

Status: Point in time view as at 09/03/2018.

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Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

[^{F1}PART 4ZA

TRANSFERS AND CONTRIBUTION REFUNDS]

Textual Amendments

- F1** Pts. 4, 5 renumbered as Pt. 4ZA Chs. 1, 2 and Pt. 4ZA heading inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 50\(1\)\(2\)\(a\)](#) (with s. 87)

[^{F2}CHAPTER 1

TRANSFER RIGHTS: GENERAL]

Textual Amendments

- F2** Pt. 4ZA Ch. 1 heading substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 50\(1\)\(2\)\(b\)](#) (with s. 87)

Modifications etc. (not altering text)

- C1** Pt. 4 Ch. 4 applied (31.5.1994) by [S.I. 1994/1432](#), [art. 6\(4\)](#)
- C2** Pt. 4 Ch. 4: power to modify conferred (25.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), [20\(7\)\(a\)](#) (with art. 285(5)); [S.R. 2005/48](#), art. 2(4)(a)(b), [Sch. Pt. 4](#)
- C3** Pt. 4 Ch. 4 modified (1.4.2009) by [Local Government Pension Scheme \(Administration\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/33\)](#), regs. 1, [74\(1\)\(3\)\(7\)](#)
- C4** Pt. 4 Ch. 4 modified (1.4.2015) by [The Teachers Pension Scheme \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/170\)](#), regs. 1, [10\(1\)](#)

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- C5** Pt. 4 Ch. 4 modified (1.4.2015) by [The Police Pensions \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/156\)](#), regs. 1(2), **10(1)**
- C6** Pt. 4 Ch. 4 modified (1.4.2015) by [The Health Service Workers \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/167\)](#), regs. 1, **10(1)**
- C7** Pt. 4 Ch. 4 modified (1.4.2015) by [The Judicial Pensions Regulations \(Northern Ireland\) 2015 \(S.R. 2015/76\)](#), reg. 1(3), **Sch. 3 para. 8(1)**
- C8** Pt. 4 Ch. 4 modified (1.4.2015) by [The Public Service \(Civil Servants and Others\) Pensions \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/81\)](#), regs. 1(1), **10(1)**
- C9** Pt. 4 Ch. 4 modified (1.4.2015) by [The Firefighters Pension Scheme \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/166\)](#), regs. 1, **10(1)**
- C10** Pt. 4ZA Ch. 1 excluded (1.4.2017) by [The Judicial Pensions \(Fee-Paid Judges\) Regulations 2017 \(S.I. 2017/522\)](#), regs. 1, **71**

[^{F3}89 Scope of Chapter 1

- (1) This Chapter applies to a member of a pension scheme if all of the following conditions are met.
- (2) Condition 1 is that the member has accrued rights to any category of benefits under the scheme rules.
- (3) Condition 2 is that no crystallisation event has occurred in relation to the member's accrued rights to benefits in that category (see subsection (7)).
- (4) Condition 3 is that—
 - (a) the member is no longer accruing rights to benefits in that category (see subsection (8)), and
 - (b) in the case of benefits that are not flexible benefits, the member stopped accruing those rights at least one year before normal pension age.
- (5) But this Chapter does not apply to—
 - (a) a member of a salary related occupational pension scheme whose pensionable service terminated before 1 January 1986 and in respect of whom prescribed requirements are satisfied;
 - (b) a member of a personal pension scheme which is comprised in an annuity contract made before 4 January 1988.
- (6) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
 - (a) money purchase benefits;
 - (b) flexible benefits other than money purchase benefits;
 - (c) benefits that are not flexible benefits.
- (7) For the purposes of Condition 2 a crystallisation event occurs in relation to a member's accrued rights to benefits in a category when—
 - (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or

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- (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.
- (8) For the purposes of Condition 3 a member stops accruing rights to a category of benefits when there are no longer arrangements in place for the accrual of rights to benefits in that category for or in respect of the member.
- (9) In this section a reference to accrued rights does not include pension credit rights.
- (10) Regulations may—
 - (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
 - (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
 - (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (11) In the following provisions of this Chapter—
 - (a) a reference to a “member” of a pension scheme is a reference to a member to whom this Chapter applies, and
 - (b) a reference to a member’s “transferrable rights” are to any rights in relation to a category of benefits by virtue of which this Chapter applies to the member.

Textual Amendments

- F3** Ss. 89, 89A, 90 substituted for ss. 89, 90 (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(b)(3)(b), [Sch. 4 para. 54](#) (with s. 87)

89A Right to statement of entitlement: benefits other than money purchase

- (1) The trustees or managers of a pension scheme must, on the application of any member, provide the member with a statement of entitlement in respect of the member’s transferrable rights in relation to categories of benefits other than money purchase benefits.
- (2) In the case of a member with transferrable rights in relation to two categories of benefits other than money purchase benefits, the application may relate to transferrable rights in relation to either or both of those categories.
- (3) For the purposes of this Chapter a member’s “statement of entitlement” is a written statement of the amount of the cash equivalent at the guarantee date of the transferrable rights to which the application under subsection (1) relates.
- (4) In this Chapter “the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—
 - (a) within the prescribed period beginning with the date of the application, and
 - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (5) Regulations may make provision in relation to applications under this section and may, in particular, restrict the making of successive applications.

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- (6) If the trustees or managers of a pension scheme fail to comply with subsection (1), Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

Textual Amendments

- F3** Ss. 89, 89A, 90 substituted for ss. 89, 90 (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(b)(3)(b), **Sch. 4 para. 54** (with s. 87)

90 Right to cash equivalent

- (1) A member of a pension scheme who has received a statement of entitlement under section 89A acquires a right to take the cash equivalent shown in that statement in accordance with this Chapter.
- (2) A member of a pension scheme who has transferrable rights in relation to money purchase benefits acquires a right to take their cash equivalent in accordance with this Chapter.]

