
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Board of the Pension Protection Fund (“the Board”) is established by section 107 of the Pensions Act 2004 (c. 35) to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer, where the pension scheme is underfunded below a certain level. The compensation payable to individual members is determined in accordance with Schedule 6 to the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”) and regulations made under it, including the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 (“the Compensation Regulations”).

These Regulations make amendments to the Compensation Regulations to insert provisions modifying the effect of Schedule 6 to the 2005 Order in relation to certain schemes. They also amend the definition of “pensionable service” in the Compensation Regulations and in the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 (“the Multi-employer Regulations”). The Regulations additionally impose requirements on occupational pension schemes in relation to the statement of investment principles required under Article 35 of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) and the disclosure of information in relation to the statement of investment principles.

Regulation 2(2) omits the definition of “pensionable service” from regulation 1(2) of the Compensation Regulations, so that the definition of that term in paragraph 36 of Schedule 6 to the 2005 Order applies for the purposes of the Compensation Regulations.

Regulation 2(3) inserts regulation 28 into the Compensation Regulations. Paragraph (1) of regulation 28 provides that Schedule 6 to the 2005 Order has effect with the modifications set out in regulation 28(3) to (5) in relation to a scheme if, immediately before the assessment date, under the admissible rules of the scheme a person is entitled or has rights to a “relevant fixed pension” as defined in paragraph (2) of regulation 28. A relevant fixed pension is defined as a pension which arose by virtue of a transfer payment to the scheme, where the initial amount of the pension was determined at the time the transfer payment was received. In addition, the pension must not be attributable to a pension credit, or payable as a result of a person’s death.

Paragraph (3) of regulation 28 provides that, in relevant cases, paragraphs 15 and 16 of Schedule 6 to the 2005 Order have effect as if references to the time at which the member’s pensionable service in respect of the pension ended, were instead to the time at which the transfer payment which gave rise to the relevant fixed pension was received by the scheme.

Paragraph (4) of regulation 28 provides that paragraph 26A(14) of Schedule 6 to the 2005 Order, which provides for expressions used in paragraph 26A to have the same meaning as in paragraph 26 of Schedule 6, does not apply in so far as it relates to the meaning of “pensionable service”.

Paragraph (5) of regulation 28 provides that, in cases to which the modifications apply, paragraph 36 of Schedule 6 to the 2005 Order has effect as if it included sub-paragraph (6) (except for the purposes of paragraph 26(1) and (2) of Schedule 6, which relates to the application of the compensation cap). Sub-paragraph (6) provides that a person with a right or entitlement to a relevant fixed pension (defined in the same terms as in regulation 28(2)) is to be treated, for the purposes of Schedule 6, as having pensionable service within paragraph 36(4)(b) (notional pensionable service), to which the relevant fixed pension is attributable.

Status: This is the original version (as it was originally made).

Regulation 3 substitutes the definition of “pensionable service” in regulation 1(2) of the Multi-employer Regulations, so that the definition of that term in paragraph 36 of Schedule 6 to the 2005 Order applies for the purposes of the Multi-employer Regulations.

Regulation 4 amends regulations 2 and 2A of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 (“the Investment Regulations”), which relate to the statement of investment principles (“the SIP”) required under Article 35 of the 1995 Order and, amongst other things, the default SIP required under regulation 2A of the Investment Regulations. The amendment provides for trustees to include a policy on how they will take account of financially material considerations in relation to investments in the SIP and default SIP. It also requires trustees of schemes (except schemes with fewer than 100 members) to include a policy on when they will undertake engagement activities in relation to investments (including monitoring and engaging with relevant persons such as an investment manager) in the SIP and default SIP.

Regulation 5 amends the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 (“the Disclosure Regulations”) to require the trustees of a relevant scheme to include in the annual report under regulation 12 of the Disclosure Regulations a statement on the extent to which the SIP has been followed during the scheme year and an explanation of any changes made to the SIP during that year (“the implementation statement”). It obliges trustees to make available free of charge the SIP and the implementation statement on a website, or where appropriate, in hard copy form to the public as a whole to enable people to compare costs and charges of different occupational pension schemes. In addition, the trustees must include details about the availability of these publications in the annual benefit statement issued to members with money purchase benefits.

The Pensions (2008 No. 2 Act) (Commencement No. 12) Order (Northern Ireland) 2018 (S.R. 2018 No. 23 (C. 2)) provides for the coming into operation of paragraph 15 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008, which amends paragraph 33 of Schedule 6 to the 2005 Order, one of the enabling provisions under which these Regulations are made, on 2nd February 2018.

The Pensions (2015 Act) (Commencement No. 6) Order (Northern Ireland) 2018 (S.R. 2018 No. 41 (C. 4)) provides for the coming into operation of section 43 of the Pensions Act (Northern Ireland) 2015, which inserts section 109(6) and (7) into the Pension Schemes (Northern Ireland) Act 1993, some of the enabling provisions under which these Regulations are made, on 9th March 2018.

As these Regulations, in so far as they are made under the 1995 Order and the 2005 Order, make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement for consultation does not apply by virtue of Article 117(2)(e) of the 1995 Order and Article 289(2)(e) of the 2005 Order.

An assessment of the impact of regulations 4 and 5 of these Regulations is detailed in a Regulatory Impact Assessment, a copy of which is laid in the Business Office and the Library of the Northern Ireland Assembly and is also annexed to the Explanatory Memorandum which is available alongside this Statutory Rule on the website: <http://www.legislation.gov.uk/nisr>. Copies of the Assessment and the Guidance “Reporting of costs, charges and other information: guidance for trustees and managers of relevant occupational schemes” are available from the Department for Communities, Social Security Policy and Legislation Division, Level 8, Causeway Exchange, 1-7 Bedford Street, Belfast BT2 7EG or from the website: <https://www.communities-ni.gov.uk/articles/pension-information>.