
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the law relating to the administration of occupational pension schemes. Regulation 2 amends the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 to require trustees and managers to report on the return on investments their funds have achieved as part of the annual statement required on governance. It also requires the trustees and managers of schemes holding assets worth less than £100 million to compare the charges and transaction costs and the return on investments of their schemes with three other schemes and to assess the extent to which their schemes satisfy administration and governance criteria as part of their value for members assessment under regulation 25(1A) of those Regulations. Regulation 5 makes a consequential amendment to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014.

Regulation 3 amends the Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005 to require additional registrable information to be sent to the Pensions Regulator for inclusion in the register of occupational pension schemes and personal pension schemes.

Regulation 4 amends the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 to ensure that transaction costs are taken into account with charges in a review by the trustees or managers of the return on investments in relation to the default arrangement, and to remove the obligation for the statement of investment principles of a wholly-insured scheme which is also a defined benefit scheme to include any information on the trustees' policy on asset managers.

Regulation 6 amends the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015 ("the 2015 Regulations").

Paragraphs (2) to (5) of regulation 6 amend the 2015 Regulations to exclude costs attributable to holding physical assets from the charges which are subject to the charge cap imposed under those Regulations and also ensures that no account is taken of certain performance fees in calculating a charge under a single charge structure. They also make amendments consequential on the insertion of regulations 13A to 13E.

Paragraphs (8) and (11) of regulation 6 insert reference to the provision of advice into regulations 9 and 11C of the 2015 Regulations to clarify that charges may relate to the provision of advice as well as the provision of services.

Paragraph (9) of regulation 6 amends regulation 11A of the 2015 Regulations to apply the prohibition on the imposition of commission charges on members of occupational pension schemes to workers, and former workers, of an employer who used that scheme for automatic enrolment purposes for at least one jobholder before 6th April 2016. Paragraph (9)(d) substitutes regulation 11A(6) to provide that the prohibition does not apply to a charge imposed under a contract entered into before 6th April 2016 (and not subsequently varied or renewed) to reimburse a service provider for any payment made to an adviser before 1st October 2021. Paragraph (9)(e) inserts regulation 11A(7) to provide that the prohibition overrides any conflicting term of a relevant contract.

Paragraph (10) of regulation 6 amends regulation 11B of the 2015 Regulations to provide that the requirements of regulation 11A do not apply to a contract entered into before 6th April 2016 (and not subsequently renewed or varied) until the expiry of 6 months beginning with 1st October 2021. A longer period is allowed where the service provider requests more information from the trustees or managers about former members to enable it to comply (see paragraph (10)(e)). The

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amendments made by paragraph (10) also set out the timescales within which service providers must send confirmation of compliance with the prohibition in regulation 11A in the case of such a contract.

Paragraph (12) of regulation 6 inserts regulations 13A to 13E into Part 2 of the 2015 Regulations. Regulation 13A sets out a definition of early exit charges for the purposes of inserted Chapter 2 of Part 2 of the 2015 Regulations. Regulation 13B sets out that early exit charges may not be imposed on members of occupational pension schemes where the member joined the scheme on or after 1st October 2021. Regulation 13C sets out that, where a member of an occupational pension scheme joined that scheme before 1st October 2021, early exit charges exceeding 1% of the member's benefits may not be imposed. Existing early exit charges which are below 1% may not be increased and new early exit charges may not be imposed. Regulation 13C(5) provides that the prohibition in section 33 of the Pension Schemes Act (Northern Ireland) 2021, and (where lower than the cap in regulation 13C) the existing cap on charges in regulation 6 of the 2015 Regulations, take precedence over the early exit charge cap. Regulation 13C(6) ensures that a charge meeting the conditions set out in paragraph (6) is not permitted by regulation 6 of the 2015 Regulations. Regulation 13C(7) contains provision as to how the value of a member's benefits is to be calculated. Regulation 13D provides that the restrictions in regulations 13B and 13C override any conflicting contractual term. Regulation 13E provides a service provider must confirm compliance with the restrictions in regulations 13B and 13C to the trustees or managers of a relevant scheme and inform them if it ceases to be compliant.

As these Regulations, in so far as they are made under the Pensions (Northern Ireland) Order 1995 ("the 1995 Order"), the Pensions (Northern Ireland) Order 2005 ("the 2005 Order") and the Pensions Act (Northern Ireland) 2015 ("the 2015 Act"), 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, Article 289(2)(e) of the 2005 Order and paragraph 8 of Schedule 18 to the 2015 Act.

Assessments of the costs to business of these Regulations are detailed in Regulatory Impact Assessments, copies of which have been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessments are available from the Department for Communities, Social Security Policy, Legislation and Decision Making Services, Level 6, Causeway Exchange, 1-7 Bedford Street, Belfast BT2 7EG or from the website: <https://www.communities-ni.gov.uk/articles/pension-information>. Copies of the Assessments are also annexed to the Explanatory Memorandum which is available alongside this Statutory Rule on the website: <http://www.legislation.gov.uk/nisr>.