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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 309**

**The Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015**

**PART 2 N.I.**

**RESTRICTIONS ON CHARGES**

**Restrictions on charges N.I.**

4.—(1) Subject to regulations 9 and 10, the trustees or managers of a relevant scheme must not impose or permit to be imposed on a member of that scheme to whom this Part applies charges which—

- (a) exceed the limits specified in this Part, or
  - (b) are of a description prohibited by this Part.
- (2) With the exception of regulation 11, this Part applies—
- (a) to a member of a relevant scheme to the extent of the value of that member's rights under a default arrangement, and
  - (b) beginning with the date on which the first contribution to the default arrangement referred to in sub-paragraph (a) is received by the trustees or managers on or after the date on which this regulation comes into operation.

**Prohibited charge structures N.I.**

5.—(1) The description of the charges which are prohibited under regulation 4(1)(b) are charges under a charge structure other than—

- (a) a single charge structure, or
  - (b) a combination charge structure.
- (2) In these Regulations, a “single charge structure” is one under which the charges imposed on the member are calculated solely by reference to the value of the member's rights under the scheme.
- (3) In these Regulations, a “combination charge structure” is one under which charges are calculated by reference to the value of the member's rights under the scheme (an “existing rights charge”) and either—
- (a) calculated as a percentage of the value of contributions (a “contribution percentage charge”), or
  - (b) calculated by reference to a period of time and not by reference to contributions or to the value of a member's rights under the scheme (a “flat fee charge”).
- (4) For the purposes of regulation 4(1)(b), neither the charge structure, nor the type of combination charge structure, that applies to a member may be changed during a charges year.

*Status: Point in time view as at 16/07/2015.**Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015, PART 2. (See end of Document for details)***Limits on charges** **N.I.**

6.—(1) The limits on charges for the purposes of regulation 4(1)(a) are the limits specified in this regulation and the trustees or managers must choose whether to assess them in accordance with regulation 7 or 8 (but see regulation 8(6)).

(2) The limit in relation to a single charge structure is 0.75% annually of the value of the member's rights under the default arrangement.

(3) The limit in the case of a combination charge structure whose charges fall within regulation 5(3)(a) is—

- (a) in relation to the contribution percentage charge, 2.5% of the contributions allocated under the default arrangement—
- (i) annually, or
  - (ii) where in relation to a charges year, regulation 4 does not apply to the member for the whole of the year, in the period for which that regulation applies, and
- (b) in relation to the existing rights charge, the percentage annually of the value of the member's rights under the default arrangement which is the figure in Column 2 of the following Table which corresponds to the contribution percentage charge rate in Column 1 of the Table which is imposed on the member.

**Table**

<i>Column 1</i> <i>Contribution percentage charge rate (%)</i>	<i>Column 2</i> <i>Existing rights charge rate (%)</i>
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4

(4) The limit in the case of a combination charge structure whose charges fall within regulation 5(3)(b) is—

- (a) in relation to the flat fee charge, £25 annually, and
- (b) in relation to the existing rights charge, the percentage annually of the value of the member's rights under the default arrangement which is the figure in Column 2 of the following Table which corresponds to the annual flat fee charge in Column 1 of the Table which is imposed on the member.

**Table**

<i>Column 1</i> <i>Flat fee charge (£)</i>	<i>Column 2</i> <i>Existing rights charge rate (%)</i>
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4

**Assessment of charges** **N.I.**

7.—(1) If the trustees or managers make the choice under regulation 6(1) to assess charges in accordance with this regulation, the following provisions apply.

(2) Trustees or managers must calculate the value of the member's rights under the default arrangement at reference points set at equal intervals during the charges year of no more than 3 months (but see paragraphs (3), (6) and (7)).

(3) Where trustees or managers change the intervals between reference points chosen for the purposes of paragraph (2) during the charges year, the start of the first new interval must commence on the day following the reference point at the end of the previous interval.

(4) The limit of permitted charges under—

- (a) a single charge structure, or
- (b) an existing rights charge in a combination charge structure,

is exceeded if the charges imposed on the member annually exceed the average of the reference point values multiplied by the applicable percentage.

