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STATUTORY INSTRUMENTS

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**2017 No. 774**

**The Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2017**

**New regulations 13A to 13E**

11. After regulation 13 (amendment of other regulations) insert—

“CHAPTER 2

RESTRICTIONS ON EARLY EXIT CHARGES

**Early exit charges**

**13A.**—(1) For the purposes of this Chapter an early exit charge in relation to a member of a relevant scheme is a charge which—

- (a) is imposed under the scheme or a relevant contract when a member who has reached normal minimum pension age takes the action mentioned in subsection (2); but
- (b) is only imposed, or only imposed to that extent, if the member takes that action before the member’s normal pension age.

(2) The action is the member taking benefits under the scheme, converting benefits under the scheme into different benefits or transferring benefits to another pension scheme.

(3) For the purposes of this regulation—

“normal minimum pension age” has the meaning given in section 279(1) of the Finance Act 2004<sup>(1)</sup>;

“normal pension age” means the earliest age at which, or the earliest occasion on which, the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise and any administration charges<sup>(2)</sup>); and

a reference to “benefits” includes any part or all of those benefits.

**Prohibition of early exit charges**

**13B.**—(1) This regulation applies to a member of a relevant scheme<sup>(3)</sup> who joined that scheme on or after 1st October 2017.

(2) Service providers and trustees and managers of a relevant scheme must not impose an early exit charge, or permit such a charge to be imposed, on a member of the scheme to whom this regulation applies.

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(1) 2004 c. 12.

(2) “Administration charge” is defined in paragraph 1(5) of Schedule 18 to the Pensions Act 2014.

(3) Regulation 2(2) of S.I. 2015/879 defines “relevant scheme” for the purposes of paragraph 1(5) of Schedule 18 to the Pensions Act 2014.

### **Limits on early exit charges**

**13C.**—(1) This regulation applies to a member of a relevant scheme who joined that scheme before 1st October 2017.

(2) Service providers and trustees and managers of a relevant scheme must not impose, or permit to be imposed, on a member of the scheme to whom this regulation applies an early exit charge that exceeds the lower of—

- (a) 1% of the value of the member’s benefits being taken, converted or transferred; or
- (b) such amount as was provided for under the scheme rules or a relevant contract as at 1st October 2017.

(3) Where no provision for an early exit charge was made under the scheme rules or a relevant contract as at 1st October 2017, service providers and trustees and managers of a relevant scheme must not impose an early exit charge, or permit such a charge to be imposed, on a member of the scheme to whom this regulation applies.

(4) Trustees and managers of a relevant scheme must not—

- (a) include provision in a relevant scheme for an early exit charge, where such provision did not exist on 1st October 2017; or
- (b) vary provision for an early exit charge in such a scheme to increase or potentially increase the charge.

(5) Nothing in this regulation permits an early exit charge to be imposed—

- (a) that is higher than the limits prescribed by regulation 6 (limits on charges) where that regulation applies; or
- (b) where section 33 of the Pension Schemes Act 2017 (prohibition on increasing charges etc during triggering event period) applies.

(6) Nothing in regulation 6 permits—

- (a) an early exit charge which is lower than 0.75% of the value of the member’s benefits being taken, converted or transferred, to be increased; or
- (b) an early exit charge to be imposed where one did not exist.

(7) The value of a member’s benefits in paragraphs (2)(a) and (6)(a)—

- (a) means the value calculated at the point when the trustee or manager of the scheme receives confirmation from the member of the instruction to take the action giving rise to the early exit charge; and
- (b) is to be calculated in accordance with guidance issued from time to time by the Secretary of State.

### **Conflicting contract terms**

**13D.** Regulations 13B and 13C override any term of a relevant contract to the extent that the term conflicts with those regulations.

### **Relevant information**

**13E.**—(1) A service provider must confirm in writing to the trustees or managers of a relevant scheme that it is complying with the restrictions in regulations 13B and 13C within 1 month beginning with whichever is the later of—

- (a) 1st October 2017; or
- (b) the date on which the service provider becomes a service provider in relation to the relevant scheme.

(2) The service provider must inform the trustees or managers of the relevant scheme in writing if the confirmation that it has given in compliance with paragraph (1) is no longer accurate as soon as practicable, and in any event within 1 month, beginning with the date on which that confirmation is no longer accurate.”.