STATUTORY INSTRUMENTS

2018 No. 240

PENSIONS

The Occupational Pension Schemes (Preservation of Benefit and Charges and Governance) (Amendment) Regulations 2018

Made - - - -	*22nd February 2018*
Laid before Parliament	*26th February 2018*
Coming into force	
Regulation 2(2)	*1st October 2019*
Remainder	*6th April 2018*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 73(2)(b) and (4)(b), 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(**1**) and sections 43 and 54(5) and (6) of, and paragraphs 1(1)(a) and 7(1) of Schedule 18 to, the Pensions Act 2014(**2**).

In accordance with section 185(1) of the Pension Schemes Act 1993(**3**) and paragraph 8 of Schedule 18 to the Pensions Act 2014, the Secretary of State has consulted such persons as she considers appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Preservation of Benefit and Charges and Governance) (Amendment) Regulations 2018.

(2) Regulation 2(2) comes into force on 1st October 2019.

(3) The remaining regulations come into force on 6th April 2018.

(**1**) 1993 c. 48; section 73(2) was amended by Part 1 of Schedule 13 to the Welfare Reform and Pensions Act 1999 (c. 30); section 181(1) is cited for the meaning it gives to "prescribe" and "regulations".
(**2**) 2014 c. 19.
(**3**) Section 185(1) was amended by paragraph 46 of Schedule 3 and paragraph 80(a) of Schedule 5 to the Pensions Act 1995 (c. 26).

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991

2.—(1) Regulation 12 (transfer of member's accrued rights without consent) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(**4**) is amended as follows.

(2) In paragraph (1), after "accrued rights" insert "which are not relevant money purchase rights".

(3) In paragraph (1A), for "section 73(2)(a)(i)" substitute "section 73(2)(a)".

(4) After paragraph (1A) insert—

"(1B) For the purposes of section 73(2)(b) and (4)(b) of the Act, a scheme may provide for the member's relevant money purchase rights to be transferred to another occupational pension scheme without the member's consent where the conditions set out in one of paragraphs (7) to (9) are satisfied.".

(5) In paragraph (2A), for sub-paragraph (b)(i) substitute—

"(i) the scheme's principal employer or controlling employer; and".

(6) After paragraph (6) insert—

"(7) The condition set out in this paragraph is that the receiving scheme is authorised under the Pension Schemes Act 2017(**5**).

(8) The conditions set out in this paragraph are that—

(a) the transferring scheme employer and the receiving scheme employer are undertakings;

(b) the transferring scheme employer is a group undertaking in relation to the receiving scheme employer; and

(c) the member whose rights are to be transferred is a current or former employee of an undertaking which is a group undertaking in relation to the transferring scheme employer or the receiving scheme employer.

(9) The conditions set out in this paragraph are that—

(a) within the year ending with the date of the transfer, the trustees of the transferring scheme have obtained and considered written advice in relation to the transfer from a person whom they reasonably believe to be qualified to give that advice by reason of that person's ability in, and practical experience and knowledge of, pension scheme management ("the appropriate adviser"); and

(b) the trustees of the transferring scheme have determined that the appropriate adviser is independent of the receiving scheme after considering whether, during the year ending with the date on which the advice was provided, the appropriate adviser (or, where the appropriate adviser is an undertaking, a group undertaking in relation to the appropriate adviser) has—

(i) received payment for services from the receiving scheme;

(ii) received payment from a service provider or a group undertaking in relation to a service provider; or

(iii) received payment from the receiving scheme employer or a group undertaking in relation to the receiving scheme employer.

(10) Where an employer has the sole power to effect a transfer of a member's accrued rights—

(**4**) S.I. 1991/167, as amended by S.I. 1994/1062, 1995/3067 and 2000/1403; there are other amending instruments but none is relevant.
(**5**) 2017 c. 17.