STATUTORY INSTRUMENTS

2015 No. 742

PENSIONS

The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015

Made - - - -	*17th March 2015*
Laid before Parliament	*17th March 2015*
Coming into force - -	*6th April 2015*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 48(2), (3)(a), (4) and (8), 49, 86 and 89(6) of the Pension Schemes Act 2015 [F1], makes the following Regulations:

Annotations:

F1 2015 c. 8
.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015.

(2) They come into force on 6th April 2015.

(3) In these Regulations—

"the Act" means the Pension Schemes Act 2015;

"the 1993 Act" means the Pension Schemes Act 1993[F2];

"active member" has the meaning given in section 99 of the Pensions Act 2008[F3];

"cash equivalent" means a cash equivalent mentioned in sections 93A and 94 [F4]... [F5] (right to statement of entitlement – benefits others than money purchase; right to cash equivalent) **[**[F6]or, as the case may be, a cash equivalent mentioned in sections 101F (power to give transfer notice) and 101H (benefits other than money purchase) of the 1993 Act**]**;

[[F7]"eligible member" has the meaning given by section 101P(1) of the 1993 Act (interpretation of Chapter II);**]**

"FCA" means the Financial Conduct Authority;

"guarantee date" has the meaning given in section 93A of the 1993 Act (right to statement of entitlement);

[F8"pension credit rights" has the meaning given in section 101B of the 1993 Act (interpretation);**]**

"Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001F9;

"relevant transaction" means a transfer payment, conversion of benefits or payment of a lump sum to which section 48(1) of the Act applies**[**F10, or would apply but for the exception in regulation 5(1)**]**;

"statement of entitlement" means a statement of entitlement within the meaning of section 93A of the 1993 Act;

"Transfer Values Regulations" means the Occupational Pension Schemes (Transfer Values) Regulations 1996F11;

"valuation date" means —

(a) where the member is exercising the member's right to take a cash equivalent under Chapter 1 of Part 4ZA of the 1993 ActF12, the guarantee date; F13...

(aa) **[**F14where an eligible member is, under section 101F of the 1993 Act, exercising the right to take an amount equal to the cash equivalent of the eligible member's pension credit rights, the date determined in accordance with section 101H(2) of that Act; or**]**

(b) in any other case, the date chosen by the trustees or managers which must be a date within the period of 2 months that begins on the first day of the one month period which ends on the date the decision by the trustees or managers referred to in regulation 9(2)(b) is made;

"writing" includes electronic communication and 'electronic communication' has the meaning given in section 15(1) of the Electronic Communications Act 2000F15 (general interpretation).

[F16"written statement of the amount of the cash equivalent" has the meaning given in section 101H(1) of the 1993 Act.**]**

Annotations:

F2 1993 c.48
.

F3 2008 c.30
.

F4 Words in reg. 1(3) omitted (6.4.2016) by virtue of The Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289), regs. 1(2), **9(2)(a)(i)**

F5 Section 93A was inserted by section 153 of the Pensions Act 1995 (c.26). Sections 93A and 94 were substituted by paragraph 8 of Schedule 4 to the Pension Schemes Act 2015.

F6 Words in reg. 1(3) inserted (6.4.2016) by The Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289), regs. 1(2), **9(2)(a)(ii)**

F7 Words in reg. 1(3) inserted (6.4.2016) by The Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289) , regs. 1(2) , **9(2)(b)**

F8 Words in reg. 1(3) inserted (6.4.2018) by The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment No. 2) Regulations 2017 (S.I. 2017/1272) , regs. 1 , **3** (with reg. 6)

F9 S.I. 2001/544 . Relevant amendments are made by S.I. 2015/731 .

F10 Words in reg. 1(3) inserted (6.4.2018) by The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment) Regulations 2017 (S.I. 2017/717) , regs. 1 , **3**

F11 S.I. 1996/1847 . Relevant amendments are made by S.I. 2005/706 , **S.I** . 2008/2450, S.I. 2008/1050 , **S.I** . 2014/1711 and S.I. 2015/498 .

F12 Part 4ZA was renamed by paragraph 4 of Schedule 4 to the Pension Schemes Act 2015.

