

2019 No. 184

PENSIONS

**The Pension Schemes Act 2015
(Transitional Provisions and Appropriate Independent Advice)
(Amendment No. 2) Regulations (Northern Ireland) 2019**

Made - - - - - *26th September 2019*

Coming into operation - - - - - *30th September 2019*

Approved by resolution of the Assembly on 10th March 2020

The Department for Communities(a) makes the following Regulations in exercise of the powers conferred by sections 51(3) and 86 of the Pension Schemes Act 2015(b).

Citation and commencement

1. These Regulations may be cited as the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment No. 2) Regulations (Northern Ireland) 2019 and shall come into operation on 30th September 2019.

Amendment of the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations

2. The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations (Northern Ireland) 2015(c) are amended in accordance with regulations 3 to 5.

Amendment of regulation 1

3. In regulation 1(2) (interpretation) after the definition of “member” insert—
““pension credit rights” has the meaning given in section 97B(d) of the 1993 Act;”.

(a) See section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

(b) 2015 c. 8

(c) S.R. 2015 No. 165 as amended by S.R. 2016 No. 172, S.R. 2018 Nos. 40, 46 and 170 and S.R. 2019 No. 55

(d) Section 97B was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

Substitution of regulation 5

4. For regulation 5 (exception to section 51(1) of the Act) substitute—

“Exception to section 51(1) of the Act

5.—(1) The trustees or managers are not required to carry out the check in section 51(1) of the Act (independent advice in respect of conversions and transfers) if the transfer value of the member’s or survivor’s subsisting rights in respect of safeguarded benefits(a) under the pension scheme is £30,000 or less on the valuation date(b).

(2) In this regulation “transfer value” means—

- (a) where the rights referred to in paragraph (1) are transferrable rights as defined in section 89(11)(c) of the 1993 Act (scope of Chapter 1), the amount of the cash equivalent(d) of those rights calculated in accordance with section 93(e) of that Act (calculation of cash equivalents) and regulations made under it;
- (b) where the rights referred to in paragraph (1) are pension credit rights, the amount of the cash equivalent of those rights calculated in accordance with regulations made under section 97I(f) of the 1993 Act (calculation of cash equivalents);
- (c) in any other case, the amount which would be the cash equivalent of the rights referred to in paragraph (1), calculated in accordance with section 93 of the 1993 Act and regulations made under it, as if—
 - (i) Chapter 1 of Part 4ZA(g) of the 1993 Act (transfer rights: general) applied to the member or survivor by virtue of those rights;
 - (ii) references to a member in that Chapter and regulations made under it included a survivor of a member, and
 - (iii) in the case of an active member, the member had ceased to accrue rights to benefits on the valuation date,

but, in each case, disregarding regulations 7D and 7E(h) of the Transfer Values Regulations (reductions to initial cash equivalents and alternative manner of calculating and verifying cash equivalents).”.

Amendment of regulation 8

5. In regulation 8(6) (information to be provided on initial enquiry) for the words from “if the” to “within” substitute “if the transfer value (as defined in regulation 5(2)) of the member’s or survivor’s subsisting rights to safeguarded benefits under the scheme were to be calculated within”.

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- (a) See section 51(8) of the Pension Schemes Act 2015 for the meaning of “safeguarded benefits”
 - (b) The definition of “valuation date” was amended by regulation 8(2)(c) of S.R. 2016 No. 172
 - (c) Section 89 was substituted by paragraph 54 of Schedule 4 to the Pension Schemes Act 2015
 - (d) The definition of “cash equivalent” was amended by regulation 8(2)(a) of S.R. 2016 No. 172
 - (e) Section 93 was amended by paragraph 6(b) of Schedule 4 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), paragraph 5(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and section 72(2) of, and paragraph 57 of Schedule 4 to, the Pension Schemes Act 2015
 - (f) Section 97I was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
 - (g) See paragraph 50 of Schedule 4 to the Pension Schemes Act 2015
 - (h) Regulations 7 to 7E were substituted for regulations 7 and 8 by regulation 4 of S.R. 2008 No. 370 and regulation 7D was amended by regulation 31(7) of S.R. 2014 No. 204 and regulation 4(6) of S.R. 2015 No. 164

Revocation

6. The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment) Regulations (Northern Ireland) 2019^(a) are revoked.

Sealed with the Official Seal of the Department for Communities on 26th September 2019

(L.S.)

Anne McCleary
A senior officer of the Department for Communities

^(a) S.R. 2019 No. 55

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment) Regulations (Northern Ireland) 2019 (“the Amendment Regulations”) which would otherwise cease to have effect by virtue of section 85(3)(b) of the Pension Schemes Act 2015. Like the Amendment Regulations, the Regulations amend the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations (Northern Ireland) 2015 (“the Advice Regulations”), which relate to the requirement in section 51 of the Pension Schemes Act 2015 (“the 2015 Act”) that the trustees or managers of a pension scheme must check that a member or survivor has received appropriate independent advice before carrying out certain transactions. The requirement applies to a member’s or survivor’s “safeguarded benefits”, meaning benefits which are neither money purchase benefits nor cash balance benefits (as defined in sections 51(8), 75 and 76(3) of the 2015 Act).

Regulation 4 substitutes regulation 5 of the Advice Regulations, which provides an exception to the requirement to obtain advice. The effect of regulation 5 as substituted is that the exception applies where the “transfer value” (as defined in paragraph (2) of regulation 5) of the member’s or survivor’s safeguarded benefits under the scheme is £30,000 or less.

Regulation 5 makes a consequential amendment.

Regulation 6 revokes the Amendment Regulations.

An assessment of the impact of the Regulations is detailed in a Regulatory Impact Assessment which accompanied the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment No. 2) Regulations (Northern Ireland) 2018 (S.R. 2018 No. 46), a copy of which was laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment 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>. A copy of the Assessment is also annexed to the Explanatory Memorandum which is available alongside this Statutory Rule on the website: <http://www.legislation.gov.uk/nisr>

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