
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 370

**The Occupational Pension Schemes (Transfer Values)
(Amendment) Regulations (Northern Ireland) 2008**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 1st October 2008.

(2) In these Regulations “the principal Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(1).

(3) The Interpretation Act (Northern Ireland) 1954(2) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (interpretation)—

(a) after the definition of “the Act” insert—

““actuary” means—

(a) the actuary mentioned in Article 47(1)(b) (professional advisers); or

(b) in relation to a scheme to which that Article does not apply—

(i) a Fellow of the Faculty of Actuaries(3);

(ii) a Fellow of the Institute of Actuaries(4); or

(iii) a person with other actuarial qualifications who is approved, at the request of the trustees of the scheme in question, by the Department as being a proper person to act for the purposes of these Regulations in connection with that scheme;”;

(b) omit the definition of “the Board for Actuarial Standards”(5);

(c) after the definition of “cash equivalent” insert—

““discount rates” means the interest rates used to discount future payments of benefit for the purposes of placing a current value on them;”;

(d) for the definition of “effective date”(6) substitute—

““effective date” means the date as at which the assets and liabilities are valued for the purposes of the insufficiency report;”;

(1) S.R. 1996 No. 619; relevant amending provisions are S.R. 1997 No. 160, S.R. 2003 No. 337, S.R. 2005 Nos. 20, 114, 171 and 568, S.I. 2006/744 and S.R. 2007 No. 64

(2) 1954 c. 33 (N.I.)

(3) The Faculty of Actuaries can be contacted at MacLaurin House, 18 Dublin Street, Edinburgh EH1 3PP

(4) The Institute of Actuaries can be contacted at Staple Inn Hall, High Holborn, London WC1V 7QJ

(5) The definition of “the Board for Actuarial Standards” was inserted by paragraph 5(a) of the Schedule to S.R. 2007 No. 64

(6) The definition of “effective date” was inserted by regulation 2(2) of S.R. 2003 No. 337

- (e) after the definition of “the guarantee date” insert—
- ““initial cash equivalent” means the amount calculated in accordance with regulation 7(1)(a);
- “insufficiency report” means the actuary’s last relevant report before the guarantee date prepared in accordance with Schedule 1B;
- “insufficiency report liabilities” has the meaning given in paragraph 7 of Schedule 1B;
- “insurance policy” means an insurance policy which is a contract on human life or a contract of annuity on human life, but excluding a contract which is linked to investment funds;”;
- (f) for the definition of “member” substitute—
- ““member” has the meaning given to that expression in Article 121(1)(7);”;
- (g) in the definition of “the Regulatory Authority” for “the Occupational Pensions Regulatory Authority” substitute “the Pensions Regulator(8)”;
- (h) after the definition of “the relevant date” insert—
- ““salary related benefits” means benefits which are not money purchase benefits;”;
- (i) omit the definition of “scheme actuary”;
- (j) after the definition of “section 5(2B) rights” insert—
- ““statement of entitlement” has the meaning given in section 89A(1);”.

Amendment of regulation 6 of the principal Regulations

3. For regulation 6(1)(9) of the principal Regulations (guaranteed statements of entitlement) substitute—

“(1) Subject to paragraph (1A), the guarantee date in relation to a statement of entitlement must be—

- (a) within the period of 3 months beginning on the date of the member’s application under section 89A (salary related schemes: right to statement of entitlement) for a statement of entitlement; or
- (b) where the trustees are unable to provide a statement of entitlement for reasons beyond their control within the period specified in sub-paragraph (a), within such longer period not exceeding 6 months beginning on the date of the member’s application as they may reasonably require.”.

Substitution of regulations 7 and 8 of the principal Regulations

4. For regulations 7(10) (manner of calculation and verification of cash equivalents) and 8(11) (further provisions as to calculation of cash equivalents and increases and reductions of cash equivalents (other than guaranteed cash equivalents)) of the principal Regulations substitute—

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- (7) The definition of “member” in Article 121(1) was amended by paragraph 50(2) of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (8) The Pensions Regulator is established by section 1 of the Pensions Act 2004 (c. 35); *see also* Article 6(1) of the Pensions (Northern Ireland) Order 2005 which transferred the functions of the Occupational Pensions Regulatory Authority to the Pensions Regulator
- (9) Regulation 6 was amended by regulation 4(2) of S.R. 2005 No. 114
- (10) Regulation 7 was amended by paragraph 11(4) of the Schedule to S.R. 1997 No. 160, regulation 15(2) of S.R. 2005 No. 171, paragraph 2(3) of Schedule 3 to S.R. 2005 No. 568 and paragraph 5(b) of the Schedule to S.R. 2007 No. 64
- (11) Regulation 8 was amended by regulation 2(3) of S.R. 2003 No. 337, regulation 15(3) to (6) of S.R. 2005 No. 171, paragraph 2(4) of Schedule 3 to S.R. 2005 No. 568 and paragraph 5(c) of the Schedule to S.R. 2007 No. 64

“Manner of calculation and verification of cash equivalents - general provisions

7.—(1) Subject to paragraph (5), cash equivalents are to be calculated and verified—

(a) by calculating the initial cash equivalent—

(i) for salary related benefits, in accordance with regulations 7A and 7B; or

(ii) for money purchase benefits, in accordance with regulation 7C,

and then making any reductions in accordance with regulation 7D; or

(b) in accordance with regulation 7E.

