

**EXPLANATORY MEMORANDUM TO**  
**THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES**  
**(TRANSFER VALUES) (AMENDMENT AND REVOCATION)**  
**REGULATIONS (NORTHERN IRELAND) 2015**

**S.R. 2015 No. 164**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under 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, Article 10(2)(b) of the Pensions (Northern Ireland) Order 1995 and sections 83(1) and 86 of the Pension Schemes Act 2015 and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 These Regulations amend existing sets of Regulations in consequence of the pension flexibilities introduced by the Taxation of Pensions Act 2014 and the Pension Schemes Act 2015 to ensure that the rules on pension transfers operate as intended and that appropriate safeguards are in place. They also make minor and technical amendments.

**3. Background**

- 3.1 The Taxation of Pensions Act 2014 gives savers greater flexibility in how they access their money purchase pension pots from 6th April 2015. That Act amends the Finance Act 2004 to enable individuals with certain types of benefits to have more flexibility of access to those benefits (known as the pension flexibilities).
- 3.2 The Pension Schemes Act 2015 (“the 2015 Act”) includes provision to support the pension flexibilities and creates a new term “flexible benefits” which covers the types of benefits to which the pension flexibilities apply and allows pension scheme members with such benefits a statutory right to transfer between schemes up to and beyond their scheme’s normal retirement age.

- 3.3 The “2015 Act” also gives pension scheme members a statutory right to transfer a category of benefit in circumstances where they are no longer accruing rights in that category and introduces a new requirement for scheme members with safeguarded benefits (benefits which are not money purchase or cash balance) to take appropriate independent advice before trustees can process a transfer request.
- 3.4 These Regulations–
- remove the existing requirement for a member to have ceased pensionable service before the transfer process takes place. This ensures that members can exercise their right to transfer a specific category of benefit, whilst continuing to accrue rights to a different category of benefits under the scheme;
  - ensure that where a member makes an application for a statement of entitlement that they receive a cash equivalent value for each category of benefit that they hold within their scheme, unless they request a cash equivalent value for a particular category of benefit;
  - in conjunction with provisions of the 2015 Act, ensure that where trustees are unable to action a transfer request because the member has failed to provide the trustees with proof that they have taken appropriate independent advice, trustees will not be penalised for not actioning the member’s request within the required timeframe;
  - provide additional detail on the transfer process that schemes must follow where a member wishes to exercise their statutory right to transfer out their accrued benefits. This includes the information that trustees must provide to scheme members and the process for calculating a member’s cash equivalent transfer value.
- 3.5 These Regulations ensure that the transfer process continues to operate smoothly after the pension flexibilities come into force on 6th April 2015. They will also ensure that the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 operate in unison with the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations (Northern Ireland) 2015.
- 3.6 These Regulations also revoke the Transfer Values (Disapplication) Regulations (Northern Ireland) 2010 (“the 2010 Regulations”) in consequence of the National Employment Savings Trust (Amendment) Order 2015. That Order removes the restrictions imposed on members of the NEST pension scheme in relation to transfers of their pension rights from 1st April 2017. Therefore, the 2010 Regulations, which set out the circumstances in which the restrictions imposed on NEST do not apply, are no longer required from that date.

#### **4. Consultation**

- 4.1 There is no requirement to consult on these Regulations. The Regulations 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.

## **5. Equality Impact**

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals for these Regulations. As the amendments are in consequence of provisions in the Pension Schemes Act 2015 which support the pension flexibilities introduced by the Taxation of Pensions Act 2014 and are technical in nature, they would have little implication for any of the section 75 categories. In light of this, the Department has concluded that they would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

## **6. Regulatory Impact**

6.1 The revocation of the 2010 Regulations is in consequence of the National Employment Savings Trust (Amendment) Order 2015 (S.I. 2015/178). An assessment of that Order on private sector and civil society organisations is available alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **7. Financial Implications**

7.1 None for the Department.

## **8. Section 24 of the Northern Ireland Act 1998**

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations –

- (a) are not incompatible with any of the Convention rights,
- (b) are not incompatible with Community law,
- (c) do not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

## **9. EU Implications**

9.1 Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1 The corresponding Great Britain Regulations are the Occupational and Personal Pension Schemes (Transfer Values) (Amendment and Revocation) Regulations 2015 (S.I. 2015/498) which come into force on 6th April 2015 and 1st April 2017. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions provided for in section 87 of the Northern Ireland Act 1998.