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STATUTORY RULES OF NORTHERN IRELAND

2022 No. 115

PENSIONS

The Occupational and Personal Pension Schemes (Disclosure of Information) (Requirements to Refer Members to Guidance etc.) (Amendment) Regulations (Northern Ireland) 2022

Made - - - - 16th March 2022
Coming into operation 1st June 2022

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 109(1), 109B(1), (4) and (6) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(1) and now vested in it(2).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Disclosure of Information) (Requirements to Refer Members to Guidance etc.) (Amendment) Regulations (Northern Ireland) 2022 and shall come into operation on 1st June 2022.

(2) The Interpretation Act (Northern Ireland) 1954(3) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations

2.—(1) The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(4) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation) for the definition of “pensions guidance”(5) substitute—

(1) [1993 c. 49](#); section 109(1) was amended by section 48(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 109B was inserted by section 19(7) of the Financial Guidance and Claims Act 2018 (c. 10)
(2) See Article 8(b) of [S.R. 1999 No. 481](#) and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
(3) [1954 c. 33 \(N.I.\)](#)
(4) [S.R. 2014 No. 79](#); relevant amending Regulations are [S.R. 2015 No. 154](#)
(5) The definition of “pensions guidance” was inserted by regulation 3(1)(g) of [S.R. 2015 No. 154](#)

““pensions guidance” means information or guidance provided by any person in pursuance of the requirements mentioned in section 4 of the Financial Guidance and Claims Act 2018(6) (specific requirements as to the pensions guidance function);”.

(3) In regulation 4(7)(7) (requirement of trustees or managers to provide postal and electronic address for request for further information or other enquiry) after “18B(3)” insert “or 18C(4) or (7)”.

(4) In regulation 18A(2)(b)(8) (information to be given on request and on a member providing certain information) after “Schedule 7 and” insert “, subject to regulation 18C,”.

(5) In regulation 18B(1) (information to be given on communicating with a member about what the member may do with flexible benefits) after “paragraph (5)” insert “and regulation 18C”.

(6) After regulation 18B insert—

“Requirement to refer members and survivors to guidance etc.

18C.—(1) Where this regulation applies, the requirements in the following regulations to provide the information on pensions guidance in Part 1 of Schedule 9A(9) do not apply—

- (a) regulation 18A(1) and (2)(b), and
- (b) regulation 18B(1) and (2).

(2) Subject to paragraph (3), this regulation applies where the trustees or managers of an occupational pension scheme receive on or after 1st June 2022 from any person an application, or communication made in relation to an application, from a relevant beneficiary (“B”)—

- (a) to transfer any rights to flexible benefits accrued by B under the scheme, or
- (b) to start receiving flexible benefits provided by the scheme.

(3) This regulation does not apply where the trustees or managers of an occupational pension scheme receive on or after 1st June 2022 from any person an application, or communication made in relation to an application, from B to transfer rights in accordance with paragraph (2)(a) if—

- (a) B is under the age of 50;
- (b) receiving flexible benefits is not the purpose, or one of the purposes, of the application, or
- (c) the trustees or managers have received from B or a person authorised to act on behalf of B confirmation (given verbally or in writing) in relation to the application that—

(i) B—

(aa) has been referred by the trustees or managers of a different pension scheme to appropriate pensions guidance, and

(bb) has received or opted out of receiving that guidance,

in accordance with the requirements of this regulation, or

(ii) B is transferring rights to flexible benefits into a relevant pension scheme in respect of which the trustees or managers are required to comply with rules made under section 137FB of the Financial Services and Markets Act 2000(10) (FCA general rules: disclosure of information about the availability of pensions guidance).

(6) 2018 c. 10

(7) Regulation 4(7) was amended by regulation 4(4) of S.R. 2015 No. 154

(8) Regulations 18A and 18B were inserted by regulation 6 of S.R. 2015 No. 154

(9) Schedule 9A was inserted by regulation 13 of S.R. 2015 No. 154

(10) Section 137FB was inserted by paragraph 6 of Schedule 3 to the Pension Schemes Act 2015 (c. 8) and amended by section 18 of the Financial Guidance and Claims Act 2018

- (4) As part of the application process, the trustees or managers—
- (a) must offer to book a pensions guidance appointment on behalf of B on a date, at a time and of a kind suitable for B;
 - (b) where B accepts the offer mentioned in sub-paragraph (a), must take reasonable steps to book that appointment;
 - (c) where B does not accept that offer, or where the trustees or managers are unable to book such an appointment on a date, at a time and of a kind suitable for B despite having taken reasonable steps, must provide B with details of how to book a pensions guidance appointment;
 - (d) must explain to B that they cannot, proceed with the application unless—
 - (i) B has received, and notified them of receipt of, appropriate pensions guidance, or
 - (ii) B opts out of receiving such guidance by giving them an opt-out notification, and
 - (e) must explain to B that B can only opt out of receiving appropriate pensions guidance by giving them an opt-out notification.
- (5) Where the trustees or managers receive an application, or communication made in relation to an application, as mentioned in paragraph (2), B may give an opt-out notification—
- (a) in a communication made solely for the purpose of opting out of receiving appropriate pensions guidance, or
 - (b) where paragraph (9) applies.
- (6) Paragraph (7) applies to any interaction subsequent to the interaction mentioned in paragraph (4) where B contacts the trustees or managers in connection with B's application unless—
- (a) B has confirmed to the trustees or managers that B has received appropriate pensions guidance in connection with the application, or
 - (b) B has provided to the trustees or managers an opt-out notification in a communication made solely for the purpose of opting out of receiving appropriate pensions guidance.
- (7) Where this paragraph applies, the trustees or managers must repeat the steps required by paragraph (4).
- (8) If, at any point while the trustees or managers are repeating the steps required by paragraph (4) by virtue of paragraph (7), B confirms to them that B has received appropriate pensions guidance in connection with the application, the trustees or managers may treat the requirements of paragraph (4) as having been satisfied.
- (9) This paragraph applies where the trustees or managers have received from B or a person authorised to act on behalf of B confirmation (given verbally or in writing) that—
- (a) B has received—
 - (i) appropriate pensions guidance, or
 - (ii) regulated financial advice in connection with the application, provided by a financial adviser regulated and authorised by the Financial Conduct Authority to provide such advice,
- in the 12-month period (excluding the date of receipt) before the trustees or managers received an application, or communication made in relation to an application, as mentioned in paragraph (2);