

2015 No. 164

PENSIONS

The Occupational and Personal Pension Schemes (Transfer Values) (Amendment and Revocation) Regulations (Northern Ireland) 2015

Made - - - - 16th March 2015

Coming into operation in accordance with regulation 1(1)

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 89(5)(a) and (10)(a) and (b), 89A(5), 91(2)(b) and (6A), 93(1), (2)(a) and (b), (3B) and (4), 95(4A) and (4B), 97F(6A), 109(1) and (3), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(a), Article 10(2)(b) of the Pensions (Northern Ireland) Order 1995(b), and now vested in it(c), and sections 83(1) and 86 of the Pension Schemes Act 2015(d).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Transfer Values) (Amendment and Revocation) Regulations (Northern Ireland) 2015 and shall come into operation—

- (a) for the purposes of this regulation and regulations 2 to 12 and 13(a), on 6th April 2015, and
- (b) for the purposes of regulation 13(b), on 1st April 2017.

(2) In these Regulations “the 1996 Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(e).

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

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- (a) 1993 c. 49. Sections 89 and 89A were substituted by paragraph 54 of Schedule 4 to the Pension Schemes Act 2015 (c. 8). Section 91(2)(b) was amended by paragraph 55(3) of Schedule 4 to that Act. Section 91(6A) was inserted by paragraph 55(4) of Schedule 4 to that Act. Section 93(2)(a) was amended by paragraph 57(3)(a) of Schedule 4 to that Act. Section 93(3B) was inserted by paragraph 57(5) of Schedule 4 to that Act. Section 95(4A) was inserted by paragraph 8(c) of Schedule 4 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 10(b) of Schedule 10 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)). Section 95(4B) was inserted by paragraph 59(5) of Schedule 4 to the Pension Schemes Act 2015. 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 substituted by paragraph 61(5) of Schedule 4 to the Pension Schemes Act 2015. Section 109(1) was amended by section 48(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)). Section 178(1)) was amended by Parts 3 and 4 of Schedule 5 to the Pensions (Northern Ireland) Order 1995
 - (b) S.I. 1995/3213 (N.I. 22)
 - (c) See Article 8(b) of S.R. 1999 No. 481
 - (d) 2015 c. 8
 - (e) S.R. 1996 No. 619; relevant amending Regulations are S.R. 2005 No. 114, S.R. 2008 Nos. 370 and 388, S.R. 2013 No. 72 and S.R. 2014 No. 204
 - (f) 1954 c. 33 (N.I.)

Amendment of Part 1 of the 1996 Regulations

2. In Part 1 of the 1996 Regulations (general) in regulation 1(2) (interpretation)—
- (a) in the definition of “cash balance benefit”(a) for “by regulation 2 of the Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014” substitute “in section 75 of the Pension Schemes Act 2015”;
 - (b) in the definition of “cash equivalent” for “or guaranteed cash equivalent mentioned in section 89A(1) or 90(1)” substitute “mentioned in section 90(1) or (2)(b)”;
 - (c) after the definition of “cash equivalent” insert—
““categories of benefits” refers to the categories listed in paragraphs (a) to (c) of section 89(6);”;
 - (d) in the definition of “the guarantee date” for “section 89A(2)” substitute “section 89A(4)”;
 - (e) omit the definition of “the relevant date”;
 - (f) in the definition of “statement of entitlement”(c) for “section 89A(1)” substitute “section 89A(3)”.

Amendment of Part 2 of the 1996 Regulations

3. In Part 2 of the 1996 Regulations (restrictions on right to cash equivalent) in regulation 2(1)(d) (pre-1986 leavers) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA(e)”.

Amendment of Part 3 of the 1996 Regulations

4.—(1) Part 3 of the 1996 Regulations (guaranteed statements of entitlement and calculation of transfer values) is amended in accordance with paragraphs (2) to (9).

(2) In the heading to that Part omit “GUARANTEED”.

(3) In the heading to regulation 6 (guaranteed statements of entitlement) for “Guaranteed statements” substitute “Statements”.

