STATUTORY INSTRUMENTS

2016 No. 304

PENSIONS

The Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2016

Made - - - -	*29th February 2016*
Laid before Parliament	*8th March 2016*
Coming into force - -	*6th April 2016*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by section 54(5) and (6) of, and paragraphs 1(1), (3) and (5) and 3(1) and (2) of Schedule 18 to, the Pensions Act 2014(**1**), makes the following Regulations.

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 2016 and come into force on 6th April 2016.

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

2. The Occupational Pension Schemes (Charges and Governance) Regulations 2015(**2**) are amended as follows.

Amendment of regulation 2

3. In regulation 2(1) (interpretation), insert in the appropriate alphabetical places—

""adviser" is a person described in regulation 11A(3); ";

""qualifying scheme employer" means an employer in relation to whom a scheme is a qualifying scheme in relation to at least one of its jobholders;";

""service provider" means a person who provides an administration service directly to the trustees or managers of a specified scheme;";

(**1**) 2014 c. 19.
(**2**) S.I. 2015/879. These Regulations were amended by S.I. 2015/889.

""specified scheme" means a relevant scheme in which at least one qualifying scheme employer participates;".

Amendment of regulation 4

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

(2) In paragraph (1)(b), after "this Part" insert ", with the exception of regulation 11A".

(3) After paragraph (1) insert—

"(1A) Subject to regulation 11C, a service provider must not impose or permit to be imposed on a member to whom regulation 11A applies charges which are of a description prohibited by that regulation.".

(4) In paragraph (2), for "regulation 11" substitute "regulations 11 and 11A".

Amendment of regulation 10

5. In regulation 10(8) (charge limits adjustment), for "should" substitute "must".

New regulations 11A to 11C

6. After regulation 11 (non-contributing members) insert—

"**Payments to advisers**

11A.—(1) This regulation applies to a member of a specified scheme if the member is, or was, a worker of a qualifying scheme employer who participates, or has participated on or after 6th April 2016, in that scheme.

(2) Subject to paragraphs (4) and (6) and regulations 11B(2) and 11C, it is prohibited for the purposes of regulation 4(1A) to impose or permit to be imposed on a member to whom this regulation applies a charge that is used—

(a) directly or indirectly, to pay an adviser; or

(b) to reimburse the service provider for a payment that the service provider has made to an adviser,

for advice or a service referred to in sub-paragraph (a) or (b) of paragraph (3).

(3) An adviser is a person who provides, has provided, or agrees to provide—

(a) advice or a service to the member's employer or former employer who is participating in the specified scheme; or

(b) advice or a service to a member of the specified scheme.

(4) This regulation does not apply to the following services provided by an adviser—

(a) a service relating to the administration of employee remuneration including tax deductions; and

(b) a technological service which permits or enhances the ability of the service provider's computing system and the computing system provided by or on behalf of the employer to work together.

(5) Where the adviser is also the service provider, they are to be treated as separate persons for the purposes of this regulation.

(6) This regulation does not apply to charges imposed under an agreement, whether oral or written and whether or not legally enforceable, entered into before 6th April 2016, unless such an agreement is varied or renewed on or after that date.

Relevant information

11B.—(1) The trustees or managers of a specified scheme must notify the service provider in writing that the scheme is a specified scheme within 3 months beginning with whichever is the later of—

(a) 6th April 2016;

(b) the date on which the scheme becomes a specified scheme; or

(c) the date on which the service provider becomes a service provider in relation to the specified scheme.

(2) Subject to paragraph (4), regulation 11A does not apply until the expiry of the period of 1 month beginning with the date on which the service provider receives the notification in paragraph (1).

(3) The service provider must confirm in writing to the trustees or managers who provided the notification in paragraph (1) that it is compliant with the prohibition in regulation 11A(2) in relation to all members to whom that regulation applies within 1 month beginning with the date on which that regulation first applies.

(4) Where the service provider is unable to comply with the prohibition in regulation 11A(2) in relation to all members because the service provider requires information about which members are former workers to whom regulation 11A applies, the service provider may request the information from the trustees or managers of the specified scheme to enable it to comply.

(5) Where a request is made under paragraph (4), the time period referred to—

(a) in paragraph (2) in respect of those members about whom a request has been made and to whom regulation 11A applies; or

(b) in paragraph (3),

commences on the date on which the information requested is received by the service provider.

(6) The service provider must inform the trustees or managers of the specified scheme in writing if the confirmation that it has given in compliance with paragraph (3) is no longer accurate as soon as practicable, and in any event within 1 month, beginning with the date on which it is no longer accurate.

(7) Where a request is made under paragraph (4), the trustees or managers must provide the information requested within 1 month beginning with the date of receipt of the request.

Member agreement for payments to advisers

11C.—(1) Subject to paragraphs (3) and (4), the prohibition in regulation 11A(2)(a) does not apply in relation to advice or a service given to a member of a specified scheme where—

(a) the service provider; and

(b) the trustees or managers of the specified scheme,

have received a copy of an agreement for the provision of that advice or service made between the member and an adviser, provided the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are that the agreement must—

(a) be in writing;

(b) include a description of the advice or service that will be provided to the member;

(c) state that entering into the agreement is not a condition of becoming or remaining a member of a specified scheme;