits to a new scheme. The scheme provides benefits based on service years plus additional benefits purchased with the transfer, ensuring the total pension does not exceed the statutory limit of 2/3rds of final salary; in this case, 2/3 of €60,000 is €40,000.

7 Company re-organisations

Where there is a change of employer following a merger, liquidation, management buy-out, etc., the employment of "arms-length" employees (that is, employees who are not 20% directors – see paragraph 7.1 below) will normally be regarded as continuous for the purposes of calculating maximum permissible benefits.

7.1 Restrictions for 20% directors

If an employee is a 20% director of a company both before and after a re-organisation, etc., continuation of service for pension purposes will only be accepted where a claim has been admitted under section 400 TCA. This section provides that relief for unused losses and capital allowances may be passed to a successor company provided all the assets, liabilities and business of the first company are also taken over.

8 Additional benefits

Receiving a transfer payment does not impact the employee's eligibility for a lump sum benefit. All standard limits regarding lump sum benefits remain intact. This is provided for in section 772(3)(f) TCA.

9 Maximum pension payable by a new scheme

When transferring pension benefits to a new scheme, administrators must note benefits and ensure calculations are considered in terms of the benefits based on the employee's service with the new employer, and benefits purchased using the transfer payment.

The combined total must not exceed 2/3rds of the employee's final remuneration, in compliance with Section 772(3)(a) TCA.

10 Lump sum benefits

10.1 Pre-determined amount of pension

If the transfer payment is to provide a pre-determined, specific monetary amount of pension, the additional pension may be commuted to a lump sum using the formula 3N/80 x R where

N = number of years of service in earlier employment and

R = employee's final remuneration in the same employment.

Final remuneration should be calculated in accordance with the rules of the transferring schemes. If the rules do not contain such a definition, it should be taken as the average final remuneration of the last three years of service.

10.2 Added years

If the transfer payment is to provide benefits on the basis of added years of service, benefits in lump sum form are limited to the formula 3A/80 x F, where

A = number of added years certified by the actuary to the scheme and

F = the employee's final remuneration in the receiving scheme.

10.3 Total lump sum benefits

Whichever of the two options above is adopted, the total lump sum benefits given under the scheme, including those produced by the transfer payment, should not exceed 120/80ths of the employee's final remuneration**,** inclusive of retained benefits (section 772(3)(f) TCA) where the lump sum benefits from service with the new employer exceed 3/80ths of final remuneration for each year of service. Where the receiving scheme provides strict 3/80ths of final remuneration per year of service in commutation of pension, the lump sum benefits arising from the transfer payment may be no greater than if they had remained in the original scheme.