Textual Amendments

- F3** Ss. 89, 89A, 90 substituted for ss. 89, 90 (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(b)(3)(b), **Sch. 4 para. 54** (with s. 87)

91 Ways of taking right to cash equivalent.

- [^{F4}(1) A member of a pension scheme who has acquired a right to take a cash equivalent in accordance with this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent in one of the ways specified below.
- (1A) In the case of a right acquired under section 90(1), the application must be made—
- (a) within the period of 3 months beginning with the guarantee date shown in the relevant statement of entitlement, and
 - (b) if the cash equivalent relates to benefits that are not flexible benefits, by no later than the date that falls one year before the member attains normal pension age.]

(2) In the case of a member of an occupational pension scheme [^{F5} that is not an unfunded public service defined benefits scheme] , the ways referred to in subsection (1) are—

 - (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
 - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's [^{F6}transferrable rights] , and
 - (ii) which satisfies prescribed requirements;
 - (b) for acquiring rights allowed under the rules of a personal pension scheme—
 - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's [^{F7}transferrable rights] , and
 - (ii) which satisfies prescribed requirements;

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- (c) for purchasing from one or more [^{F8}insurer] such as are mentioned in section 15(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements;
- (d) for subscribing to other pension arrangements which satisfy prescribed requirements.

[^{F9}(2A) In the case of a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, the ways referred to in subsection (1) are—

- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme if—
 - (i) the benefits that may be provided under the other scheme by virtue of the transfer credits are not flexible benefits,
 - (ii) the trustees or managers of the other scheme are able and willing to accept payment in respect of the member's transferrable rights, and
 - (iii) the other scheme satisfies requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;
- (b) for acquiring rights allowed under the rules of a personal pension scheme if—
 - (i) the benefits that may be provided under the personal pension scheme by virtue of the acquired rights are not flexible benefits,
 - (ii) the trustees or managers of the personal pension scheme are able and willing to accept payment in respect of the member's transferrable rights, and
 - (iii) the personal pension scheme satisfies requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;
- (c) for purchasing from one or more insurers such as are mentioned in section 15(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;
- (d) for subscribing to other pension arrangements which satisfy requirements prescribed in regulations made by the Department or the Department of Finance and Personnel.

(2B) The Department of Finance and Personnel may by regulations provide for subparagraph (i) of subsection (2A)(a) or (b) not to apply in specified circumstances or in relation to specified schemes or schemes of a specified description.

(2C) In subsections (2) and (2A) “unfunded public service defined benefits scheme” means a public service pension scheme that—

- (a) is a defined benefits scheme within the meaning given by section 34 of the Public Service Pensions Act (Northern Ireland) 2014, and
- (b) meets some or all of its liabilities otherwise than out of a fund accumulated for the purpose during the life of the scheme.]

(3) In the case of a member of a personal pension scheme, the ways referred to in subsection (1) are—

- (a) for acquiring transfer credits allowed under the rules of an occupational pension scheme—

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- (i) the trustees or managers of which are able and willing to accept payment in respect of the member's [^{F10}transferrable rights] , and
 - (ii) which satisfies prescribed requirements;
 - (b) for acquiring rights allowed under the rules of another personal pension scheme—
 - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's [^{F11}transferrable rights] , and
 - (ii) which satisfies prescribed requirements;
 - (c) for subscribing to other pension arrangements which satisfy prescribed requirements.
- ^{F12}(4)
- (5) Except in such circumstances as may be prescribed—
 - (a) subsection (2) is to be construed as if paragraph (d) were omitted; and
 - (b) subsection (3) is to be construed as if paragraph (c) were omitted.
- [^{F13}(5A) Except in such circumstances as may be prescribed in regulations made by the Department or the Department of Finance and Personnel, subsection (2A) is to be construed as if paragraph (d) were omitted.]
- (6) Without prejudice to the generality of subsections (2) [^{F14}, (2A)] and (3), the powers conferred by those subsections include power to provide that a scheme or pension arrangement or, in the case of subsection (2) [^{F15} or (2A)] , an annuity must satisfy requirements of the Inland Revenue.
- [^{F16}(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.]
- ^{F17}(7)
- ^{F17}(8)
- (9) An application to the trustees or managers of the scheme under subsection (1) is to be taken to have been made if it is delivered to them personally, or sent by post in a registered letter or by the recorded delivery service.

Textual Amendments

- F4** S. 91(1)(1A) substituted for s. 91(1) (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 55(2)** (with s. 87)
- F5** Words in s. 91(2) inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 71(2)**, 89(3)(b) (with s. 87)
- F6** Words in s. 91(2)(a)(i) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 55(3)** (with s. 87)
- F7** Words in s. 91(2)(b)(i) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 55(3)** (with s. 87)
- F8** Words in s. 91(2)(c) substituted (1.12.2001) by [S.I. 2001/3649](#), **arts. 1**, 133
- F9** S. 91(2A)-(2C) inserted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 71(3)**, 89(1)(b)(3)(b) (with s. 87)
- F10** Words in s. 91(3)(a)(i) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 55(3)** (with s. 87)
- F11** Words in s. 91(3)(b)(i) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 55(3)** (with s. 87)

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- F12** S. 91(4) repealed (1.1.2001) by 2000 c. 4 (N.I.), ss. 52, 67, Sch. 5 Pt. I para. 4, **Sch. 9 Pt. III(6)** (with s. 66(6)); S.R. 2000/374, art. 2(e), **Sch. Pt. II**
- F13** S. 91(5A) inserted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), **ss. 71(4)**, 89(1)(b)(3)(b) (with s. 71(8)(9), 87)
- F14** Words in s. 91(6) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), **ss. 71(5)(a)**, 89(3)(b) (with s. 71(8)(9), 87)
- F15** Words in s. 91(6) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), **ss. 71(5)(b)**, 89(3)(b) (with s. 71(8)(9), 87)
- F16** S. 91(6A) inserted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), **Sch. 4 para. 55(4)** (with s. 87)
- F17** S. 91(7)(8) omitted (6.4.2015) by virtue of Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 55(5)** (with s. 87)

92 Further provisions concerning exercise of option under s. 91.

[^{F18}(1) A member who has acquired a right to take a cash equivalent under section 90(1) or (2) may exercise the option conferred by section 91(1) in relation to different portions of that cash equivalent in different ways, but a member who exercises that option must do so—

- (a) in relation to the whole of that cash equivalent, or
- (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).]

