STATUTORY INSTRUMENTS

2017 No. 774

PENSIONS

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

Made - - - -	*19th July 2017*
Laid before Parliament	*20th July 2017*
Coming into force - -	*1st October 2017*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 43 and 54(5) and (6) of, and paragraphs 1, 3 and 6 of Schedule 18 to, the Pensions Act 2014(**1**).

In accordance with paragraph 8 of Schedule 18 to the Pensions Act 2014, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2017 and come into force on 1st October 2017.

Amendment of the Occupational Pension Schemes (Charges and Governance) Regulations 2015

2. The Occupational Pension Schemes (Charges and Governance) Regulations 2015(**2**) are amended in accordance with regulations 3 to 11.

Amendment of regulation 2

3. In regulation 2(1) (interpretation), in the definition of "service provider" for "specified" substitute "relevant".

Amendment of Part 2 – Chapter 1

4. Regulations 4 to 13 become Chapter 1, entitled "Default arrangements, non-contributing members and payments to advisers".

(**1**) 2014 c. 19. Paragraphs 6(1A) and (3) of Schedule 18 were inserted by section 41 of the Pensions Schemes Act 2017 (c. 17).
(**2**) S.I. 2015/879, amended by S.I. 2016/304.

Amendment of regulation 4

5.—(1) Regulation 4 (restrictions on charges) is amended as follows.

(2) In regulation 4(1) for "this Part", in each place it occurs, substitute "this Chapter".

(3) In regulation 4(2) for "this Part" substitute "this Chapter".

Amendment of regulation 6

6. At the beginning of regulation 6(1) insert "Subject to regulation 13C(6)".

Amendment of regulation 9

7.—(1) Regulation 9 (member agreement for services) is amended as follows.

(2) In paragraph (1)—

(a) after "in relation to" insert "advice or"; and

(b) after "provision of that" insert "advice or".

(3) In paragraph (3), after "does not apply to" insert "advice or".

Amendment of regulation 11A

8.—(1) Regulation 11A (payments to advisers)(**3**) is amended as follows.

(2) In paragraph (1), omit "on or after 6th April 2016".

(3) In paragraph (2), after "11B(2)" insert ", 11B(2B)".

(4) In paragraph (4), for "This regulation" substitute "The prohibition in paragraph (2)".

(5) For paragraph (6) substitute—

"(6) The prohibition in paragraph (2) does not apply to a charge imposed to reimburse a service provider for any payment made to an adviser for advice or a service referred to in paragraph (3)(a) or (b) where—

(a) the charge is imposed under a relevant contract(**4**) which—

(i) was entered into before 6th April 2016; and

(ii) has not been varied or renewed on or after that date; and

(b) the payment was made before 1st October 2017.".

(6) After paragraph (6) insert—

"(7) Where the prohibition in paragraph (2) applies it overrides any term of a relevant contract to the extent that the term conflicts with it.".

Amendment of regulation 11B

9.—(1) Regulation 11B (relevant information)(**5**) is amended as follows.

(2) In paragraph (2), for "paragraph (4)" substitute "paragraphs (2B) and (5)".

(3) After paragraph (2) insert—

"(2A) This paragraph applies where the relevant contract—

(a) was entered into before 6th April 2016; and

(**3**) Regulation 11A was inserted by S.I. 2016/304.

(**4**) Paragraph 6(3) of Schedule 18 to the Pensions Act 2014, inserted by section 41 of the Pension Schemes Act 2017, defines "relevant contract".

(**5**) Regulation 11B was inserted by S.I. 2016/304.

(b) has not been varied or renewed on or after that date.

(2B) Subject to paragraph (5), where paragraph (2A) applies regulation 11A does not apply until the expiry of the period of 6 months beginning with 1st October 2017.".

(4) At the beginning of paragraph (3) insert "Except in a case to which paragraph (2A) applies,".

(5) After paragraph (3) insert—

"(3A) In a case to which paragraph (2A) applies, subject to paragraph (5), the service provider must confirm in writing to the trustees or managers of the specified scheme within 1 month beginning with 1st April 2018 that it is complying with the prohibition in regulation 11A(2) in relation to all members to whom paragraph (2A) applies.".

(6) In paragraph (5)—

(a) for "paragraph (2)" substitute "paragraphs (2) or (2B)"; and

(b) for "paragraph (3)" substitute "paragraphs (3) or (3A)".

(7) In paragraph (6), after "paragraph (3)" insert "or (3A)".

Amendment of regulation 11C

10. In regulation 11C(3) (member agreement for payments to advisers)(**6**), after "agreement for" insert "advice or".

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(**7**);

"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(**8**)); and

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

(**6**) Regulation 11C was inserted by S.I. 2016/304.
(**7**) 2004 c. 12.
(**8**) "Administration charge" is defined in paragraph 1(5) of Schedule 18 to the Pensions Act 2014.

Prohibition of early exit charges

13B.—(1) This regulation applies to a member of a relevant scheme(**9**) 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.

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.

(**9**) 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.