(5) The applicable percentage is—

- (a) in the case of a single charge structure, 0.75%, and
- (b) in the case of an existing rights charge in a combination charge structure, the percentage in Column 2 of the Table—
  - (i) in regulation 6(3), where a contribution percentage charge is imposed, and
  - (ii) in regulation 6(4), where a flat fee is imposed.

(6) Where a member has rights in the default arrangement at only one reference point referred to in paragraph (2), paragraph (4) is to be read as if “average of the reference point values” read “value at the reference point”.

(7) Where a member has no rights in the default arrangement at a reference point referred to in paragraph (2), paragraph (4) is to be read as if “average of the reference point values” read “value of that member's rights in the default arrangement on the final day of the charges year or, where the member has no such rights on that day, on the final day on which the member has such rights.”.

(8) In this regulation, monthly, 2 monthly and 3 monthly intervals are to be treated as equal intervals.

#### Alternative assessment of charges **N.I.**

**8.**—(1) If the trustees or managers make the choice under regulation 6(1) to assess charges in accordance with this regulation, the limit of permitted charges under—

- (a) a single charge structure, or
- (b) an existing rights charge in a combination charge structure,

is not exceeded, if on the first day of the charges year, the charges regime to be applied to the member's rights meets the requirement in paragraph (2) and that charges regime is applied to the member's rights throughout that charges year.

(2) The requirement referred to in paragraph (1) is that the charges regime would not result in charges being imposed on the member exceeding the limit of permitted charges when calculated in accordance with regulation 7, if the assumptions in paragraph (3) are made for the purposes of those calculations.

(3) The assumptions to be made for the purposes of paragraph (2) are—

- (a) the value of the member's rights under the default arrangement will not increase or decrease during the charges year when compared to the value on the first day of the charges year, other than as a result of charges imposed on the member, and
- (b) the member may leave the scheme at any time during that charges year.

(4) In this regulation, “charges regime” means—

- (a) the charges to be imposed, and any rebates of charges to be applied, as a percentage of the value of the member's rights in the default arrangement;
- (b) when they are to be deducted from, or added to, the member's rights throughout the charges year;
- (c) how the value of the member's rights will be calculated for the purposes of imposing or rebating charges.

(5) Where the first contribution in relation to a member to the default arrangement is made after the first day of the charges year, paragraphs (1) and (3)(a) are to be read as if “on the first day of the charges year” read “on the date on which the first contribution is made in a charges year”.

(6) Where the trustees or managers make the choice under regulation 6(1) to assess charges in accordance with this regulation but, during the charges year the charges regime fails to meet the requirement in paragraph (2), the trustees or managers must assess charges for the whole charges year in accordance with regulation 7.

### **Member agreement for services** **N.I.**

9.—(1) Subject to paragraph (3), the restrictions in regulation 4 do not apply in relation to a service for which the member has entered into an agreement with a person for the provision of that service, provided the conditions in paragraph (2) are satisfied.

- (2) The conditions referred to in paragraph (1) are that the agreement must—
  - (a) be in writing;
  - (b) include a statement that entering into the agreement—
    - (i) is not a condition of becoming or remaining a member of a relevant scheme;
    - (ii) is not a condition of the member's contributions being allocated under a default arrangement, and
    - (iii) shall incur charges at a rate or of an amount specified in the agreement and that such charges may be higher than would otherwise be permitted under these Regulations;
  - (c) be entered into before the charges are imposed.
- (3) This regulation does not apply to a service which—
  - (a) the provider is under a statutory obligation to provide, or
  - (b) is a core service.
- (4) In this regulation, “core service” includes (but is not limited to)—
  - (a) designing and implementing an investment strategy;
  - (b) investment of contributions to the scheme;
  - (c) holding investments relating to scheme members;
  - (d) a transfer out of a default arrangement into a different arrangement, fund or scheme;
  - (e) a transfer into a default arrangement.