(4) In regulation 6—

- (a) in paragraph (1)(a)(f) omit “under section 89A (salary related schemes: right to statement of entitlement)”;
- (b) in paragraph (1B)(g) omit the definition of “application”;
- (c) after paragraph (1B) insert—
“(1C) Where a member has transferrable rights in relation to two categories of benefits other than money purchase benefits, the trustees or managers must provide the member with a statement of entitlement setting out a separate cash equivalent in relation to each of the categories of benefits, unless the member’s application relates to one of the categories of benefits only.”;
- (d) in paragraph (3) omit “under section 89A(1)”;
- (e) omit paragraph (4);
- (f) at the end add—

“(5) In this regulation “application” means an application for a statement of entitlement made under section 89A(1).”.

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- (a) The definition of “cash balance benefit” was inserted by regulation 31(2)(a) of S.R. 2014 No. 204
 - (b) Section 90 is substituted by paragraph 54 of Schedule 4 to the Pension Schemes Act 2015
 - (c) The definition of “statement of entitlement” was inserted by regulation 2(j) of S.R. 2008 No. 370
 - (d) Regulation 2 was amended by regulation 5 of S.R. 2013 No. 72
 - (e) See paragraph 50 of Schedule 4 to the Pension Schemes Act 2015
 - (f) Paragraph (1) was substituted by regulation 3 of S.R. 2008 No. 370
 - (g) Paragraph (1B) was inserted by regulation 4(2)(b) of S.R. 2005 No. 114

(5) In regulation 7C(3)(b)(ii)(a) (manner of calculation of initial cash equivalents for money purchase benefits and cash balance benefits not calculated by reference to final salary) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(6) In regulation 7D(3)(b) (reductions to initial cash equivalents) for “paragraphs 7 to 11” substitute “paragraphs 7, 10, 11”.

(7) In the heading to regulation 9 (increases and reductions of guaranteed cash equivalents) for “guaranteed cash equivalents” substitute “cash equivalents shown in the statement of entitlement”.

(8) In regulation 9—

(a) for paragraph (1) substitute—

“(1) This regulation applies to a cash equivalent in respect of transferrable rights in relation to categories of benefits other than money purchase benefits where a statement of entitlement has been sent to a member of a salary related scheme by the trustees of the scheme.”;

(b) in paragraphs (2), (3)(c), (5) and (6) for “guaranteed cash equivalent”, in each place where it appears, substitute “cash equivalent shown in the statement of entitlement”;

(c) in paragraph (5) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(9) In regulation 11 (disclosure)—

(a) for paragraph (1)(d) substitute—

“(1) Subject to paragraphs (1A) and (1B), a member to whom paragraph (1C) applies is entitled to receive from the trustees, on request, the information mentioned in Schedule 1 in writing.”;

(b) after paragraph (1B) insert—

“(1C) This paragraph applies—

(a) to a member who is currently accruing rights to one of the categories of benefits;

(b) to a member who is no longer accruing rights to money purchase benefits unless, in respect of those benefits, a crystallisation event under section 89(7) has occurred.”;

(c) in paragraph (4)(e)—

(i) for “to a guaranteed cash equivalent” substitute “provided under section 89A”;

(ii) in sub-paragraph (b)(ii) after “cash equivalent”, in the first place it appears, insert “in relation to each of the categories of benefits”;

(iii) after sub-paragraph (b)(ii) insert—

“(iia) indicating the amount of the cash equivalent which is attributable to each of the categories of benefits included in the statement of entitlement”;

(d) in paragraphs (4)(b)(ii), (iv), (v) and (vi) and (5) for “guaranteed cash equivalent”, in each place where it appears, substitute “cash equivalent shown in the statement of entitlement”.

Amendment of Part 5 of the 1996 Regulations

5. In Part 5 of the 1996 Regulations (time limits for payment of cash equivalents) in regulation 13(a)(vi) (extension of time limits for payment of cash equivalents) for “guaranteed cash equivalent” substitute “cash equivalent shown in the statement of entitlement”.