(2) This subsection applies where—

- (a) the trustees or managers—
 - (i) of an occupational pension scheme ^{F19}... , or
 - (ii) of a personal pension scheme ^{F20}..., ^{F21}...
 - ^{F21}(iii)

are able or willing to accept a transfer payment only in respect of a member's rights other than his [^{F22}transferrable rights] to guaranteed minimum pensions [^{F23}his accrued rights so far as attributable to service in contracted-out employment on or after the principal appointed day]^{F24}...; and

- (b) the member has not required the trustees or managers of the scheme from which he is being transferred to use the portion of his cash equivalent which represents those [^{F22}transferrable rights] in any of the ways specified in subsection (2) [^{F25}, subsection (2A)] or, as the case may be, subsection (3) of section 91.

(3) Where subsection (2) applies this section and sections 90, 91 and 93 are to be construed as conferring on the member an option only in respect of the balance of the cash equivalent to which the member would otherwise be entitled, after deduction of an amount sufficient for the trustees or managers of the scheme from which he is being transferred to meet their liability—

- (a) in the case of a transfer from an occupational pension scheme, in respect of the member's and the member's [^{F26}widow's, widower's or surviving civil partner's (as the case may be)] [^{F27}pensions, being guaranteed minimum pensions or pensions so far as attributable to service in contracted-out employment on or after the principal appointed day]^{F28}... ; ^{F29}...

^{F30}(b)

[^{F31}(4) Where a member of a pension scheme—

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- (a) is entitled to make an application under section 91(1) in relation to any category of benefits, and
- (b) is also entitled to give a transfer notice under section 97F(1) to the trustees or managers of the scheme in relation to benefits in the same category (or would be entitled to do so but for section 97G(2)),

the member may not, if the scheme so provides, make an application under section 91(1) in relation to that category of benefits without also giving a transfer notice under section 97F(1) in relation to that category of benefits.]

Textual Amendments

- F18** S. 92(1) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 56(2)** (with s. 87)
- F19** Words in s. 92(2)(a)(i) omitted (6.4.2016) by virtue of [Pensions Act \(Northern Ireland\) 2015 \(c. 5\)](#), s. 53(3), **Sch. 13 para. 39**
- F20** Words in s. 92(2)(a)(ii) repealed (6.4.2012) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\)](#), ss. 13(4), 21(1), **Sch. 4 para. 29**, **Sch. 6 Pt. 6** (with **Sch. 4 Pt. 3**); S.R. 2012/115, art. 2
- F21** S. 92(2)(a)(iii) and the preceding word “or” ceased to have effect (1.12.1999 for certain purposes only) by [S.I. 1999/3147 \(N.I. 11\)](#), arts. 1(5)(a), 17, **Sch. 2 para. 2(2)(b)** (with transitional provisions in art. 75(1)(2)) and repealed (25.4.2000) by [S. I. 1999/3147](#), art. 17, **Sch. 10 Pt. I**; S.R. 2000/133, art. 2(3), **Sch. Pt. II**
- F22** Words in s. 92(2)(a)(b) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 56(3)** (with s. 87)
- F23** Words in s. 92(2)(a) inserted (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), art. 147, **Sch. 3 para. 53(a)**; S.R. 1997/192, **art. 2(b)**
- F24** Words in s. 92(2)(a) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(14)(a)(i)**
- F25** Words in s. 92(2)(b) inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 71(6)**, 89(3)(b) (with **ss. 71(8)(9)**, 87)
- F26** Words in s. 92(3)(a) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(3), **Sch. para. 14**
- F27** Words in s. 92(3)(a) substituted (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), art. 147, **Sch. 3 para. 53(b)**; S.R. 1997/192, **art. 2(b)**
- F28** Words in s. 92(3)(a) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(14)(b)(i)**
- F29** Word in s. 92(3)(a) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(14)(b)(ii)**
- F30** S. 92(3)(b) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(14)(b)(iii)**
- F31** S. 92(4) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 56(4)** (with s. 87)

93 Calculation of cash equivalents.

- (1) Cash equivalents are to be calculated and verified [^{F32}—
 - (a)] in the prescribed manner [^{F33}, and

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- (b) where a designation has been made under section 93A, in accordance with regulations under section 93B.]

[^{F34}(1A) Where a member applies under section 91 to take a cash equivalent that relates to money purchase benefits, the cash equivalent is to be calculated by reference to the date of the application.]

(2) Regulations may provide—

- (a) that in calculating cash equivalents [^{F35}that relate to money purchase benefits] account shall be taken—

- (i) of any surrender, commutation or forfeiture of the whole or part of a member's pension which occurs before the trustees or managers of the scheme of which he is a member do what is needed to comply with what he requires under section 91;

- (ii) in a case where subsection (2) of section 92 applies, of the need to deduct an appropriate amount to provide for the liabilities mentioned in subsection (3) of that section;

- [^{F36}(aa) for a cash equivalent [^{F37}that relates to any category of benefits] to be reduced so as to take account of the extent (if any) to which an entitlement has arisen under the scheme to the present payment of the whole or any part of—

- (i) any pension; or

- (ii) any benefit in lieu of pension; and]

- (b) that in prescribed circumstances a cash equivalent shall be increased or reduced.

(3) Without prejudice to the generality of subsection (2), the circumstances that may be specified by virtue of paragraph (b) of that subsection include—

- [^{F38}(a)

- (b) failure by the trustees or managers of the scheme to do what is needed to carry out what a member of the scheme requires within 6 months of [^{F39}the appropriate date]

- (c) the state of the funding of the scheme.

[^{F40}(3A) For the purposes of subsection (3), the “appropriate date”—

- (a) in relation to a cash equivalent that relates to benefits other than money purchase benefits, means the guarantee date for the purposes of the relevant statement of entitlement under section 89A, and

- (b) in relation to a cash equivalent that relates to money purchase benefits, means the date on which the trustees or managers receive an application from the member under section 91.

(3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 91, the regulations may provide for the application under section 91 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).]

