
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the requirements relating to cross-border activity and cross-border transfers in Articles 6, 9, 11, 12, 33 and 48 of the European Union Directive (EU) 2016/2341 on the activities and supervision of institutions for occupational retirement provision (O.J. No. L354, 23.12.16, p.37) (“the Directive”). The Directive is a recast of the original EU Directive 2003/41/EC on the same subject matter (O.J. No. L235, 23.9.03, p.10).

Regulation 2 amends Part 7 of the Pensions (Northern Ireland) Order 2005 to implement changes made by the Directive in relation to the procedure for authorisation and approval of cross-border activity.

Regulation 3 amends the Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005 to implement changes made by the Directive in relation to the regime and procedure for authorisation and approval for cross-border activity. It also implements the requirement under Article 9(3) of the Directive for the Pensions Regulator to communicate information from the register (compiled and maintained by the Pensions Regulator under section 59 of the Pensions Act 2004 (c. 35)) to the supranational Regulator, the European Insurance and Occupational Pensions Authority. It also implements the requirements under Article 12 of the Directive in relation to cross-border transfers.

Regulation 4 omits regulation 11B of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991 (which made provision for transfers to a European pensions institution without consent) in consequence of the requirements which now govern cross-border transfers.

Regulation 5 adds to the list of registrable information in the Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005 so that where there is cross-border activity, the name of the host EEA state will also be registered. This is in accordance with Article 9(2) of the Directive.

As these Regulations, in so far as they are made under the Pensions (Northern Ireland) Order 2005, 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 to consult under Article 289(1) of that Order does not apply by virtue of paragraph (2) (e) of that Article.

An assessment of the impact of these Regulations is detailed in a Regulatory Impact Assessment, copies of which, together with a Transposition Note, are laid in the Business Office and the Library of the Northern Ireland Assembly. Copies are annexed to the Explanatory Memorandum which is available alongside this Statutory Rule on the website: <http://www.legislation.gov.uk/nisr>. Copies are also available from the Department for Communities, Social Security Policy and Legislation Division, Level 8, Causeway Exchange, 1-7 Bedford Street, Belfast BT2 7EG or on the website: <https://www.communities-ni.gov.uk/articles/pension-information>.