(a) Regulation 7C was inserted by regulation 4 of S.R. 2008 No. 370 and amended by regulation 3(3) of S.R. 2008 No. 388 and regulation 31(6) of S.R. 2014 No. 204

(b) Regulation 7D was inserted by regulation 4 of S.R. 2008 No. 370 and amended by regulation 31(7) of S.R. 2014 No. 204

(c) Paragraph (3) was amended by regulation 15(7) of S.R. 2005 No. 171

(d) Paragraphs (1), (1A) and (1B) were substituted for paragraph (1) by regulation 5(a) of S.R. 2008 No. 370

(e) Paragraph (4) was amended by regulation 4(a) of S.R. 2005 No. 20 and regulation 5(c) and (d) of S.R. 2008 No. 370

Amendment of Part 6 of the 1996 Regulations

6.—(1) Part 6 of the 1996 Regulations (modification of the Act) is amended in accordance with paragraphs (2) to (5).

(2) For regulation 14 (extension of time within which member may exercise option to take a guaranteed cash equivalent) substitute—

“Extension of time within which member may exercise option to take a cash equivalent shown in the statement of entitlement

14.—(1) This regulation applies where—

- (a) the member disputes the amount of the cash equivalent shown in the statement of entitlement within 3 months beginning with the guarantee date; or
- (b) the member’s cash equivalent shown in the statement of entitlement has been reduced or increased under regulation 9, including where the member disputes the basis or amount of the increase or reduction within 3 months beginning with the date that the member is informed in writing that the cash equivalent has been reduced or increased.

(2) Where this regulation applies—

- (a) if the member has made an application to take the cash equivalent under section 91(1)(a), that application lapses;
- (b) the time for making a fresh application to take the cash equivalent under section 91(1) is extended so that the time is 3 months beginning with the date on which the member is informed in writing of—
 - (i) the reduced or increased cash equivalent; or, if later,
 - (ii) where the cash equivalent shown in the statement of entitlement has been disputed, the finally determined cash equivalent following the dispute, even where the cash equivalent has not changed; and
- (c) the time specified in section 95(2)(a)(b) is extended so that the time is 6 months beginning with the date on which the member is informed in writing of—
 - (i) the reduced or increased cash equivalent; or, if later,
 - (ii) where the cash equivalent shown in the statement of entitlement has been disputed, the finally determined cash equivalent following the dispute, even where the cash equivalent has not changed.”.

(3) In regulation 15 (cases where normal pension age is earlier than 60)—

- (a) for “section 89(1)(a)(i)” substitute “section 89(4)(b)”;
- (b) for “Chapter IV” substitute “Chapter 1 of Part 4ZA”;
- (c) for “sections 91(8)(a) (ways of taking right to cash equivalent), 94(7)(a) (variation and loss of rights under section 90) and 95(2)(a) and (b) (trustees’ duties after exercise of option)” substitute “section 91(1A)(b)(c) (ways of taking right to cash equivalent)”.

(4) In regulation 16(2) (accrued rights, or liabilities in respect of accrued rights, transferred without consent) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(5) In regulation 17(2) (schemes with an overseas element) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”.

(a) Section 91(1) is substituted by paragraph 55(2) of Schedule 4 to the Pension Schemes Act 2015
(b) Section 95(2) is substituted by paragraph 59(2) of Schedule 4 to the Pension Schemes Act 2015
(c) Section 91(1A) is substituted by paragraph 55(2) of Schedule 4 to the Pension Schemes Act 2015

Amendment of Part 7 of the 1996 Regulations

7. In Part 7 of the 1996 Regulations (penalties) in regulation 20 (maximum penalty under Article 10) for “section 89A(4)” substitute “section 89A(6)”.

Amendment of Schedule 1 to the 1996 Regulations

8.—(1) Schedule 1 to the 1996 Regulations (information to be made available to members) is amended in accordance with paragraphs (2) to (4).

(2) In paragraph 1—

- (a) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”;
- (b) for “the member’s pensionable service were to terminate” substitute “the conditions specified in section 89(2) to (4) were met”;
- (c) in sub-paragraph (a)(a) for “the member’s pensionable service terminated or will terminate on a particular date” substitute “the conditions specified in section 89(2) to (4) are met or were to be met on a particular date”.