(4) Regulations under subsection (2) may specify as the amount by which a cash equivalent is to be reduced such an amount that a member has no right to receive anything.

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Textual Amendments

- F32** Word in s. 93(1) inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 72(2)(a)**, 89(3)(b) (with s. 87)
- F33** S. 93(1)(b) inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 72(2)(b)**, 89(3)(b) (with s. 87)
- F34** S. 93(1A) inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 57(2)** (with s. 87)
- F35** Words in s. 93(2)(a) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 57(3)(a)** (with s. 87)
- F36** Word in s. 93(2)(a) substituted (20.11.2000) for s. 93(2)(aa) by 2000 c. 4 (N.I.), s. 52, **Sch. 5 Pt. I para. 5(1)** (with s. 66(6))
- F37** Words in s. 93(2)(aa) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 57(3)(b)** (with s. 87)
- F38** S. 93(3)(a) omitted (6.4.2015) by virtue of [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 57(4)** (with s. 87)
- F39** Words in s. 93(3)(b) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 165, **Sch. 4 para. 6(b)**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F40** S. 93(3A)(3B) substituted for s. 93(3A) (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 57(5)** (with s. 87)

[^{F41}93A Designation of funded public service defined benefits schemes

- (1) The relevant Department may designate a funded public service defined benefits scheme as a scheme to which regulations under section 93B are to apply for a specified period of no more than 2 years.
- (2) The power under subsection (1) may be exercised only if the relevant Department considers that—
 - (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
 - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 90.
- (3) The power under subsection (1) may be exercised in relation to the whole or any part of a scheme.
- (4) In the application of subsection (2) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (5) A designation under subsection (1)—
 - (a) may be extended (on more than one occasion) for a period of no more than 2 years;
 - (b) may be revoked.
- (6) The relevant Department must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant Department is the trustees or managers).
- (7) If the trustees or managers of a funded public service defined benefits scheme, or part of such a scheme, that is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (2) are met in relation to the scheme or part they must notify—

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- (a) the Department of Finance and Personnel, and
 - (b) (where relevant) each Northern Ireland department by whom, or with whose approval, the scheme was established.
- (8) If the trustees or managers of a scheme, or part of a scheme, that is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (2) are no longer met in relation to the scheme or part they must notify—
- (a) the Department of Finance and Personnel, and
 - (b) (where relevant) each Northern Ireland department by whom, or with whose approval, the scheme was established.
- (9) In this section—
- “funded public service defined benefits scheme” means a public service pension scheme that—
- (a) is a defined benefits scheme within the meaning given by section 34 of the Public Service Pensions Act (Northern Ireland) 2014, and
 - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
- “local authority” means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972;
- “payment out of public funds” means a payment provided directly or indirectly—
- (a) out of the Northern Ireland Consolidated Fund, or
 - (b) by a local authority;
- “the relevant Department”, in relation to a funded public service defined benefits scheme, means either of the following—
- (a) the Department of Finance and Personnel, or
 - (b) any Northern Ireland department by whom, or with whose approval, the scheme was established.
- (10) The Department of Finance and Personnel may by regulations make modifications of the definition of “the relevant Department” in subsection (9).]

Textual Amendments

- F41** S. 93A inserted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 72(3)**, **89(1)(b)(3)(b)** (with s. 87)

[^{F42}93B Reduction of cash equivalents in case of section 93A designated schemes

- (1) The Department of Finance and Personnel may by regulations provide that where, under section 91(1), a member of a designated scheme requires the trustees or managers to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme the cash equivalent must be reduced by an amount determined in accordance with the regulations.
- (2) Regulations under subsection (1) may not require a reduction in cases where a scheme ceases to be a designated scheme before the date on which the trustees or managers do what is needed to carry out what the member requires.

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- (3) Regulations under subsection (1) may produce the result (alone or in conjunction with regulations under section 93) that the amount by which a cash equivalent is to be reduced is such an amount that a member has no right to receive anything.
- (4) In subsection (1), “designated scheme” means a funded public service defined benefits scheme, or part of such a scheme, that (on the date of the application under section 91(1)) is designated under section 93A.]

Textual Amendments

F42 S. 93B inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), ss. **72(4)**, **89(3)(b)** (with s. 87)

[^{F43}94 Loss of right to cash equivalent

- (1) A member of a pension scheme who acquires the right to take a cash equivalent under section 90(1) loses that right if no application to take the cash equivalent is made within the period required by section 91(1A) or (6A).
- (2) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if, after the member makes an application under section 91, the duty of the trustees or managers to do what is needed to carry out what the member requires is extinguished by section 95(2A).
- (3) Nothing in subsection (1) or (2) prevents the member from later acquiring a new right to take a cash equivalent in relation to the same benefits.
- (4) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if the scheme is wound up.]

Textual Amendments

F43 S. 94 substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. **89(3)(b)**, **Sch. 4 para. 58** (with s. 87)

95 Trustees’ duties after exercise of option.

- (1) Where—
 - (a) a member has exercised the option conferred by section 91; and
 - (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires,
 the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in such cases as are mentioned in section 92(2), to the extent that an obligation to provide such guaranteed minimum pensions ^{F44}... continues to subsist.
- [^{F45}(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 91 they must do what is needed to carry out what the member requires—
 - (a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the guarantee date shown in the relevant statement of entitlement, and

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- (b) in the case of an application that relates to money purchase benefits, within 6 months beginning with the date of the application.]

[^{F46}(2A) Subsection (2) does not apply if—

- (a) the trustees or managers have been unable to carry out the check required by section 51 of the Pension Schemes Act 2015 by reason of factors outside their control, or
- (b) the trustees or managers have carried out the check required by section 51 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.]

(3) If—

- (a) disciplinary proceedings or proceedings before a court have been begun against a member of an occupational pension scheme ^{F47}...; and
- (b) it appears to the trustees or managers of the scheme that the proceedings may lead to the whole or part of the pension or benefit in lieu of a pension payable to the member or his widow being forfeited; and
- (c) the date before which they would (apart from this subsection) be obliged under subsection (2) to carry out what the member requires is earlier than the end of the period of 3 months after the conclusion of the disciplinary or court proceedings (including any proceedings on appeal),

then, subject to the following provisions of this section, they must instead do so before the end of that period of 3 months.

