
STATUTORY INSTRUMENTS

2016 No. 294

**The Pension Protection Fund and
Occupational and Personal Pension Schemes
(Miscellaneous Amendments) Regulations 2016**

PART 4

Disclosure of information amendments

Amendments to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013

7. The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(1) are amended as set out in regulations 8 to 10.

Amendment to regulation 2

8.—(1) In regulation 2(1) (interpretation), after the definition of “transferrable rights” insert—
““unfunded public service defined benefits scheme” has the meaning given in section 95(2C) of the 1993 Act (ways of taking right to cash equivalent)(2);”.

(2) In regulation 2(2), for sub-paragraph (a) substitute—

“(a) a member has an opportunity to transfer flexible benefits where—

(i) the member—

(aa) has transferrable rights in relation to flexible benefits; or

(bb) would have transferrable rights in relation to flexible benefits if the member stopped accruing rights to some or all of the flexible benefits (see sub-paragraph (b)),

and the making of a transfer or transfer payment in respect of the flexible benefits is not prohibited by section 135(4)(a) of the 2004 Act (restrictions on winding up, discharge of liabilities etc.)(3); or

(ii) the member has an opportunity to transfer accrued rights to flexible benefits out of the scheme under the scheme rules;”.

New regulation 19A

9. After regulation 19 (first information on accessing benefits), insert—

(1) S.I. 2013/2734 amended by S.I. 2014/1711 and S.I. 2015/482.

(2) 1993 c. 48. Section 95(2C) was inserted by section 68(1) and (3) of the Pension Schemes Act 2015 (“the 2015 Act”).

(3) See regulation 2(1) of S.I. 2013/2734 for the meaning of “the 2004 Act”. Section 135(4) was amended by section 58(3) of the 2015 Act.

“Retirement risk warnings

19A.—(1) Subject to paragraphs (5) and (7), the trustees or managers of the scheme must give a retirement risk warning to a member in accordance with this regulation where they are giving a member—

- (a) information in accordance with regulation 18A, 18B or 19 or the member has been given such information previously; and
- (b) an application form, online access, information about access or any other method of access that enables the member to require the trustees or managers of the scheme to take any of the actions in paragraph (2).

(2) The actions referred to in paragraph (1)(b) are—

- (a) the application of sums or assets held for the purpose of providing flexible benefits for purchasing an annuity;
- (b) the payment of a lump sum in respect of flexible benefits; or
- (c) the designation of sums or assets held for the purpose of providing flexible benefits as available for the payment of drawdown pension.

(3) A retirement risk warning under paragraph (1) must be given at the same time as the method of access in paragraph (1)(b) and before any of the actions set out in paragraph (2) are concluded.

(4) When giving a retirement risk warning to a member, the trustees or managers of the scheme must also give the member a statement that asks the member to note the importance of—

- (a) reading the retirement risk warning; and
- (b) accessing pensions guidance or independent advice.

(5) A retirement risk warning for any specific action in paragraph (2) need not be given to a member within 12 months of a retirement risk warning for that action having been given in accordance with this regulation to that member.

(6) For the purpose of—

- (a) this regulation, “retirement risk warning” means a statement that sets out the characteristic attributes and features of an annuity, lump sum and drawdown pension referred to in paragraph (2) and the factors in paragraph (b)(iv); and

(b) sub-paragraph (a)—

- (i) the statement must be generic in nature and not tailored to or based on the personal circumstances of any individual member;
- (ii) the statement may be limited to the characteristic attributes and features of an annuity, lump sum or drawdown pension referred to in paragraph (2) in respect of which the trustees or scheme managers are giving the member a method of access in paragraph (1)(b);
- (iii) characteristic attributes and features are those that have the potential to adversely affect the retirement income of any member or their widow, widower, surviving civil partner, nominee, successor or other dependant; and
- (iv) the factors are those that have the potential to affect the appropriateness of an annuity, lump sum and drawdown pension for a member such as: the impact of health status and lifestyle choices; whether a member has dependants, is in debt or in receipt of means tested benefits; and any other relevant factors.

(7) Subject to paragraph (8)—

- (a) a retirement risk warning under paragraph (1) need not be given where the trustees or managers of the scheme give the member an appropriate risk warning before any of the actions listed in paragraph (2) are concluded;
 - (b) an appropriate risk warning must be given either verbally or in writing; and
 - (c) for the purposes of sub-paragraphs (a) and (b), an appropriate risk warning is a statement—
 - (i) that sets out the risks associated with any of the actions listed in paragraph (2) that the member is proposing to require the trustees or managers of the scheme to take and that have the potential to adversely affect the retirement income of that member or their widow, widower, surviving civil partner, nominee, successor or other dependant; and
 - (ii) that is based on the characteristic attributes and features of an annuity, lump sum or drawdown pension referred to in paragraph (2) and answers to questions the trustees or managers of the scheme have asked the member in order to identify any factors or other variables that increase the risks referred to in paragraph (i).
- (8) Paragraph (7) only applies where the trustees or managers of the scheme have—
- (a) asked the member whether they have received pensions guidance or independent advice; and
 - (b) if the member has not received such guidance or advice, or is unsure, encouraged the member to use pensions guidance or to take independent advice to understand the options available to that member at retirement.”.

Amendments to Schedule 2

10.—(1) Schedule 2 (basic information)(4) is amended as follows.

(2) In paragraph 4B, at the beginning, insert “Subject to paragraph 4C”.

(3) After paragraph 4B, insert—

“**4C.** Paragraph 4B does not apply to a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, unless it is a scheme in relation to which section 95(2A)(a)(i) of the 1993 Act has been disapplied, pursuant to section 95(2B) of that Act (ways of taking right to cash equivalent)(5).”.

(4) In paragraph 22B, at the beginning, insert “Subject to paragraph 22C”.

(5) After paragraph 22B, insert—

“**22C.** Paragraph 22B does not apply to a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, unless it is a scheme in relation to which section 95(2A)(a)(i) of the 1993 Act has been disapplied, pursuant to section 95(2B) of that Act.”.

(4) Schedule 2 was amended by [S.I. 2015/482](#). There are other amendments to Schedule 2 that are not relevant to these Regulations.

(5) [1993 c. 48](#). Section 95(2A) and (2B) were inserted by section 68(1) and (3) of the 2015 Act.