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## SCHEDULES

### SCHEDULE 11

#### FURTHER PROVISION RELATING TO PENSION SCHEMES: NORTHERN IRELAND

##### PART 2

###### OTHER PROVISION

###### *Climate change risk*

- 12 (1) The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) is amended as follows.
- (2) After Article 41 insert—

###### *“Climate change risk*

- 41A(1) Regulations may impose requirements on the trustees or managers of an occupational pension scheme of a prescribed description with a view to securing that there is effective governance of the scheme with respect to the effects of climate change.
- (2) The effects of climate change in relation to which provision may be made under paragraph (1) include, in particular—
- (a) risks arising from steps taken because of climate change (whether by governments or otherwise), and
  - (b) opportunities relating to climate change.
- (3) The requirements which may be imposed by the regulations include, in particular, requirements about—
- (a) reviewing the exposure of the scheme to risks of a prescribed description;
  - (b) assessing the assets of the scheme in a prescribed manner;
  - (c) determining, reviewing and (if necessary) revising a strategy for managing the scheme's exposure to risks of a prescribed description;
  - (d) determining, reviewing and (if necessary) revising targets relating to the scheme's exposure to risks of a prescribed description;
  - (e) measuring performance against such targets;
  - (f) preparing documents containing information of a prescribed description.
- (4) Regulations under paragraph (3)(b) may, in particular, require—
- (a) that assets are assessed by reference to their exposure to risks of a prescribed description, and

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- (b) that an assessment includes determining the contribution of the assets of the scheme to climate change.
- (5) The regulations may require the trustees or managers of the scheme to take into account—
  - (a) different ways in which the climate might change, and
  - (b) different steps that might be taken because of climate change.
- (6) Regulations under paragraph (5) may require the trustees or managers of the scheme to adopt prescribed assumptions as to future events, including assumptions about—
  - (a) the steps that might be taken for the purpose of achieving the Paris Agreement goal or other climate change goal, or
  - (b) the achievement of the Paris Agreement goal or other climate change goal.
- (7) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.
- (8) In this Article “the Paris Agreement goal” means the goal of holding the increase in the average global temperature to well below 2°C above pre-industrial levels referred to in Article 2(1)(a) of the agreement done at Paris on 12 December 2015.

*Climate change risk: publication of information*

- 41B (1) Regulations may require the trustees or managers of an occupational pension scheme of a prescribed description to publish information of a prescribed description relating to the effects of climate change on the scheme (which may include information about matters to which regulations under Article 41A may relate).
- (2) Regulations under paragraph (1) may, among other things—
    - (a) require the trustees or managers to publish a document of a prescribed description;
    - (b) require information or a document to be made available free of charge;
    - (c) require information or a document to be provided in a form that is or by means that are prescribed or of a prescribed description.
  - (3) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.

*Articles 41A and 41B: compliance*

- 41C (1) Regulations may make provision with a view to ensuring compliance with a provision of regulations under Article 41A or 41B.
- (2) The regulations may in particular—
    - (a) provide for the Authority to issue a notice (a “compliance notice”) to a person with a view to ensuring the person's compliance with a provision of regulations under Article 41A or 41B;

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- (b) provide for the Authority to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person’s compliance with a provision of regulations under Article 41A or 41B;
  - (c) provide for the Authority to issue a notice (a “penalty notice”) imposing a penalty on a person where the Authority are of the opinion that the person—
    - (i) has failed to comply with a compliance notice or third party compliance notice, or
    - (ii) has contravened a provision of regulations under Article 41A or 41B;
  - (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
  - (e) confer other functions on the Authority.
- (3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.
- (4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—
- (a) £5,000, in the case of an individual, and
  - (b) £50,000, in any other case.
- (5) In this Article “First-tier Tribunal” and “Upper Tribunal” mean those tribunals established under section 3 of the Tribunals, Courts and Enforcement Act 2007.”
- (3) In Article 113 (breach of regulations), in paragraph (3)(b), after “10” insert “ or under provision contained in regulations made by virtue of Article 41C ”.
- (4) In Article 167 (Assembly, etc. control of orders and regulations), after paragraph (3) insert—
- “(3A) Paragraph (2) also applies in relation to the first regulations made by virtue of Article 41A or 41C (whether made alone or with other regulations).”

#### Commencement Information

**II** Sch. 11 para. 12 in force at 1.9.2021 by S.R. 2021/240, art. 2(2)(e)

#### *Transfer rights: exercise of right to cash equivalent*

- 13 (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 91 (ways of taking right to cash equivalent), after subsection (6) insert—
- “(6ZA) The trustees or managers of the scheme may not use the cash equivalent in a way specified in subsection (2)(a), (b) or (d), (2A)(a), (b) or (d) or (3) unless prescribed conditions are satisfied.
- (6ZB) The conditions that may be prescribed by regulations under subsection (6ZA) include (but are not limited to) conditions about—

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- (a) the member's employment or place of residence;
- (b) providing the trustees or managers with information or evidence about the member's employment or place of residence;
- (c) the member obtaining information or guidance about exercising the option conferred by subsection (1) from a prescribed person in a prescribed case;
- (d) providing the trustees or managers with evidence that—
  - (i) the member has complied with a prescribed condition about obtaining such information or guidance from a prescribed person, or
  - (ii) the member is not subject to such a prescribed condition.

(6ZC) Regulations may make provision requiring the trustees or managers of a pension scheme to notify a member who makes an application under subsection (1) of conditions prescribed under subsection (6ZA).”