^{F48}(3A)

[^{F49}(4) The Regulatory Authority may, in prescribed circumstances, [^{F50}by direction,] grant an extension of the period within which the trustees or managers of the scheme are obliged to do what is needed to carry out what a member of the scheme requires.

(4A) Regulations may make provision [^{F51}requiring applications for extensions under subsection (4) to meet prescribed requirements] .]

[^{F52}(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.]

^{F53}(6)

[^{F54}(7) Where the trustees or managers of an occupational pension scheme have not done what is needed to carry out what a member of the scheme requires within 6 months of the date mentioned in paragraph (a) or (b) of subsection (2)—

- (a) they must, except in prescribed cases, notify the Regulatory Authority of that fact within the prescribed period, and
- (b) Article 10 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that it was so done.

(8) Regulations may provide that in prescribed circumstances subsection (7) shall not apply in relation to an occupational pension scheme.]

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Textual Amendments

- F44** Words in s. 95(1) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(15)**
- F45** S. 95(2) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 59(2)** (with s. 87)
- F46** S. 95(2A) inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 53(2)**, 89(3)(b) (with s. 87)
- F47** Words in s. 95(3)(a) omitted (6.4.2015) by virtue of [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 59(3)** (with s. 87)
- F48** S. 95(3A) omitted (6.4.2015) by virtue of [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 59(4)** (with s. 87)
- F49** S. 95(4)(4A) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) for s. 95(4)(5) by S.I. 1995/3213 (N.I. 22), art. 165, **Sch. 4 para. 8(c)**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F50** Words in s. 95(4) inserted (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), **Sch. 10 para. 10(a)**; S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F51** Words in s. 95(4A) substituted (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), **Sch. 10 para. 10(b)**; S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F52** S. 95(4B) inserted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(b)(3)(b), **Sch. 4 para. 59(5)** (with s. 87)
- F53** S. 95(6) repealed (6.4.2005) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), **Sch. 11**; S.R. 2005/166, art. 2(6), Sch. 1
- F54** S. 95(7)(8) added (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 165, **Sch. 4 para. 8(e)**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**

Modifications etc. (not altering text)

- C11** S. 95 modified (28.3.1997) by S.R. 1997/192, **art. 5** (with art. 9)
- C12** S. 95 modified (27.4.2005) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations \(Northern Ireland\) 2005 \(S.R. 2005/193\)](#), regs. 1(1), **3(1)**

96 Withdrawal of applications.

- (1) Subject to ^{F55}subsections (2) and (2A)], a member of a scheme may withdraw an application under section 91 by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.
 - (2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the member's cash equivalent in a way specified in subsection (2)^{F56}, subsection (2A)] or, as the case may be, subsection (3) of section 91.
- ^{F57}(2A) If the making of the application depended on the giving of a notice under section 97F(1), the application may only be withdrawn if the notice is also withdrawn.]
- (3) A member who withdraws an application may make another.
 - (4) A notice to the trustees or managers of a scheme under this section is to be taken to have been given if it is delivered to them personally, or sent by post in a registered letter or by recorded delivery service.

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Textual Amendments

- F55** Words in s. 96(1) substituted (1.12.2000) by S.I. 1999/3147 (N.I. 11), art. 74, **Sch. 9 para. 27(2)**; S.R. 2000/133, art. 2(3), **Sch. Pt. IV**
- F56** Words in s. 96(2) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), **ss. 71(7)**, 89(3)(b) (with s. 71(8)(9), 87)
- F57** S. 96(2A) inserted (1.12.2000) by S.I. 1999/3147 (N.I. 11), art. 74, **Sch. 9 para. 27(3)**; S.R. 2000/133, art. 2(3), **Sch. Pt. IV**

[^{F58}96A Prohibition on excluding future accruals etc

Except as mentioned in sections 92(4) and 97G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.

Textual Amendments

- F58** Ss. 96A-96D inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 60** (with s. 87)

96B Meaning of “scheme rules”: occupational pension schemes

(1) In this Chapter references to the scheme rules, in relation to a pension scheme, are references to—

- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
- (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
- (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of Part 4.

(2) For the purposes of subsection (1)—

- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security (Northern Ireland) Order 1989;
 - (ii) Chapter 2 or 3 of Part 4 or regulations made under either of those Chapters;
 - (iii) this Part or regulations made under this Part;
 - (iv) Part 4A or regulations made under that Part;
 - (v) section 106(1);
 - (vi) Part 2 of the Pensions (Northern Ireland) Order 1995 or orders or regulations made or having effect as if made under that Part;

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- (vii) Article 28 of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
- (viii) any provision mentioned in Article 279(2) of the Pensions (Northern Ireland) Order 2005;
- (ix) section 61 of the Pension Schemes Act 2015;
- (x) regulations made under section 62 or 63 of the Pension Schemes Act 2015;
 - [regulations made under Schedule 17 to the Pensions Act (Northern Ireland) 2015.]^{F59}(xi)
 - [regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015.]^{F60}(xii)
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
 - (i) paragraph 3 of Schedule 5 to the Social Security (Northern Ireland) Order 1989;
 - (ii) section 125(1);
 - (iii) Article 114(1) of the Pensions (Northern Ireland) Order 1995;
 - (iv) Article 28(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
 - (v) Article 279(1) of the Pensions (Northern Ireland) Order 2005;
 - (vi) section 61(3) of the Pension Schemes Act 2015;
 - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.
 - [regulations made under paragraph 16 of Schedule 17 to the Pensions Act (Northern Ireland) 2015.]^{F61}(viii)
 - [regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.]^{F62}(ix)