F13 Word in reg. 1(3) omitted (6.4.2016) by virtue of The Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289) , regs. 1(2) , **9(2)(c)(i)**

F14 Reg. 1(3) inserted (6.4.2016) by The Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289) ,

regs. 1(2)
,
9(2)(c)(ii)

F15 2000 c.7
. Section 15(1) was amended by section 406(1) of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c.21)
.

F16 Words in reg. 1(3) inserted (6.4.2016) by The Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289)
,
regs. 1(2)
,
9(2)(d)

Transitional provisions relating to the coming into force of section 48 of the Act

2. Section 48 of the Act (independent advice in relation to conversions and transfers: Great Britain) does not apply to—

(a) a transfer payment as described in section 48(1) of the Act which is made on or after 6th April 2015 where—

(i) the payment is a result of a member exercising that member's right to a cash equivalent under section 94 of the 1993 Act, and where the member's application for a statement of entitlement which gave rise to that right was made before 6th April 2015; **F17**...

[F18(ia) an eligible member, before 6th April 2015 and in accordance with section 101F of the 1993 Act, required the trustees or managers to use an amount equal to the cash equivalent of the member's pension credit rights for an authorised purpose;

(ib) an eligible member made an application for a written statement of the amount of the cash equivalent before 6th April 2015; or**]**

(ii) before 6th April 2015—

(aa) the trustees or managers have confirmed in writing to the member that they agree in principle to carry out the transfer payment (subject to any relevant statutory requirements and the requirements of the scheme rules being met), or

(bb) the trustees or managers have made an offer in writing to the member of a transfer payment;

(b) a conversion of benefits as described in section 48(1) of the Act which takes place on or after 6th April 2015, where the trustees or managers have provided written confirmation to the member before 6th April 2015 that they will convert the benefits.

Annotations:

F17 Word in reg. 2(a)(i) omitted (6.4.2016) by virtue of The Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289)
,
regs. 1(2)
,
9(3)

F18 Reg. 2(a)(ia)(ib) inserted (6.4.2016) by The Pension Sharing (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/289)

,
regs. 1(2)
,
9(3)

Appropriate independent advice – further requirements

3. For the purposes of the definition of "appropriate independent advice" in section 48(8) of the Act, the advice must be specific to the type of relevant transaction proposed by the member or survivor.

Meaning of authorised independent adviser

4. For the purposes of the definition of "authorised independent adviser" in section 48(8) of the Act, the specified regulated activity is the activity described in article 53E of the Regulated Activities Order [F19] (advising on conversion or transfer of pension benefits).

Annotations:

F19 Article 53E was inserted by
S.I. 2015/731
.

Exception to section 48(1)

5.—[[F20](1) The trustees or managers are not required to carry out the check in section 48(1) of the Act if the transfer value of the member's or survivor's subsisting rights in respect of safeguarded benefits under the pension scheme is £30,000 or less on the valuation date.

(2) In this regulation "transfer value" means—

(a) where the rights referred to in paragraph (1) are transferrable rights as defined in section 93(11) of the 1993 Act (scope of Chapter 1), the amount of the cash equivalent of those rights calculated in accordance with section 97 of that Act (calculation of cash equivalents) and regulations made under it;

(b) where the rights referred to in paragraph (1) are pension credit rights, the amount of the cash equivalent of those rights calculated in accordance with regulations made under section 101I of the 1993 Act (pension credit rights: calculation of cash equivalents);

(c) in any other case, the amount which would be the cash equivalent of the rights referred to in paragraph (1), calculated in accordance with section 97 of the 1993 Act and regulations made under it, as if—

(i) Chapter 1 of Part 4ZA of the 1993 Act (transfer rights: general) applied to the member or survivor by virtue of those rights;

(ii) references to a member in that Chapter and regulations made under it included a survivor of a member; and

(iii) in the case of an active member, the member had ceased to accrue rights to benefits on the valuation date,

but, in each case, disregarding regulations 7D (reductions to initial cash equivalents) and 7E (alternative manner of calculating and verifying cash equivalents) of the Transfer Values Regulations.**]**