
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015 (S.I. 2015/742) (“the Advice Regulations”), which relate to the requirement in section 48 of the Pension Schemes Act 2015 (c. 8) (“the 2015 Act”) that the trustees or managers of a pension scheme must check that a member or survivor has received appropriate independent advice before carrying out certain transactions. The requirement applies to a member’s or survivor’s “safeguarded benefits”, meaning benefits which are neither money purchase benefits nor cash balance benefits as defined in pensions legislation⁽¹⁾.

Regulation 4 inserts new regulations 8A, 8B and 8C into the Advice Regulations, to require the trustees or managers of a pension scheme to provide specified information in writing (known as a “risk warning”) to members and survivors in certain circumstances. The requirement applies if the member or survivor has “safeguarded-flexible benefits” (safeguarded benefits which are also flexible benefits, as defined in section 74 of the 2015 Act) and takes certain actions, such as asking the scheme for information about how to transfer their benefits to a different scheme. Paragraph (5) of regulation 8A provides the Pensions Regulator with a power to impose financial penalties in respect of a failure by a trustee or manager to comply with that regulation.

Regulation 5 inserts new regulation 13 into the Advice Regulations. This requires the Secretary of State to review the operation of the Advice Regulations and publish a report setting out the conclusions of the review, in accordance with sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (c. 26), no later than five years after these Regulations come into force, and subsequently at intervals of not more than five years.

An analysis of the impact of these Regulations on the costs of business has been made. The impact assessment is available from the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA, and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk. Copies have also been placed in the libraries of both Houses of Parliament.

(1) See sections 48(8), 75 and 76(2) of the 2015 Act.