Textual Amendments

- F58** Ss. 96A-96D inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 60](#) (with s. 87)
- F59** S. 96B(2)(a)(xi) inserted (16.7.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5 \(N.I.\)\)](#), s. 53(1), [Sch. 17 para. 19\(3\)\(a\)](#); S.R. 2015/307, [art. 2\(1\)\(m\)\(ii\)](#)
- F60** S. 96B(2)(a)(xii) inserted (16.7.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5 \(N.I.\)\)](#), s. 53(1), [Sch. 18 para. 9\(3\)\(a\)](#); S.R. 2015/307, [art. 2\(1\)\(n\)](#)
- F61** S. 96B(2)(b)(viii) inserted (16.7.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5 \(N.I.\)\)](#), s. 53(1), [Sch. 17 para. 19\(3\)\(b\)](#); S.R. 2015/307, [art. 2\(1\)\(m\)\(ii\)](#)
- F62** S. 96B(2)(b)(ix) inserted (16.7.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5 \(N.I.\)\)](#), s. 53(1), [Sch. 18 para. 9\(3\)\(b\)](#); S.R. 2015/307, [art. 2\(1\)\(n\)](#)

96C Meaning of “normal pension age” in this Chapter

- (1) In this Chapter “normal pension age”, in relation to a category of benefits under a pension scheme, means—
- (a) in a case where the scheme is an occupational pension scheme and those benefits consist only of a guaranteed minimum pension, the earliest age at

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- which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies,
- (b) in any other case where the scheme is an occupational pension scheme and the scheme provides for the member to become entitled to receive any of those benefits at a particular age on retirement from any employment to which the scheme applies, the earliest age at which the member becomes entitled to receive any of the benefits, and
 - (c) in a case not falling within paragraph (a) or (b), normal minimum pension age as defined by section 279(1) of the Finance Act 2004.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

Textual Amendments

F58 Ss. 96A-96D inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 60](#) (with s. 87)

96D Interpretation of Chapter

In this Chapter—

“accrued rights”, in relation to a member of a pension scheme, means rights that have accrued to or in respect of the member to benefits under the scheme;

“category”, in relation to benefits, has the meaning given by section 89(6);

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“guarantee date”, in relation to a member who has received a statement of entitlement, has the meaning given by section 89A;

“member” is to be read in accordance with section 89(11);

“normal pension age” has the meaning given by section 96C;

“pension credit rights”, in relation to a member of a pension scheme, means rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“salary related occupational pension scheme”: an occupational pension scheme is “salary related” if—

(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits, and

(b) the scheme does not fall within a prescribed class;

“scheme rules”, in relation to a pension scheme, has the meaning given by section 96B;

“statement of entitlement” has the meaning given by section 89A;

“transferrable rights” is to be read in accordance with section 89(11).]

Textual Amendments

F58 Ss. 96A-96D inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 60](#) (with s. 87)

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97 Supplementary provisions.

In making any calculation for the purposes of this Chapter—

- (a) any charge or lien on, and
- (b) any set-off against,

the whole or part of a pension shall be disregarded.

[^{F63}[^{F64}CHAPTER 2

EARLY LEAVERS: CASH TRANSFER SUMS AND CONTRIBUTION REFUNDS]

Textual Amendments

- F63** Pt. 4 Ch. 5 inserted (1.1.2006 for specified purposes, 6.4.2006 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), **241** (with art. 285(5)); S.R. 2005/543, art. 2(5), Sch. Pt. 5
- F64** Pt. 4ZA Ch. 2 heading substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 50(1)(2)(c)** (with s. 87)

Modifications etc. (not altering text)

- C13** Pt. 4 Ch. 5: power to modify conferred (1.1.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), **20(7)(b)** (with art. 285(5)); S.R. 2005/48, art. 2(7), Sch. Pt. 7
- C14** Pt. 4 Ch. 5 applied by S.I. 1995/3213 (N.I. 22), art. 73(9) (as substituted (6.4.2005 for specified purposes, 1.1.2006 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), **247** (with art. 285(5)); S.R. 2005/48, art. 2(4)(a)(b), Sch. Pt. 4 (with art. 2(8)(9)))
- C15** Pt. 4 Ch. 5 excluded (1.1.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), **Sch. 6 para. 20(1)(c)**; S.R. 2005/48, art. 2(7), Sch. Pt. 7
- C16** Pt. 4 Ch. 5 modified (1.4.2009) by [Local Government Pension Scheme \(Administration\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/33\)](#), regs. 1, **74(1)(3)(7)**
- C17** Pt. 4 Ch. 5 excluded (24.7.2014) by [The Pensions \(2012 Act\) \(Transitional, Consequential and Supplementary Provisions\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/204\)](#), regs. 1(1), **55(1)(c)**
- C18** Pt. 4 Ch. 5 modified (1.4.2015) by [The Teachers Pension Scheme \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/170\)](#), regs. 1, **12(1)**
- C19** Pt. 4 Ch. 5 modified (1.4.2015) by [The Public Service \(Civil Servants and Others\) Pensions \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/81\)](#), regs. 1(1), **12(1)**
- C20** Pt. 4 Ch. 5 modified (1.4.2015) by [The Police Pensions \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/156\)](#), regs. 1(2), **12(1)**
- C21** Pt. 4 Ch. 5 modified (1.4.2015) by [The Health Service Workers \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/167\)](#), regs. 1, **12(1)**
- C22** Pt. 4 Ch. 5 modified (1.4.2015) by [The Judicial Pensions Regulations \(Northern Ireland\) 2015 \(S.R. 2015/76\)](#), reg. 1(3), **Sch. 3 para. 10(1)**

97AA Scope of Chapter 5

- (1) This Chapter applies to any member of an occupational pension scheme to which Chapter 1 applies (see section 65(3)) if—
- (a) his pensionable service terminates before he attains normal pension age, and
 - (b) on the date on which his pensionable service terminates—
 - (i) the three month condition is satisfied, but

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- (ii) he does not have relevant accrued rights to benefit under the scheme.
- (2) For the purposes of subsection (1), the three month condition is that the period of the member's pensionable service under the scheme, taken together with—
- (a) any previous period of his pensionable service under the scheme, and
 - (b) any period throughout which he was employed in linked qualifying service under another scheme,
- amounts to at least three months.
- (3) A period counts for the purposes of paragraph (a) or (b) of subsection (2) only so far as it counts towards qualification for long service benefit within the meaning of Chapter 1.
- (4) For the purposes of subsection (1), “relevant accrued rights to benefit under the scheme”, in relation to a member of a scheme, means rights which—
- (a) have accrued to or in respect of him under the scheme, and
 - (b) entitle him to the relevant benefits which would have accrued to or in respect of him under the applicable rules if paragraphs (a) [^{F65}, (aa)] and (b) of section 67(1) (and the word “and” immediately preceding them) did not have effect.
- (5) References in the following provisions of this Chapter to a member, in relation to an occupational pension scheme, are to a member of the scheme to which this Chapter applies.

