



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### [<sup>F1</sup>PART IVA

#### REQUIREMENTS RELATING TO PENSION CREDIT BENEFIT

### [<sup>F1</sup>CHAPTER II

#### TRANSFER VALUES

##### Textual Amendments

**F1** Pt. 4A Chapters 1, 2 (ss. 97A-97Q) inserted (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), **arts. 1(5)(a), 34**; S.R. 2000/133, **art. 2(3)**, **Sch. Pt. IV**

##### Modifications etc. (not altering text)

**C1** Pt. 4A Ch. 2 modified (1.4.2009) by **Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009** (S.R. 2009/33), **regs. 1, 94**

#### **97F Power to give transfer notice.**

- (1) An eligible member of a qualifying scheme may by notice in writing require the trustees or managers of the scheme to use an amount equal to the cash equivalent of his [<sup>F2</sup>pension credit rights] for such one or more of the authorised purposes as he may specify in the notice.
- (2) In the case of a member of an occupational pension scheme, the authorised purposes are—
  - (a) to acquire rights allowed under the rules of an occupational pension scheme, or personal pension scheme, which is an eligible scheme;

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- (b) to purchase from one or more [<sup>F3</sup>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 the prescribed requirements; and
  - (c) in such circumstances as may be prescribed, to subscribe to other pension arrangements which satisfy prescribed requirements.
- (3) In the case of a member of a personal pension scheme, the authorised purposes are—
- (a) to acquire rights allowed under the rules of an occupational pension scheme, or personal pension scheme, which is an eligible scheme; and
  - (b) in such circumstances as may be prescribed, to subscribe to other pension arrangements which satisfy prescribed requirements.
- [ An eligible member who has pension credit rights in relation to more than one category <sup>F4</sup>(3A) of benefits under the scheme may exercise the power to give a transfer notice in relation to the pension credit rights in relation to any one or more of those categories.]
- [<sup>F5</sup>(4) The cash equivalent for the purposes of subsection (1) shall—
- (a) in a case where the pension credit rights relate to a category of benefits other than money purchase benefits, be taken to be the amount shown in the relevant statement under section 97H, and
  - (b) in a case where the pension credit rights relate to money purchase benefits, be determined by reference to the date the notice under that subsection is given.]
- (5) The requirements which may be prescribed under subsection (2) or (3) include, in particular, requirements of the Inland Revenue.
- (6) In subsections (2) and (3), references to an eligible scheme are to a scheme—
- (a) the trustees or managers of which are able and willing to accept payment in respect of the member’s pension credit rights, and
  - (b) which satisfies the prescribed requirements.
- [<sup>F6</sup>(6A) 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.]
- [ In this Chapter a reference to a “category” of benefits is to one of the following three <sup>F6</sup>(6B) categories—
- (a) money purchase benefits;
  - (b) flexible benefits other than money purchase benefits;
  - (c) benefits that are not flexible benefits.]
- (7) In this Chapter, “transfer notice” means a notice under subsection (1).

#### Textual Amendments

**F2** Words in s. 97F(1) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 61\(2\)](#) (with s. 87)

**F3** Words in s. 97F(2)(b) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 134](#)

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- F4** S. 97F(3A) inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 61(3)** (with s. 87)
- F5** S. 97F(4) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 61(4)** (with s. 87)
- F6** S. 97F(6A)(6B) substituted for s. 97F(6A) (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. 61(5)** (with s. 87)