(3) In paragraph 2—

- (a) for “Chapter IV of Part IV” substitute “Chapter 1 of Part 4ZA”;
- (b) in sub-paragraph (d) after “estimated amount of the transfer value” insert “in relation to the member’s rights to benefits other than money purchase benefits”.

(4) In paragraph 3(c)(b) at the beginning insert “except where section 51 of the Pension Schemes Act 2015 applies,”.

Amendment of Schedule 1A to the 1996 Regulations

9.—(1) Schedule 1A(c) to the 1996 Regulations (reductions in initial cash equivalents) is amended in accordance with paragraphs (2) and (3).

(2) In paragraph 2—

- (a) at the end of sub-paragraph (a) omit “and”;
- (b) in sub-paragraph (b) for “and reports).” substitute “and reports); and”;
- (c) after sub-paragraph (b) add—
 - “(c) the guarantee date shown in the statement of entitlement is at least one year before the member attains normal pension age in relation to the rights to benefits covered by the statement of entitlement.”;

(3) For paragraph 8 substitute—

“8. Where—

- (a) the cash equivalent shown in a member’s statement of entitlement—
 - (i) relates to safeguarded benefits as defined in section 51(8) of the Pension Schemes Act 2015; and
 - (ii) is to be used for acquiring transfer credits in relation to safeguarded benefits under the rules of another scheme; and
- (b) the receiving scheme has undertaken to provide benefits at least equal in value to the benefits represented by that cash equivalent on payment of a lesser sum (including nil),

the initial cash equivalent may be reduced so that the cash equivalent is that lesser sum.”.

(a) Sub-paragraph (a) was substituted by regulation 7(a)(i) of S.R. 2008 No. 370

(b) Paragraph 3 was added by regulation 7(b) of S.R. 2008 No. 370

(c) Schedule 1A was inserted by regulation 8 of S.R. 2008 No. 370

Transitional provision

10. The effect of paragraph 3 of Schedule 1 to the 1996 Regulations (information to be made available to members) as it was in operation immediately before 6th April 2015 is preserved in respect of a member who has made an application under section 89A(1) of the Pension Schemes (Northern Ireland) Act 1993(a) (salary related schemes: right to a statement of entitlement) before 6th April 2015.

Amendment of the Personal Pension Schemes (Transfer Values) Regulations

11.—(1) The Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulations 1(2)(c) (interpretation) and 3(3)(b)(ii)(d) (manner of calculation and verification of cash equivalents) for “Chapter IV of Part IV”, in each place where it appears, substitute “Chapter 1 of Part 4ZA”.

(3) In regulation 4(2)(e) (increases and reductions of cash equivalents) for “section 90(1)(b)” substitute “section 90”.

Amendment of the Transfer Values (Disapplication) Regulations

12.—(1) The Transfer Values (Disapplication) Regulations (Northern Ireland) 2010(f) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) in the definition of “the transfer value provisions” for “Chapter IV of Part IV (protection for early leavers)” substitute “Chapter 1 of Part 4ZA (transfers and contribution refunds)”.

(3) In regulation 2(2) (disapplication of the transfer value provisions)—

(a) in sub-paragraph (a) for “section 90(1)” substitute “section 90(2)”;

(b) in sub-paragraph (b) for “pension credit benefit” substitute “pension credit rights”.

Revocations

13. The following provisions are revoked—

- (a) regulations 3, 4, 5, 18 and 19 and Part 8 of, and Schedules 2 and 3 to, the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(g);
- (b) the Transfer Values (Disapplication) Regulations (Northern Ireland) 2010.