Textual Amendments

- F65** Word in s. 97AA(4)(b) inserted (1.10.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), ss. 35\(4\), 53\(1\); S.R. 2015/307, art. 2\(3\)](#)

97AB Right to cash transfer sum and contribution refund

- (1) On the termination of his pensionable service, a member of an occupational pension scheme acquires a right to whichever one he elects of the following options—
- (a) a cash transfer sum;
 - (b) a contribution refund.
- (2) Subsection (1) is subject to the following provisions of this Chapter.
- (3) In this Chapter “cash transfer sum” means, in relation to a member of an occupational pension scheme, the cash equivalent, at the date on which his pensionable service terminates, of the benefits mentioned in section 97AA(4)(b).
- (4) In this Chapter, “contribution refund” means, in relation to a member of an occupational pension scheme, a sum representing the aggregate of—
- (a) the member's employee contributions to the scheme, and
 - (b) where transfer credits have been allowed to the member under the scheme by virtue of a payment (“the transfer payment”) made by the trustees or managers of another occupational pension scheme, the member's employee contributions to that other scheme, so far as they—
 - (i) relate to the transfer payment, and
 - (ii) do not, in aggregate, exceed the amount of the transfer payment.

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- (5) In subsection (4), “employee contributions” means, in relation to a member of an occupational pension scheme, contributions made to the scheme by or on behalf of the member on his own account, but does not include—
- (a) a transfer payment by virtue of which transfer credits have been allowed to the member under the scheme, or
 - (b) any pension credit or amount paid to the scheme which is attributable (directly or indirectly) to a pension credit.

97AC Notification of right to cash transfer sum or contribution refund

- (1) This section applies where the pensionable service of a member of an occupational pension scheme has terminated.
- (2) The trustees or managers of the scheme must—
 - (a) within a reasonable period after the termination give the member a statement in writing containing information adequate to explain—
 - (i) the nature of the right acquired by him under section 97AB, and
 - (ii) how he may exercise the right,
 and such other information as may be prescribed, and
 - (b) afford the member a reasonable period after giving him that statement within which to exercise the right.
- (3) The statement given under subsection (2)(a) must specify, in particular—
 - (a) in relation to the cash transfer sum to which the member acquires a right under section 97AB, its amount and the permitted ways in which the member can use it,
 - (b) the amount of the contribution refund to which the member so acquires a right, and
 - (c) the last day on which the member may, disregarding section 97AI(2), exercise the right (“the reply date”).
- (4) Information which may be prescribed under subsection (2)(a) includes, in particular—
 - (a) information about any tax liability in respect of, or deduction required or permitted to be made from, the cash transfer sum or contribution refund, and
 - (b) information about the effect on other rights of the member (whether under the applicable rules or otherwise) of exercising the right.
- (5) The trustees or managers may notify the member that, if he does not exercise the right mentioned in subsection (2)(a)(i) on or before the reply date, the trustees or managers will be entitled to pay the contribution refund to him.
- (6) Where the trustees or managers of the scheme fail to comply with subsection (2), Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

97AD Exercise of right under section 97AB

- (1) This section applies where a member of an occupational pension scheme acquires a right under section 97AB.
- (2) The member may exercise the right by giving a notice in writing to that effect to the trustees or managers stating—

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- (a) which of the options under section 97AB(1) he elects, and
 - (b) if he elects for the cash transfer sum, the permitted way in which he requires that sum to be used.
- (3) The notice under subsection (2) must be given on or before—
- (a) the reply date, or
 - (b) such later date as the trustees or managers may allow in his case under section 97AI(2).

97AE Permitted ways of using cash transfer sum

- (1) This section applies in relation to a cash transfer sum to which a member of an occupational pension scheme acquires a right under section 97AB.
- (2) The ways in which the cash transfer sum may be used are—
- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
 - (i) whose trustees or managers are able and willing to accept the cash transfer sum, and
 - (ii) which satisfies prescribed requirements,
 - (b) for acquiring rights allowed under the rules of a personal pension scheme—
 - (i) whose trustees or managers are able and willing to accept the cash transfer sum, and
 - (ii) which satisfies prescribed requirements,
 - (c) for purchasing one or more appropriate annuities,
 - (d) in such circumstances as may be prescribed, for subscribing to other pension arrangements which satisfy prescribed requirements.
- (3) For the purposes of subsection (2), “appropriate annuity” means an annuity which satisfies prescribed requirements and is purchased from an insurer who—
- (a) falls within section 15(4)(a),
 - (b) is chosen by the member, and
 - (c) is willing to accept payment on account of the member from the trustees or managers of the scheme.

97AF Calculation of cash transfer sum and contribution refund

- (1) Cash transfer sums are to be calculated and verified in the prescribed manner.
- (2) Any calculation of a contribution refund must conform with such requirements as may be prescribed.
- (3) Regulations may provide—
- (a) for amounts to be deducted in respect of administrative costs in calculating cash transfer sums;
 - (b) for a cash transfer sum or contribution refund to be increased or reduced in prescribed circumstances.
- (4) The circumstances that may be prescribed under subsection (3)(b) include in particular—

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- (a) a failure by the trustees or managers of the scheme to comply with section 97AG(2) or (4) in relation to the cash transfer sum or contribution refund, and
 - (b) the state of funding of the scheme.
- (5) Regulations under subsection (3)(b) may provide—
- (a) for a cash transfer sum to be reduced so that the member has no right to have any amount paid by way of cash transfer sum in respect of him;
 - (b) for a contribution refund to be reduced so that the member has no right to receive any amount by way of contribution refund under this Chapter.