## [<sup>F7</sup>97G Restrictions on power to give transfer notice

- (1) An eligible member may not give a transfer notice in relation to a category of benefits if a crystallisation event has occurred in relation to any of the member's pension credit rights to benefits in that category.
- (2) An eligible member may give a transfer notice in relation to a category of benefits other than money purchase benefits only if—
  - (a) the member has been provided with a statement under section 97H in relation to benefits in that category, and
  - (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.
- (3) An eligible member may not give a transfer notice in relation to benefits other than flexible benefits if there is less than one year to go until the member reaches normal benefit age.
- (4) Where an eligible member of a qualifying scheme—
  - (a) is entitled to give a transfer notice in relation to any category of benefits, and
  - (b) is also entitled to make an application to the trustees or managers of the scheme under section 91(1) in relation to benefits in the same category (or would be entitled to do so but for section 91(1A)(a)),the member may not, if the scheme so provides, give a transfer notice in relation to that category of benefits without also making an application under section 91(1) in relation to that category of benefits.
- (5) A transfer notice may not be given if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.
- (6) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.
- (7) For the purposes of subsection (1) a crystallisation event occurs in relation to a member's pension credit 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
  - (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.]

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#### Textual Amendments

- F7** S. 97G substituted (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. 62** (with s. 87)

### 97H [<sup>F8</sup>Benefits other than money purchase]: statements of entitlement.

- [<sup>F9</sup>(1) The trustees or managers of a qualifying scheme must, on the application of an eligible member, provide the member with a written statement of the amount of the cash equivalent of the member's pension credit rights in relation to categories of benefits other than money purchase benefits.
- (1A) In the case of a member with pension credit rights in relation to two categories of benefits other than money purchase benefits, the application may relate to pension credit rights in relation to either or both of those categories.]
- (2) For the purposes of subsection (1), the amount of the cash equivalent shall be determined by reference to a date falling within—
- (a) the prescribed period beginning with the date of the application, and
  - (b) the prescribed period ending with the date on which the statement under that subsection is provided to the applicant.
- (3) Regulations may make provision in relation to applications under subsection (1) and may, in particular, restrict the making of successive applications.
- (4) If trustees or managers to whom subsection (1) applies fail to perform an obligation under that subsection, 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 secure that the obligation was performed.

#### Textual Amendments

- F8** Words in s. 97H heading substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 63(3)** (with s. 87)
- F9** S. 97H(1)(1A) substituted for s. 97H(1) (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 63(2)** (with s. 87)

### 97I Calculation of cash equivalents.

Cash equivalents for the purposes of this Chapter shall be calculated and verified in the prescribed manner.

### 97J Time for compliance with transfer notice.

- (1) Trustees or managers of a qualifying scheme who receive a transfer notice shall comply with the notice—
- [<sup>F10</sup>(a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the valuation date, and
  - (b) in the case of an application that relates to money purchase benefits, within 6 months of the date on which the notice is given.]

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(2) The Regulatory Authority may, in prescribed circumstances, [<sup>F11</sup>by direction,] extend the period for complying with the notice.

[<sup>F12</sup>(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.]

[<sup>F13</sup>(2B) Subsection (1) 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.]

[<sup>F14</sup>(3) . . . . .

(4) Where the trustees or managers of an occupational pension scheme have failed to comply with a transfer notice before the end of the period for compliance—

- (a) they shall, 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 the notice was complied with before the end of the period for compliance.

(5) If trustees or managers to whom subsection (4)(a) applies fail to perform the obligation imposed by that provision, Article 10 of the Pensions (Northern Ireland) Order 1995 shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that the obligation was performed.

(6) Regulations may—

- (a) make provision [<sup>F15</sup>requiring applications for extensions under subsection (2) to meet prescribed requirements] , and
- (b) provide that subsection (4) shall not apply in prescribed circumstances.

[<sup>F16</sup>(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 97H is determined.]

