



# Bank of England and Financial Services Act 2016

## 2016 CHAPTER 14

### PART 2

#### FINANCIAL SERVICES

##### *Pensions*

### 35 Early exit pension charges

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) After section 137FBA (as inserted by section 33) insert—

#### **“FCA general rules: early exit pension charges**

- (1) The FCA must make general rules prohibiting authorised persons from—
  - (a) imposing specified early exit charges on members of relevant pension schemes, and
  - (b) including in relevant pension schemes provision for the imposition of specified early exit charges on members of such schemes.
- (2) The rules must be made with a view to securing, so far as is reasonably possible, an appropriate degree of protection for members of relevant pension schemes against early exit charges being a deterrent on taking, converting or transferring benefits under the schemes.
- (3) The rules may specify early exit charges by reference to charges of a specified class or description, or by reference to charges which exceed a specified amount.
- (4) The rules made by virtue of subsection (1)(a) must prohibit the imposition of the charges after those rules come into force, whether the relevant pension

scheme was established before or after those rules (or this section) came into force.

(5) In relation to a charge which is imposed, or provision for the imposition of a charge which is included in a pension scheme, in contravention of the rules, the rules may (amongst other things)—

- (a) provide for the obligation to pay the charge to be unenforceable or unenforceable to a specified extent;
- (b) provide for the recovery of amounts paid in respect of the charge;
- (c) provide for the payment of compensation for any losses incurred as a result of paying amounts in respect of the charge.

(6) Subject to subsection (8) an early exit charge, in relation to a member of a pension scheme, is a charge which—

- (a) is imposed under the scheme when a member who has reached normal minimum pension age takes the action mentioned in subsection (7), but
- (b) is only imposed, or only imposed to that extent, if the member takes that action before the member’s expected retirement date.

(7) The action is the member taking benefits under the scheme, converting benefits under the scheme into different benefits or transferring benefits under the scheme to another pension scheme.

(8) The Treasury may by regulations specify matters that are not to be treated as early exit charges for the purposes of this section.

(9) For the purposes of this section—

“charge”, in relation to a member of a pension scheme, includes a reduction in the value of the member’s benefits under the scheme;

“expected retirement date”, in relation to a member of a pension scheme, means the date determined by, or in accordance with, the scheme as the date on which the member’s benefits under the scheme are expected to be taken;

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

“relevant pension scheme” has the same meaning as in section 137FB;

and a reference to benefits includes all or any part of those benefits.”

(3) In section 138E(3) (contravention of rules which may make transaction void or unenforceable)—

- (a) omit the “or” at the end of paragraph (a);
- (b) at the end of paragraph (b) insert “or
- (c) rules made by the FCA under section 137FBB.”