### **Charge limits adjustment** **N.I.**

10.—(1) The charge limits do not apply, on or after the adjustment date, to a member of a relevant scheme whose contributions are allocated to a default arrangement, in the circumstances set out in paragraph (2), if the conditions in paragraph (3) are met.

- (2) The circumstances for the purposes of paragraph (1) are that—
  - (a) the trustees or managers have used their best endeavours to comply with the charge limits in relation to one or more members of the default arrangement referred to in paragraph (1)

- but have determined that they are unlikely to be able to comply with those limits for one or both of the current and following charges years, or
- (b) an event happens which is outside the control of the trustees or managers, and the trustees or managers have used their best endeavours to mitigate the effect of the event on the scheme but they have determined that, because of that event, they are unlikely to be able to comply with the charge limits for the current or the following charges year in relation to one or more members of the default arrangement referred to in paragraph (1).
- (3) The conditions referred to in paragraph (1) are that—
- (a) the trustees or managers have elected to implement an adjustment measure in relation to the default arrangement beginning on the adjustment date;
  - (b) the trustees or managers have informed the persons listed in paragraph (4) at least one month before the adjustment date—
    - (i) that the trustees or managers have determined that they are unlikely to be able to comply with the charge limits, in relation to one or more members of the default arrangement, for one or both of the current and following charges years, as applicable;
    - (ii) of the adjustment measure that will be implemented on the adjustment date, and
    - (iii) that the charge limits will no longer apply to members of the default arrangement on or after the adjustment date, and
  - (c) the trustees or managers must, when informing the Regulator, do so in the manner and form determined by the Regulator.
- (4) The persons referred to in paragraph (3) are—
- (a) the employer whose workers are members of the default arrangement;
  - (b) members of the default arrangement whose contributions have been allocated to the default arrangement in the 12 month period ending with the date of the determination in paragraph (2)(a) or (b), as applicable, and
  - (c) the Regulator.
- (5) In this regulation, the “adjustment date” means the date chosen by the trustees or managers on which the adjustment measure is to begin, and—
- (a) if the circumstances in paragraph (2)(a) apply, must be a date falling within a period of 6 months beginning with the date on which this regulation comes into operation, or
  - (b) if the circumstances in paragraph (2)(b) apply, must be a date falling within a period of 6 months beginning with the date that the trustees or managers make the determination described in paragraph (2)(b).
- (6) In this regulation, the “adjustment measure” means a measure where—
- (a) the trustees or managers shall no longer allocate future contributions of members of the scheme to the default arrangement, and will allocate future contributions of members of the default arrangement to another default arrangement within the scheme, or
  - (b) the trustees or managers shall no longer accept future contributions of members of the default arrangement into the scheme, and will not allocate the contributions of any other members of the scheme into that default arrangement.
- (7) In implementing the adjustment measure, the trustees or managers may decide to give the members described in paragraph (4)(b) the option to agree to continue to have their future contributions received by the scheme and allocated to the default arrangement after the adjustment date.

(8) Where the trustees or managers have given to the members the option referred to in paragraph (7), the trustees or managers must inform the members described in paragraph (4) (b) of that option, and any such agreement by the member must be in writing and include an acknowledgement by the member that charges under the default arrangement may be higher than would otherwise be permitted under these Regulations.

(9) Where a member is given the option referred to in paragraph (7) but does not agree to the option offered, that decision is not to be treated as being an action or omission by a jobholder for the purposes of section 6(4)(b) of the Pensions (No. 2) Act (timing of automatic re-enrolment).

(10) In this regulation, “charge limits” means the provisions of regulations 4(1)(a) and 6.

### **Non-contributing members** **N.I.**

**11.**—(1) It is prohibited for the purposes of regulation 4(1)(b) to impose or permit to be imposed on a non-contributing member to whom this regulation applies a higher—

- (a) rate of charges where a scheme imposes a charge based on a percentage charge, or
- (b) amount of charges where a scheme imposes a charge which is not based on a percentage charge,

than that to which the member would have been subject if that member were a contributing member.

(2) In paragraph (1), the comparison is to be made on the basis of—

- (a) the period for which the member had contributed to the scheme on the date of that member's last contribution;
- (b) the value of the member's rights under the scheme on the date when the charges are imposed, and
- (c) the value of the last contribution made in relation to the member.

