



# Financial Guidance and Claims Act 2018

## 2018 CHAPTER 10

### PART 1

#### FINANCIAL GUIDANCE ETC

##### *Rules etc about financial guidance*

#### **18 Personal pension schemes: requirements to refer members to guidance etc**

- (1) Section 137FB of the Financial Services and Markets Act 2000 (FCA general rules: disclosure of information about the availability of pensions guidance) is amended as follows.
- (2) After subsection (1), insert—
  - “(1A) The FCA must also make general rules requiring the trustees or managers of a relevant pension scheme to take the steps mentioned in subsections (1B) and (1C) in relation to an application from a member or survivor—
    - (a) to transfer any rights accrued under the scheme, or
    - (b) to start receiving benefits provided by the scheme.
  - (1B) As part of the application process, the trustees or managers must ensure that—
    - (a) the member or survivor is referred to appropriate pensions guidance, and
    - (b) the member or survivor is provided with an explanation of the nature and purpose of such guidance.
  - (1C) Before proceeding with the application, the trustees or managers must ensure that the member or survivor has either received appropriate pensions guidance or has opted out of receiving such guidance.
  - (1D) The rules may—
    - (a) specify what constitutes appropriate pensions guidance;

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*Changes to legislation: There are currently no known outstanding effects for the Financial Guidance and Claims Act 2018, Section 18. (See end of Document for details)*

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- (b) make further provision about how the trustees or managers must comply with the duties in subsections (1B) and (1C) (such as provision about methods of communication and time limits);
  - (c) make further provision about how, and to whom, a member or survivor may indicate that they have received or opted out of receiving appropriate pensions guidance for the purposes of subsection (1C);
  - (d) specify what the duties of the trustees or managers are in the situation where a member or survivor does not respond to a communication that is made for the purposes of complying with the duty in subsection (1C);
  - (e) provide for exceptions to the duties in subsections (1B) and (1C) in specified cases.”
- (3) In subsection (2), for “this section” substitute “ subsection (1) ”.
- (4) After subsection (2) insert—
- “(2A) Before the FCA publishes a draft of any rules to be made by virtue of subsection (1A), it must consult—
- (a) the Secretary of State, and
  - (b) the [<sup>F1</sup>Money and Pensions Service].”
- (5) In subsection (3), for “the rules” substitute “ rules to be made by virtue of subsection (1) ”.
- (6) After subsection (3) insert—
- “(3A) In determining what provision to include in rules to be made by virtue of subsection (1A), the FCA must have regard to any regulations that are for the time being in force under section 113B of the Pension Schemes Act 1993 (occupational pension schemes: requirements to refer members to guidance etc).”
- (7) In subsection (4), for the definition of “pensions guidance” substitute—
- ““pensions guidance” means information or guidance provided by any person in pursuance of the requirements mentioned in section 4 of the Financial Guidance and Claims Act 2018 (information etc about flexible benefits under pension schemes);”.

#### Textual Amendments

- F1** Words in s. 18(4) substituted (6.4.2019) by [The Financial Guidance and Claims Act 2018 \(Naming and Consequential Amendments\) Regulations 2019 \(S.I. 2019/383\)](#), reg. 1(1), **Sch. para. 11**

#### Commencement Information

- I1** S. 18(1) in force at 1.1.2019 for specified purposes by [S.I. 2018/1330](#), **reg. 3(b)**
- I2** S. 18(1) in force at 5.7.2021 for specified purposes by [S.I. 2021/764](#), **reg. 2(a)**
- I3** S. 18(1)(2) in force at 1.6.2022 in so far as not already in force by [S.I. 2022/509](#), **reg. 2(a)**
- I4** S. 18(2) in force at 5.7.2021 for specified purposes by [S.I. 2021/764](#), **reg. 2(b)**
- I5** S. 18(3)-(6) in force at 5.7.2021 by [S.I. 2021/764](#), **reg. 2(c)**
- I6** S. 18(7) in force at 1.1.2019 by [S.I. 2018/1330](#), **reg. 2(f)**

**Changes to legislation:**

There are currently no known outstanding effects for the Financial Guidance and Claims Act 2018, Section 18.