STATUTORY RULES OF NORTHERN IRELAND

2018 No. 54

PENSIONS

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

Made - - - - 15th March 2018

Coming into operation in accordance with Regulation 1

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 69(2)(b) and (4)(b) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and now vested in it(**2**), and sections 42 and 51(6) of, and paragraphs 1(1)(a) and 7 of Schedule 18 to, the Pensions Act (Northern Ireland) 2015(**3**).

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Preservation of Benefit and Charges and Governance) (Amendment) Regulations (Northern Ireland) 2018 and subject to paragraph (2) shall come into operation on 6th April 2018.

(2) Regulation 2(2) shall come into operation on 1st October 2019.

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

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

2.—(1) Regulation 12 of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**4**) (transfer of member's accrued rights without consent) is amended in accordance with paragraphs (2) to (6).

(2) In paragraph (1)(**5**) after "accrued rights" insert "which are not relevant money purchase rights".

(**1**) 1993 c. 49; section 69(2) was amended by Part 1 of Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (1999 No. 3147 (N.I. 11)

(**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**) 2015 (c. 5 (N.I.))

(**4**) S.R, 1991 No. 37; relevant amending Rules are S.R. 1994 No. 300, S.R. 1995 No. 441, S.R. 2000 No. 262 and S.R. 2016 No. 158

(**5**) Regulation 12(1) was amended by paragraph 26(16) of Schedule 2 to S.R. 1994 No. 300 and regulation 3 of S.R. 1995 No. 441

(3) In paragraph (1A)(**6**) for "section 69(2)(a)(i)" substitute "section 69(2)(a)";

(4) after paragraph (1A) insert—

"(1B) For the purposes of section 69(2)(b) and (4)(b), 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)(**7**) for sub-paragraph (b)(i) substitute—

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

(6) After paragraph (6) add—

"(7) The condition set out in this paragraph is that the receiving scheme is authorised under the Pension Schemes Act 2017(**8**) or any corresponding Northern Ireland legislation.

(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—

(a) paragraph (9) has effect as if—

(i) for sub-paragraph (a) there were substituted—

"(a) within the year ending with the date of the transfer, the member's employer has obtained and considered written advice in relation to the transfer from a person whom the member's employer reasonably believes to be qualified to give that advice

(**6**) Paragraph (1A) was inserted by regulation 27(a) of S.R. 2000 No. 262
(**7**) Paragraph (2A) was inserted by Article 2(2)(b) of S.R. 2016 No. 158
(**8**) 2017 c. 17