
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879) (“the Principal Regulations”).

Regulations 7 and 10 insert reference to the provision of advice into regulations 9 and 11C of the Principal Regulations to clarify that charges may relate to the provision of advice as well as the provision of services.

Regulation 8 amends regulation 11A of the Principal Regulations to apply the prohibition on the imposition of commission charges on members of occupational pension schemes to workers, and former workers, of an employer who used that scheme for automatic enrolment purposes for at least one jobholder before 6th April 2016. Regulation 8(5) substitutes regulation 11A(6) to provide that the prohibition does not apply to a charge imposed under a contract entered into before 6th April 2016 (and not subsequently varied or renewed) to reimburse a service provider for any payment made to an adviser before 1st October 2017. Regulation 8(6) inserts regulation 11A(7) to provide that the prohibition overrides any conflicting term of a relevant contract.

Regulation 9 amends regulations 11B of the Principal Regulations to provide that the requirements of regulation 11A do not apply to a contract entered into before 6th April 2016 (and not subsequently renewed or varied) until the expiry of 6 months beginning with 1st October 2017. A longer period is allowed where the service provider requests more information from the trustees or managers about former members to enable it to comply (see regulation 9(6)). The amendments made by regulation 9 also set out the timescales within which service providers must send confirmation of compliance with the prohibition in regulation 11A in the case of such a contract.

Regulation 11 inserts new regulations 13A to 13E into the Principal Regulations.

New regulation 13A sets out a definition of early exit charges for the purposes of new Chapter 2 of Part 2 of the Principal Regulations.

New regulation 13B sets out that early exit charges may not be imposed on members of occupational pension schemes where the member joined the scheme on or after 1st October 2017.

New regulation 13C sets out that, where a member of an occupational pension scheme joined that scheme before 1st October 2017, early exit charges exceeding 1% of the member’s benefits may not be imposed. Existing early exit charges which are below 1% may not be increased and new early exit charges may not be imposed.

Regulation 13C(5) provides that the prohibition in section 33 of the Pension Schemes Act 2017, and (where lower than the cap in regulation 13C) the existing cap on charges in regulation 6 of the Principal Regulations, take precedence over the early exit charge cap. Regulation 13C(6) ensures that a charge meeting the conditions set out in paragraph (6) is not permitted by regulation 6 of the Principal Regulations. Regulation 13C(7) contains provision as to how the value of a member’s benefits is to be calculated.

Regulation 13D provides that the restrictions in regulations 13B and 13C override any conflicting contractual term.

Regulation 13E provides a service provider must confirm compliance with the restrictions in regulations 13B and 13C to the trustees or managers of a relevant scheme and inform them if it ceases to be compliant.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations 3 to 6 make amendments to the Principal Regulations consequential on the insertion of new regulations 13A to 13E.

Regulation 12 makes provision for review of the amendments to regulations 11A to 11C of the Principal Regulations by the Government.

An assessment of the impact of these regulations on the private sector and civil society organisations has been made. A copy of the impact assessment is available in the libraries of both Houses of Parliament and alongside this instrument on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1H 9NA.