



Pension Schemes Act 2015

2015 CHAPTER 8

PART 4

PENSIONS FLEXIBILITIES

CHAPTER 2

INDEPENDENT ADVICE

Northern Ireland

51 Independent advice in respect of conversions and transfers: Northern Ireland

- (1) Where a member of a pension scheme has subsisting rights in respect of any safeguarded benefits, or a survivor of a member has subsisting rights in respect of any safeguarded benefits, the trustees or managers must check that the member or survivor has received appropriate independent advice before—
 - (a) converting any of the benefits into different benefits that are flexible benefits under the scheme;
 - (b) making a transfer payment in respect of any of the benefits with a view to acquiring a right or entitlement to flexible benefits for the member or survivor under another pension scheme;
 - (c) paying a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the benefits.
- (2) The Department for Social Development in Northern Ireland may by regulations make provision about—
 - (a) what the trustees or managers must do to check that a member or survivor has received appropriate independent advice for the purposes of subsection (1), and
 - (b) when the check must be carried out for the purposes of that subsection.

Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, Section 51. (See end of Document for details)

- (3) The Department for Social Development in Northern Ireland may by regulations—
- (a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
 - (b) create other exceptions to subsection (1).
- (4) Regulations under subsection (3)(a) may, in particular, make provision about—
- (a) the valuation of the subsisting rights;
 - (b) the process for determining whether the exception applies.
- (5) In subsection (1)(b) the reference to another pension scheme includes a scheme established in a country or territory outside Northern Ireland.
- (6) Where the trustees or managers fail to carry out a check required by this section, Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil penalties) applies to any trustee or manager who failed to take reasonable steps to ensure that the check was carried out.
- (7) Failure to carry out a check required by this section does not affect the validity of any transaction.
- (8) In this section—
- “appropriate independent advice” means advice that—
- (a) is given by an authorised independent adviser, and
 - (b) meets any other requirements specified in regulations made by the Department for Social Development in Northern Ireland;
- “authorised independent adviser” means a person who—
- (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Department for Social Development in Northern Ireland, [^{F1}or is acting as an appointed representative (within the meaning given by section 39(2) of that Act) in relation to a regulated activity so specified,] and
 - (b) meets such other requirements as may be specified in regulations made by the Department for Social Development in Northern Ireland for the purpose of ensuring that the person is independent;
- “safeguarded benefits” means benefits other than—
- (a) money purchase benefits, and
 - (b) cash balance benefits.

Textual Amendments

- F1** Words in s. 51(8) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), ss. [34\(3\)](#), [41\(3\)](#); S.I. 2016/627, reg. 2(1)(y)

Modifications etc. (not altering text)

- C1** S. 51 excluded (6.4.2015) by [The Pension Schemes Act 2015 \(Transitional Provisions and Appropriate Independent Advice\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/165\)](#), regs. [1\(1\)](#), [2](#) (with reg. 2)

Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, Section 51. (See end of Document for details)

Commencement Information

- II** S. 51 wholly in force; s. 51 in force at Royal Assent for specified purposes; s. 51 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

Changes to legislation:

There are currently no known outstanding effects for the Pension Schemes Act 2015, Section 51.