(3) This regulation applies to a non-contributing member of a relevant scheme provided that—

- (a) a contribution in relation to that member has been made to that scheme on or after the date on which this regulation comes into operation, and
- (b) at least one contribution referred to in sub-paragraph (a) was made when the member was a worker of the employer in relation to whose jobholders the scheme is a qualifying scheme.

(4) This regulation applies to a non-contributing member beginning with the date on which the first contribution satisfying paragraph (3)(a) and (b) is received by the trustees or managers.

(5) In this regulation—

“non-contributing member” means a member who is not a contributing member;

“relevant scheme” is a scheme satisfying the definition in regulation 2(2) which is a qualifying scheme for at least one jobholder of the member's employer.

### **Amendment of the Stakeholder Pension Schemes Regulations** **N.I.**

**12.**—(1) The Stakeholder Pension Schemes Regulations (Northern Ireland) 2000 <sup>M1</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 13 <sup>M2</sup> (expenses, commission etc. – principles) after paragraph (4) add—

“(5) This regulation and regulations 14 to 14C <sup>M3</sup> do not apply in the circumstances set out in regulation 14D.”.

(3) After regulation 14C (rounding of fractional amounts) insert—

### “Disapplication of regulations 13 to 14C in certain circumstances

**14D.**—(1) The circumstances referred to in regulation 13(5) are as follows.

(2) In relation to a member of a stakeholder pension scheme that is a personal pension scheme, the circumstances are that—

- (a) the scheme is a qualifying scheme in relation to an employer, and
- (b) the member's workplace pension contributions are allocated under a default arrangement.

(3) In relation to a member of a stakeholder pension scheme that is an occupational pension scheme, the circumstances are that Part 2 of the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015 (restrictions on charges) applies to the scheme.

(4) In this regulation “default arrangement” and “workplace pension contributions” have the meanings given by the FCA Handbook <sup>M4</sup>.”.

#### Marginal Citations

- M1** S.R. 2000 No. 262; relevant amending provisions are S.R. 2001 No. 119, S.R. 2005 No. 110, S.R. 2007 No. 185, S.R. 2012 No. 124 and S.R. 2013 No. 72
- M2** Regulation 13 was amended by regulation 9 of S.R. 2001 No. 119, **regulation 2(8)** of S.R. 2005 No. 110 and Article 21(3) of S.R. 2012 No. 124
- M3** Regulations 14 to 14C were substituted for regulation 14 by regulation 2(9) of S.R. 2005 No. 110. Regulation 14 was amended by regulation 9 of S.R. 2007 No. 185 and regulations 8(3) and 10(a) of S.R. 2013 No. 72
- M4** The definition of “the FCA Handbook” was substituted for the definition of “the FSA Handbook” by paragraph 30(a)(ii) of Schedule 2 to S.I. 2013/472

### Amendment of the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations and the Occupational Pension Schemes (Modification of Schemes) Regulations **N.I.**

**13.**—(1) In regulation 10(1) of the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006 <sup>M5</sup> (listed changes: exclusions) after subparagraph (a) insert—

“(aa) is made for the purposes of implementing an adjustment measure within regulation 10 of the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015 (charge limits adjustment);”.

(2) After regulation 7A of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 <sup>M6</sup> (modification of schemes: abolition of protected rights) insert—

#### “Amendment of schemes for adjustment measure

**7B.** The trustees of a trust scheme may by resolution amend the scheme for the purposes of implementing an adjustment measure within regulation 10 of the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015 (charge limits adjustment).”.

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**Status:** Point in time view as at 16/07/2015.

**Changes to legislation:** There are currently no known outstanding effects for the *The Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015, PART 2*. (See end of Document for details)

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**Marginal Citations**

**M5** S.R. 2006 No. 48

**M6** S.R. 2006 No. 149; regulation 7A was inserted by regulation 3 of S.R. 2012 No. 125



**Status:**

Point in time view as at 16/07/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the The Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015, PART 2.