

2010 No. 121

PENSIONS

**The Transfer Values (Disapplication) Regulations
(Northern Ireland) 2010**

Made - - - - *19th March 2010*

Coming into operation - *5th July 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 89(1B)(aa), 97F(6A), 177(2) and (3) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(a) and now vested in it(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Transfer Values (Disapplication) Regulations (Northern Ireland) 2010 and shall come into operation on 5th July 2010.

(2) In these Regulations—

“incapacity” means physical or mental impairment which renders a member of the Scheme incapable of carrying on any occupation, where that member—

(a) provides evidence to the scheme administrator from a registered medical practitioner that that member is (and will continue to be) suffering from that physical or mental impairment, and

(b) certifies that that member has in fact ceased to carry on any occupation;

“normal minimum pension age” has the meaning given in section 279(1) of the Finance Act 2004(c);

“the Scheme” means the pension scheme established by the Secretary of State under section 67(1) of the Pensions Act 2008(d);

“scheme administrator” has the same meaning as in section 270 of the Finance Act 2004;

“the transfer value provisions” means Chapter IV of Part IV (protection for early leavers) and Chapter II of Part IVA(e) (requirements relating to pension credit benefit);

(a) 1993 c. 49; section 89(1B) was inserted by Article 148(3) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph (aa) was inserted by section 109(2) of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)); section 97F was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and subsection (6A) was inserted by section 109(3) of the Pensions (No. 2) Act (Northern Ireland) 2008; section 178(1) was amended by Parts III and IV of Schedule 5 to the Pensions (Northern Ireland) Order 1995

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 2004 c. 12

(d) 2008 c. 30

(e) Part IVA was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999

“the Trustee” means the trustee corporation(a) established under section 75 of the Pensions Act 2008.

(3) The Interpretation Act (Northern Ireland) 1954(b) shall apply to these Regulations as it applies to an Act of the Assembly.

(4) In these Regulations any reference to a numbered section or Part is a reference to the section or Part of the Pension Schemes (Northern Ireland) Act 1993 bearing that number.

Disapplication of the transfer value provisions

2.—(1) Subject to paragraphs (2) and (3), the transfer value provisions do not apply in relation to the Scheme.

(2) Paragraph (1) does not apply (and so the transfer value provisions apply in relation to the Scheme) when a member of the Scheme reaches normal minimum pension age and notifies the Trustee of that member’s intention to—

- (a) exercise a right to the entirety of a cash equivalent acquired under section 90(1)(c) in one of the ways listed in section 91(2)(d), or
- (b) require the Trustee to use an amount equal to the entirety of the cash equivalent of that member’s pension credit benefit pursuant to section 97F (power to give transfer notice) for one or more of the authorised purposes listed in section 97F(2)(e).

(3) Paragraph (1) does not apply (and so the transfer value provisions apply in relation to the Scheme) when the Trustee is satisfied that a member is suffering from incapacity.

Sealed with the Official Seal of the Department for Social Development on 19th March 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) The trustee corporation is named by Article 2 of S.I. 2010/3
(b) 1954 c. 33 (N.I.)
(c) Section 90(1) was amended by Article 150(1) and (2) of the Pensions (Northern Ireland) Order 1995
(d) Section 91(2) was amended by Article 133 of S.I. 2001/3649
(e) Section 97F(2) was amended by Article 134 of S.I. 2001/3649

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations disapply Chapter IV of Part IV, and Chapter II of Part IVA, of the Pension Schemes (Northern Ireland) Act 1993 (“the transfer value provisions”) which entitle members of occupational or personal pension schemes to acquire a right to a cash equivalent of any benefits which have accrued to or in respect of them. Those Chapters allow transfers out from pension funds.

Regulation 2(1) disapplies the transfer value provisions in respect of the pension scheme established by the Secretary of State under section 67(1) of the Pensions Act 2008 (“the Scheme”).

Regulation 2(2) provides that the transfer value provisions apply in relation to the Scheme when a member reaches normal minimum pension age and notifies the trustee corporation of their intention to take a right to a cash equivalent in certain ways.

Regulation 2(3) provides that the transfer value provisions also apply in relation to the Scheme when the trustee corporation is satisfied that a member is suffering from incapacity.

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