#### Textual Amendments

- F10** S. 97J(1)(a)(b) substituted (6.4.2015) by Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 64(2)** (with s. 87)
- F11** Words in s. 97J(2) inserted (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), art. 1(2), **Sch. 10 para. 11(a)**; S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F12** S. 97J(2A) 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. 64(3)** (with s. 87)
- F13** S. 97J(2B) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), **ss. 53(3)**, 89(1)(b)(3)(b) (with s. 87)
- F14** S. 97J(3) 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
- F15** Words in s. 97J(6)(a) substituted (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), art. 1(2), **Sch. 10 para. 11(b)**; S.R. 2006/95, art. 2(c), Sch. Pt. 3

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**F16** S. 97J(7) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 64\(4\)](#) (with s. 87)

**97K Withdrawal of transfer notice.**

- (1) Subject to subsections (2) and (3), a person who has given a transfer notice may withdraw it by giving the trustees or managers to whom it was given notice in writing that he no longer requires them to comply with it.
- (2) A transfer notice may not be withdrawn if the trustees or managers have already entered into an agreement with a third party to use the whole or part of the amount they are required to use in accordance with the notice.
- (3) If the giving of a transfer notice depended on the making of an application under section 91, the notice may only be withdrawn if the application is also withdrawn.

**97L Variation of the amount required to be used.**

- (1) Regulations may make provision for the amount required to be used under section 97F(1) to be increased or reduced in prescribed circumstances.
- (2) Without prejudice to the generality of subsection (1), the circumstances which may be prescribed include—
  - (a) failure by the trustees or managers of a qualifying scheme to comply with a notice under section 97F(1) within 6 months of the date by reference to which the amount of the cash equivalent falls to be determined, and
  - (b) the state of funding of a qualifying scheme.
- (3) Regulations under subsection (1) may have the effect of extinguishing an obligation under section 97F(1).

**97M Effect of transfer on trustees' duties.**

Compliance with a transfer notice shall have effect to discharge the trustees or managers of a qualifying scheme from any obligation to provide the [F17]benefits to which the transfer notice relates].

**Textual Amendments**

**F17** Words in s. 97M substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 65](#) (with s. 87)

**97N Matters to be disregarded in calculations.**

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.

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### [<sup>F18</sup>97NA] Prohibition on excluding transfers of some rights without others 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

**F18** S. 97NA inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), [Sch. 4 para. 66](#) (with s. 87)

### 97O Service of notices.

A notice under section 97F(1) or 97K(1) shall be taken to have been given if it is delivered to the trustees or managers personally or sent by post in a registered letter or by recorded delivery service.

### 97P Interpretation of Chapter II.

(1) In this Chapter—

[<sup>F19</sup>“category”, in relation to benefits, has the meaning given by section 97F(6B);]  
“eligible member”, in relation to a qualifying scheme, means a member who has pension credit rights under the scheme;

[<sup>F19</sup>“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;]

“normal benefit age”, in relation to an eligible member of a qualifying scheme, means the earliest age at which the member is entitled to receive a pension by virtue of his pension credit rights under the scheme (disregarding any scheme rule making special provision as to early payment of pension on grounds of ill-health or otherwise);

<sup>F20</sup> ...

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

“qualifying scheme” means a funded occupational pension scheme and a personal pension scheme;

“transfer notice” has the meaning given by section 97F(7).

<sup>F21</sup>(2) .....

(3) In this Chapter, references to the relevant statement under section 97H, in relation to a transfer notice [<sup>F22</sup>in relation to benefits other than money purchase benefits], are to the statement under that section on which the giving of the notice depended.

(4) For the purposes of this section, an occupational pension scheme is funded if it meets its liabilities out of a fund accumulated for the purpose during the life of the scheme.]



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**Textual Amendments**

- F19** Words in s. 97P(1) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 67(2)** (with s. 87)
- F20** Words in s. 97P(1) omitted (6.4.2015) by virtue of Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 67(3)** (with s. 87)
- F21** S. 97P(2) omitted (6.4.2015) by virtue of Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 67(4)** (with s. 87)
- F22** Words in s. 97P(3) substituted (6.4.2015) by Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 67(5)** (with s. 87)

<sup>F23</sup>**97Q Power to modify Chapter II in relation to hybrid schemes.**

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**Textual Amendments**

- F23** S. 97Q omitted (6.4.2015) by virtue of Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 68** (with s. 87)



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