Sealed with the Official Seal of the Department for Social Development on 16th March 2015

(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

(a) 1993 c. 49. Section 89A was inserted by Article 149 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(b) S.R. 1987 No. 290; relevant amending Regulations are S.R. 1994 No. 300 and S.R. 2008 No. 370

(c) Regulation 1(2) was amended by paragraph 15(2) of Schedule 2 to S.R. 1994 No. 300

(d) Regulation 3 was substituted by paragraph 1(3) of Schedule 2 to S.R. 2008 No. 370

(e) Regulation 4 was substituted by paragraph 1(4) of Schedule 2 to S.R. 2008 No. 370

(f) S.R. 2010 No. 121

(g) S.R. 1996 No. 619

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to subordinate legislation in consequence of the Taxation of Pensions Act 2014 (c. 30) and the Pension Schemes Act 2015 (“the 2015 Act”) and revoke the Transfer Values (Disapplication) Regulations (Northern Ireland) 2010 (“the 2010 Regulations”), which apply to members of the pension scheme established under section 67(1) of the Pensions Act 2008 (c. 30) (“the 2008 Act”). Part 4 of, and Schedule 4 to, the 2015 Act provide greater flexibility to pension scheme members when accessing and transferring pension rights.

Regulation 2 makes consequential amendments, following the introduction of the 2015 Act, to regulation 1(2) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (“the 1996 Regulations”).

Regulation 3(2) makes consequential amendments to regulation 2 of the 1996 Regulations which relates to pre-1986 leavers.

Regulation 4 makes consequential amendments to Part 3 of the 1996 Regulations, which contains provisions concerning statements of entitlement and the calculation of a member’s cash equivalent. Regulation 4(4)(d) amends regulation 6 of the 1996 Regulations to provide that where a member applies for a statement of entitlement in respect of more than one of the categories of benefits, the trustees must provide a separate cash equivalent for each category.

Regulation 5 makes consequential amendments to regulation 13 of the 1996 Regulations, which provides for the Pensions Regulator to grant extensions of time for the payment of the cash equivalent.

Regulation 6 makes consequential amendments to Part 6 of the 1996 Regulations. Regulation 6(2) substitutes regulation 14 of the 1996 Regulations and provides for when the time for a member to make an application to take the cash equivalent will be extended. The amendment also provides that time for the trustee to do what is required is extended in the same circumstances.

Regulation 7 makes consequential amendments to regulation 20 of the 1996 Regulations, which provides for the maximum penalty under Article 10 of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”).

Regulation 8 makes consequential amendments to Schedule 1 to the 1996 Regulations, which sets out information that must be made available to a member of a pension scheme in certain circumstances. Regulation 8(4) provides that where a trustee is not required by section 51 of the 2015 Act to check that the member has received independent financial advice, the trustees make a recommendation that the member should take financial advice.

Regulation 9 makes consequential amendments to Schedule 1A to the 1996 Regulations, which provides for circumstances where a cash equivalent may be reduced. Regulation 9(3) substitutes paragraph 8 of that Schedule so that it applies to the transfer of safeguarded benefits.

Regulation 10 is a transitional provision preserving the effect of paragraph 3 to Schedule 1 to the 1996 Regulations as it was in operation immediately before 6th April 2015 in respect of a member who has made an application for a statement of entitlement under section 89A(1) of the Pension Schemes (Northern Ireland) Act 1993 (“the 1993 Act”) before 6th April 2015.

Regulation 11 makes consequential amendments to the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987.

Regulation 12 makes consequential amendments to the 2010 Regulations.

Regulation 13(a) revokes provisions of the 1996 Regulations which are no longer needed following the changes introduced by the 2015 Act.

Regulation 13(b) revokes the 2010 Regulations so as to provide that from 1st April 2017 Chapter 1 of Part 4ZA (transfer rights: general) and Chapter 2 of Part 4A (requirements relating to pension credit benefit) of the 1993 Act do apply to the pension scheme established under section

67(1) of the 2008 Act. Those provisions entitle members of occupational or personal pension schemes to acquire a right to a cash equivalent of benefits which have accrued to or in respect of them.

As these Regulations, in so far as they are made under Part 2 of the 1995 Order, make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement for consultation does not apply by virtue of Article 117(2)(e) of the 1995 Order.

The revocation in regulation 13(b) is in consequence of the National Employment Savings Trust (Amendment) Order 2015 (S.I. 2015/178). An assessment of the impact of that Order on private sector and civil society organisations is available alongside that Order on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA.

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£6.00

N6570 03/2015 456570T 19585

ISBN 978-0-337-99725-9



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