97AG Duties of trustees or managers following exercise of right

- (1) This section applies where a member of an occupational pension scheme has exercised a right under section 97AB in accordance with section 97AD.
- (2) Where the member has elected for the cash transfer sum, the trustees or managers of the scheme must, within a reasonable period beginning with the date on which the right was exercised, do what is needed to carry out the requirement specified in the member's notice under section 97AD(2)(b).
- (3) When the trustees or managers have done what is needed to carry out that requirement, they are discharged from any obligation—
 - (a) in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
 - (b) to make any other payment by way of refund to or in respect of the member of, or in respect of—
 - (i) the contributions, or any payment, mentioned in section 97AB(4), or
 - (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit).
- (4) Where the member has elected for the contribution refund, the trustees or managers of the scheme must, within a reasonable period beginning with the date on which the right was exercised, do what is needed to secure that the amount of the contribution refund is paid to the member or as he directs.
- (5) When the trustees or managers have done what is needed to secure the payment of the contribution refund as mentioned in subsection (4)—
 - (a) they are discharged from any obligation in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
 - (b) if they are required under the applicable rules, or determine in accordance with those rules, to make any payment (“the refund payment”) by way of refund to or in respect of the member of, or in respect of—
 - (i) the contributions, or any payment, mentioned in section 97AB(4), or
 - (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit),
 the amount of the contribution refund may be set off against the refund payment.

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- (6) Where the trustees or managers fail to comply with subsection (2) or (4), Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

97AH Powers of trustees or managers where right not exercised

- (1) This section applies where—
- (a) a member of an occupational pension scheme does not exercise a right acquired by him under section 97AB on or before the reply date or such later date as the trustees or managers of the scheme allow in his case under section 97AI(2), and
 - (b) the trustees or managers of the scheme have notified the member as mentioned in section 97AC(5).
- (2) The trustees or managers may within a reasonable period beginning with—
- (a) the reply date, or
 - (b) if a later date has been allowed as mentioned in subsection (1), that later date,
- pay the contribution refund to the member.
- (3) When the trustees or managers have paid the contribution refund to the member—
- (a) they are discharged from any obligation in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
 - (b) if they are required under the applicable rules, or determine in accordance with those rules, to make any payment (“the refund payment”) by way of refund to or in respect of the member of, or in respect of—
 - (i) the contributions, or any payment, mentioned in section 97AB(4), or
 - (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit),
 the amount of the contribution refund may be set off against the refund payment.

97AI Rights under section 97AB: further provisions

- (1) A member of an occupational pension scheme loses any right acquired by him under section 97AB—
- (a) if the scheme is wound up, or
 - (b) subject to subsection (2), if he fails to exercise the right on or before the reply date.
- (2) If the member has failed to exercise any such right on or before the reply date, the trustees or managers of the scheme may allow him to exercise it on or before such later date as they may determine on the application of the member.
- (3) Where the trustees or managers determine a later date under subsection (2)—
- (a) they must give a notice in writing to that effect to the member, and
 - (b) subsection (1)(b) applies in relation to the member as if the reference to the reply date were a reference to the later date.

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- (4) For the purposes of section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents) in its application to this section and sections 97AC(2) and 97AD(2)—
- (a) omit the word “registering”, and
 - (b) the last known address of any person is his latest address known to the trustees or managers of the scheme.
- (5) This Chapter is subject to any provision made by or under section 57 (deduction of contributions equivalent premium from refund of scheme contributions)—
- (a) permitting any amount to be deducted from any payment of a contribution refund, or
 - (b) requiring the payment of a contribution refund to be delayed.
- (6) In this Chapter, except where the context otherwise requires, the following expressions have the following meanings—
- “the applicable rules” means—
- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
 - (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
 - (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1;
- “member” has the meaning given in section 97AA(5);
- “permitted way”, in relation to a cash transfer sum, means any of the ways specified in section 97AE(2) in which the sum may be used;
- “relevant benefits” means benefits which are not attributable (directly or indirectly) to a pension credit;
- “reply date”, in relation to a member whose pensionable service has terminated, has the meaning given in section 97AC(3)(c).
- (7) For the purposes of subsection (6)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security (Northern Ireland) Order 1989 (equal treatment for men and women);
 - (ii) this Chapter or Chapter 2, 3 or 4 or regulations made under this Chapter or any of those Chapters;
 - (iii) Part IVA or regulations made under that Part;
 - (iv) section 106(1);
 - (v) Part II of the Pensions (Northern Ireland) Order 1995 (occupational pensions) or orders or regulations made or having effect as if made under that Part;
 - (vi) Article 28 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (pension debits: reduction of benefit);
 - (vii) any provision mentioned in Article 279(2) of the Pensions (Northern Ireland) Order 2005;
- [section 61 of the Pension Schemes Act 2015;
- F66(viii)

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- (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;]
- [regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015;]
- ^{F67}(xi) Ireland) 2015;]
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
- (i) paragraph 3 of Schedule 5 to the Social Security (Northern Ireland) Order 1989;
- (ii) section 125(1);
- (iii) Article 114(1) of the Pensions (Northern Ireland) Order 1995;
- (iv) Article 28(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
- (v) Article 279(1) of the Pensions (Northern Ireland) Order 2005.]
- ^{F68}(vi) section 61(3) of the Pension Schemes Act 2015;
- (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.]
- ^{F69}(ix) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.]

Textual Amendments

- F66** S. 97AI(7)(a)(ix)(viii) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), ss. **66(1)(a)**, 89(3)(b) (with s. 87)
- F67** S. 97AI(7)(a)(ix) inserted (16.7.2015) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(1), **Sch. 18 para. 9(4)(b)**; S.R. 2015/307, art. 2(1)(n)
- F68** S. 97AI(7)(b)(vi)(vii) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), ss. **66(1)(b)**, 89(3)(b) (with s. 87)
- F69** S. 97AI(7)(a)(xi) inserted (16.7.2015) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(1), **Sch. 18 para. 9(4)(a)**; S.R. 2015/307, art. 2(1)(n)

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