- (3) In section 94 (loss of right to cash equivalent), in subsection (2), for “95(2A)” substitute “ 95(2ZA) or (2A) ”.
- (4) In section 95 (trustees' duties after exercise of option), after subsection (2) insert—
 

“(2ZA) Subsection (2) does not apply if the trustees or managers have been unable to carry out what the member requires because a condition prescribed by regulations under section 91(6ZA) has not been satisfied.”
- (5) In section 95, after subsection (2ZA) (inserted by sub-paragraph (4)) insert—
 

“(2ZB) Subsection (2) does not apply if—

  - (a) the member was required by section 92(4) to give a transfer notice under section 97F(1) in addition to making an application, and
  - (b) the trustees or managers have been unable to carry out what the member required in the transfer notice under section 97F(1) because a condition prescribed by regulations under section 97F(5A) has not been satisfied.”
- (6) In section 97F (power to give transfer notice), after subsection (5) insert—
 

“(5A) The trustees or managers of the scheme may not use the amount equal to the cash equivalent for an authorised purpose under subsection (2)(a) or (c) or (3) unless prescribed conditions are satisfied.

(5B) The conditions that may be prescribed by regulations under subsection (5A) include (but are not limited to) conditions about—

  - (a) the member's employment or place of residence;
  - (b) providing the trustees or managers with information or evidence about the member's employment or place of residence;
  - (c) the member obtaining information or guidance about exercising the right under subsection (1) from a prescribed person in a prescribed case;
  - (d) providing the trustees or managers with evidence that—
    - (i) the member has complied with a prescribed condition about obtaining such information or guidance from a prescribed person, or

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(ii) the member is not subject to such a prescribed condition.

(5C) Regulations may make provision requiring the trustees or managers of a qualifying scheme to notify an eligible member who gives a transfer notice of conditions prescribed under subsection (5A).”

(7) In section 97J (time for compliance with transfer notice), after subsection (2A) insert—

“(2AA) Subsection (1) does not apply if the trustees or managers have been unable to carry out what the member requires because a condition prescribed by regulations under section 97F(5A) has not been satisfied.”

(8) In section 97J, after subsection (2AA) (inserted by sub-paragraph (7)) insert—

“(2AB) Subsection (1) does not apply if—

- (a) the member was required by section 97G(4) to make an application under section 91(1) in addition to giving a transfer notice, and
- (b) the trustees or managers have been unable to carry out what the member required in the application under section 91(1) because a condition prescribed by regulations under section 91(6ZA) has not been satisfied.”

#### Commencement Information

**I2** Sch. 11 para. 13(1) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(b)

**I3** Sch. 11 para. 13(2)(6) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(g)

#### *The Pension Protection Fund: modification of provisions relating to pensionable service*

14 (1) The amendments of the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 (S.R. (N.I.) 2005 No. 149) made by regulation 2(2) and (3) of the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018 (S.R. (N.I.) 2018 No. 165) (“the 2018 Regulations”) are to be deemed always to have had effect.

(2) The amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 (S.R. (N.I.) 2005 No. 91) made by regulation 3 of the 2018 Regulations is to be deemed always to have had effect.

#### Commencement Information

**I4** Sch. 11 para. 14 in force at 1.9.2021 by S.R. 2021/240, art. 2(2)(f)

#### *Administration charges*

15 (1) In Article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) (meaning of “stakeholder pension scheme”), in paragraph (5) (fourth condition: charge cap)—

- (a) for “result in” substitute “constitute”;

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- (b) after “members” insert “or the making of transfer payments with a view to acquiring rights or entitlements to pension benefits under different pension schemes”.
- (2) In Schedule 18 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) (power to restrict charges or impose requirements in relation to schemes), in paragraph 1(5), in the definition of “administration charge”—
- (a) for “result in” substitute “constitute”;
  - (b) after “members” insert “or the making of transfer payments with a view to acquiring rights or entitlements to pension benefits under different pension schemes”.
- (3) In section 109 of the Pension Schemes (Northern Ireland) Act 1993 (disclosure of information about schemes to members etc)—
- (a) in subsection (6)(b), after “the” insert “other”;
  - (b) in subsection (7), after “or” insert “other”.

#### Commencement Information

**I5** Sch. 11 para. 15(2) in force at 29.9.2021 for specified purposes by [S.R. 2021/271](#), [art. 2\(2\)](#) (with [art. 10](#))

VALID FROM 01/08/2022

#### *Categories of pension schemes: repeal of provisions of Pension Schemes Act (Northern Ireland) 2016*

- 16 In the Pension Schemes Act (Northern Ireland) 2016 (c. 1 (N.I.)), omit—
- (a) sections 1 to 7 (Part 1: categories of pension scheme);
  - (b) sections 8 to 35 (Part 2: pension schemes providing collective benefits);
  - (c) sections 36, 37, 38(2), (3) and (5) to (7) and 39 to 45 (general changes to legislation about pension schemes);
  - (d) Schedule 1 (early leavers: revaluation of accrued benefits);
  - (e) in Schedule 2 (other amendments to do with Parts 1 and 2)—
    - (i) paragraphs 1 to 19;
    - (ii) paragraph 21;
    - (iii) paragraphs 23 to 27;
    - (iv) paragraphs 29 and 30;
    - (v) paragraph 32;
    - (vi) paragraphs 34 to 47.

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