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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 165**

**The Pension Schemes Act 2015  
(Transitional Provisions and Appropriate Independent Advice)  
Regulations (Northern Ireland) 2015**

**Circumstances in which an employer is required to arrange or pay for advice**

**12.**—(1) Where an employer has sent a communication of a description set out in paragraph (2) to a member or survivor, that employer must, for the purposes of satisfying the requirement in section 51(1) of the Act (independent advice in respect of conversions and transfers)—

- (a) arrange for appropriate independent advice to be provided to the member or survivor, and pay for the provision of the advice so arranged, or
  - (b) pay for appropriate independent advice provided to the member or survivor, where the member or survivor has arranged for the advice to be provided (but see paragraph (3)).
- (2) The communication referred to in paragraph (1) is any communication in writing which—
- (a) is sent by, or on behalf of, the employer to 2 or more members or survivors, and
  - (b) sets out options available to the member or survivor in terms that encourage, persuade or induce the member or survivor to request that the trustees or managers carry out a relevant transaction.

(3) Where an employer chooses to arrange and pay for appropriate independent advice to be provided in accordance with paragraph (1)(a), that employer is not required to pay for any appropriate independent advice provided to the member or survivor where the member or survivor arranged for the advice to be provided.

(4) An employer who has sent a communication of a description set out in paragraph (2) can agree for one or more other employers to arrange or pay for appropriate independent advice for the members or survivors in question, on behalf of that employer.

(5) An employer must not seek in any way to recover, from a member or survivor, costs incurred in complying with this regulation.

- (6) “Employer” means any person who—
- (a) is, or was, for the purposes of the scheme rules an employer in relation to the scheme in question, and is currently, or has previously been, bound to comply with the scheme rules;
  - (b) employs, or has previously employed, any persons who are members of the scheme in question;
  - (c) has taken over a company, business or part of a business that employs, or has previously employed, any members of the scheme, or
  - (d) is a parent undertaking or a subsidiary undertaking (as defined in section 1162 of the Companies Act 2006 <sup>M1</sup>) of any person described in sub-paragraphs (a) to (c), excluding any subsidiary undertaking which is also a trustee of the scheme in question.

(7) Article 10 of the Pensions (Northern Ireland) Order 1995 <sup>M2</sup> (civil penalties) applies to any employer who fails to comply with the requirements in this regulation.

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**Changes to legislation:** *There are currently no known outstanding effects for the The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations (Northern Ireland) 2015, Section 12. (See end of Document for details)*

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**Marginal Citations**

**M1** [2006 c. 46](#)

**M2** [S.I. 1995/3213 \(N.I. 22\)](#); Article 10 was amended by paragraph 9 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(N.I. 11\)](#)) and Schedule 11 to the [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations (Northern Ireland) 2015, Section 12.