(2) The trustees must decide whether to calculate and verify the cash equivalent in accordance with paragraph (1)(a) or (b), but they can only choose paragraph (1)(b) if they have had regard to any requirement for consent to paying a cash equivalent which is higher than the amount calculated and verified in accordance with paragraph (1)(a).

(3) The trustees are responsible for the calculation and verification of cash equivalents and initial cash equivalents.

(4) Paragraph (5) applies where the cash equivalent is calculated and verified in accordance with paragraph (1)(a).

(5) Where a portion of the cash equivalent relates to a salary related benefit and a portion relates to a money purchase benefit, the initial cash equivalent is to be calculated—

(a) for the salary related benefit portion, in accordance with regulations 7A and 7B; and

(b) for the money purchase benefit portion, in accordance with regulation 7C.

Manner of calculation of initial cash equivalents for salary related benefits

7A.—(1) For salary related benefits, the initial cash equivalent is to be calculated—

(a) on an actuarial basis; and

(b) in accordance with paragraph (2) and regulation 7B.

(2) The initial cash equivalent is the amount at the guarantee date which is required to make provision within the scheme for a member’s accrued benefits, options and discretionary benefits.

(3) For the purposes of paragraph (2), the trustees must determine the extent—

(a) of any options the member has which would increase the value of his benefits under the scheme;

(b) of any adjustments they decide to make to reflect the proportion of members likely to exercise those options; and

(c) to which any discretionary benefits should be taken into account, having regard to any established custom for awarding them and any requirement for consent before they are awarded.

Initial cash equivalents for salary related benefits: assumptions

7B.—(1) The trustees must use the assumptions determined under this regulation in calculating the initial cash equivalent for salary related benefits.

(2) Having taken the advice of the actuary, the trustees must determine the economic, financial and demographic assumptions.

(3) In determining the demographic assumptions, the trustees must have regard to—

(a) the main characteristics of the members of the scheme; or

- (b) where the members of the scheme do not form a large enough group to allow demographic assumptions to be made, the characteristics of a wider population sharing similar characteristics to the members.
- (4) The trustees must have regard to the scheme's investment strategy when deciding what assumptions will be included in calculating the discount rates in respect of the member.
- (5) The trustees must determine the assumptions under this regulation with the aim that, taken as a whole, they should lead to the best estimate of the initial cash equivalent.

Manner of calculation of initial cash equivalents for money purchase benefits

- 7C.**—(1) For money purchase benefits, the initial cash equivalent is to be calculated in accordance with this regulation.
- (2) The initial cash equivalent is the realisable value of any benefits to which the member is entitled.
 - (3) The trustees must calculate that realisable value—
 - (a) in accordance with the scheme rules; and
 - (b) in a manner which is—
 - (i) approved by the trustees; and
 - (ii) consistent with Chapter IV of Part IV of the Act.
 - (4) The realisable value must include any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules.

Reductions to initial cash equivalents

- 7D.**—(1) An initial cash equivalent may or, as the case may be, must be reduced in accordance with Schedule 1A.
- (2) The trustees may request an insufficiency report from the actuary in accordance with Schedule 1B.
 - (3) The trustees may treat the actuary's last relevant GN11(12) report as an insufficiency report.

Alternative manner of calculating and verifying cash equivalents

- 7E.**—(1) This regulation applies where the trustees have decided to calculate and verify the cash equivalent in accordance with regulation 7(1)(b).
- (2) The cash equivalent is to be calculated and verified in such manner as may be approved by the trustees.
 - (3) The cash equivalent must be higher than it would be if it were calculated and verified in accordance with regulation 7(1)(a).
 - (4) For the purposes of calculating and verifying the cash equivalent, the trustees may request an insufficiency report from the actuary in accordance with Schedule 1B.
 - (5) The trustees may treat the actuary's last relevant GN11 report as an insufficiency report.”.

(12) “GN11: Retirement Benefit Schemes – Transfer Values” was adopted by the Board for Actuarial Standards on 6th April 2007. The Board for Actuarial Standards means the operating body of that name of the Financial Reporting Council and can be contacted at Planning & Resources, 5th floor, Aldwych House, 71-91 Aldwych, London WC2B 4HN

Amendment of regulation 11 of the principal Regulations

5. In regulation 11 of the principal Regulations (disclosure)—

(a) for paragraph (1) substitute—

“(1) Subject to paragraphs (1A) and (1B), an active member of any scheme, and a deferred member of a money purchase scheme, is entitled to receive from the trustees, on request, the information mentioned in Schedule 1 in writing.

(1A) Paragraph (1) does not apply where the request is made within 12 months of the last occasion on which such information was provided to the member.

(1B) Information provided under paragraph (1) is to be provided by the trustees as soon as reasonably practicable, and in any event within 3 months after the date on which the member makes the request.”;

(b) omit paragraphs (2) and (3);

(c) in paragraph (4)(b)—

(i) omit head (i);

(ii) in head (ii)—

(aa) for “member’s cash equivalent” substitute “member’s initial cash equivalent”;

(bb) for “regulation 8”, in both places where it occurs, substitute “Schedule 1A”;

(iii) in head (vi)(13)—

(aa) at the end of sub-head (aa) insert “and”;

(bb) at the end of sub-head (bb) omit “and”;

(cc) omit sub-head (cc);

(d) after paragraph (4)(b) add—

“(c) the information mentioned in paragraph 3 of Schedule 1.”.

Amendment of regulation 12 of the principal Regulations

6. In regulation 12 of the principal Regulations (requirements to be met by receiving schemes, annuities and arrangements)—

(a) in paragraph (2)(a)(14) for “a policy of insurance” substitute “an insurance policy”;

(b) in paragraph (5)(c)(15) for “or is” substitute “, is”.

Amendment of Schedule 1 to the principal Regulations

7. In Schedule 1 to the principal Regulations (information to be made available to members)—

(a) in paragraph 1—

(i) for sub-paragraph (a) substitute—

“(a) an estimate of its amount, calculated and verified in accordance with regulations 7 to 7E on the basis that the member’s pensionable service terminated or will terminate on a particular date;”;

(ii) at the end of sub-paragraph (c) insert “and”;

(iii) omit sub-paragraph (d);

(13) Head (vi) was added by regulation 4(a)(ii) of [S.R. 2005 No. 20](#)

(14) Paragraph (2)(a) was amended by paragraph 11(5) of the Schedule to [S.R. 1997 No. 160](#)

(15) Paragraph (5)(c) was amended by Article 30(2)(d)(iii) of [S.I. 2006/744](#)

(iv) in sub-paragraph (e)—

(aa) for “has been reduced by reference to regulation 8” substitute “included a reduction of the initial cash equivalent under Schedule 1A”;

(bb) for head (i) substitute—

“(i) a statement of that fact, a statement of the amount by which the initial cash equivalent has been reduced and an explanation of the reason for the reduction, which must refer to the paragraph of Schedule 1A relied upon;”;

(b) after paragraph 2 add—

“3. Where information is made available under paragraph 1 or 2 to a member of a salary related scheme, the information to be made available to such a member also includes—

- (a) a statement that the Financial Services Authority(16), the Regulatory Authority(17) and the Pensions Advisory Service(18) provide information about transfers which may assist the member in deciding whether to transfer;
- (b) if the scheme is an eligible scheme as defined in Article 110 of the 2005 Order(19), confirmation that the scheme is so eligible and that the Board of the Pension Protection Fund(20) exists;
- (c) a recommendation that the member should take financial advice before making decisions about transfers.”.

Insertion of Schedules 1A and 1B in the principal Regulations

8. After Schedule 1 to the principal Regulations insert the Schedules set out in Schedule 1 to these Regulations.

Consequential amendments

9. Schedule 2 to these Regulations shall have effect.

Revocations

10. The Regulations specified in column (1) of Schedule 3 to these Regulations are revoked to the extent specified in column (3).

(16) The Financial Services Authority can be contacted at 25 The North Colonnade, Canary Wharf, London E14 5HS or at www.fsa.gov.uk

(17) The Pensions Regulator can be contacted at Napier House, Trafalgar Place, Brighton BN1 4DW or at www.thepensionsregulator.gov.uk

(18) The Pensions Advisory Service can be contacted at 11 Belgrave Road, London SW1V 1RB or at www.pensionsadvisoryservice.org.uk

(19) The definition of “the 2005 Order” was inserted by paragraph 2(2) of Schedule 3 to [S.R. 2005 No. 568](#)

(20) The Board of the Pension Protection Fund is established by section 107 of the Pensions Act 2004

Sealed with the Official Seal of the Department for Social Development on 5th September 2008

(L.S.)

John O'Neill
A senior officer of the Department for Social
Development