STATUTORY RULES OF NORTHERN IRELAND

2015 No. 328

PENSIONS

The Unfunded Public Service Defined Benefits Schemes (Transfers) Regulations (Northern Ireland) 2015

Made - - - -	*10th September 2015*
Coming into operation -	*2nd October 2015*

The Department of Finance and Personnel, in exercise of the powers conferred by sections 91(2A)(d) and 91(5A) of the Pension Schemes (Northern Ireland) Act 1993(**a**), make the following Regulations.

Citation and Commencement

1.—(1) These Regulations may be cited as The Unfunded Public Service Defined Benefits Schemes (Transfers) Regulations (Northern Ireland) 2015.

(2) These Regulations come into operation on 2nd October 2015 but have no effect in relation to an application made under section 91(1) of the Act before that date.

Interpretation

2.—(1) In these Regulations—

"the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993;

"the 1996 Regulations" means the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**b**);

"cash equivalent" means a cash equivalent mentioned in section 90(1) of the 1993 Act (right to cash equivalent)(**c**);

"overseas arrangement" has the meaning given in regulation 1(2) of the 1996 Regulations (interpretation)(**d**);

"section 5(2B) rights" has the meaning given in regulation 1(2) of the 1996 Regulations(**e**);

(**a**) 1993 c.49. Sections 91(2A(d) and 91(5A) were inserted by the Pension Schemes Act 2015 (c8), section 71(3) and (4).
(**b**) S.R. 1996 No.618.
(**c**) Section 90(1) was substituted by the Pension Schemes Act 2015, Schedule 4, paragraph 54.
(**d**) The definition of "overseas arrangement" was amended by S.R. 2012 No.120, regulation 7.
(**e**) The definition of "section 5(2B) rights" was substituted by S.R. 1997 No.160, and amended by S.R. 1999 No. 486 and S.R. 2012 No.124.

Requirements to be met by receiving arrangements

3.—(1) The prescribed circumstances referred to in section 91(5A) of the 1993 Act (prescribed circumstances regarding the construction of section 91(2A)) are that a member of an unfunded public service defined benefits scheme who has acquired a right to a cash equivalent has required the managers of the scheme to use the cash equivalent for subscribing to an overseas arrangement(**a**).

(2) The prescribed requirements referred to in section 91(2A)(d) of the 1993 Act (cash equivalent to be used for subscribing to pension arrangements not mentioned in section 91(2A)(a) to (c)) are that the pension arrangements to which it is proposed to subscribe—

(a) is an overseas arrangement;

(b) if the cash equivalent is or includes the cash equivalent of accrued section 5(2B) rights, is one to which a transfer payment in respect of such rights may be made in accordance with regulation 11 of the 1996 Regulations (transfer payments to overseas schemes or arrangements in respect of section 9(2B) rights)(**b**);

(c) if the scheme from which rights are transferred is registered under section 153 of the Finance Act 2004 (registration of pension schemes)(**c**), is a qualifying recognised overseas pension scheme as defined in section 169(2) of the Finance Act 2004 (recognised transfers)(**d**); and

(d) may only provide benefits by virtue of the subscription that are not flexible benefits(**e**).

Sealed with the Official Seal of the Department of Finance and Personnel on 10th September 2015

(L.S.)

Grace Nesbitt
A senior officer of the
Department of Finance and Personnel

(**a**) In these Regulations "unfunded public service defined benefits scheme" has the meaning given in section 91(2C) of the 1993 Act (ways of taking right to cash equivalent).
(**b**) Regulation 11 was amended by S.R.2005 No.85.
(**c**) 2004 c. 12; section 153 was amended by the Finance Act 2005 (c. 7) Schedule 10, paragraphs 2 and 3, and the Finance Act 2014 (c.26), Schedule 7, paragraph 2.
(**d**) Section 169(2) was amended by the Finance Act 2013 (C.29), section 53(3).
(**e**) In these Regulations "flexible benefits" has the meaning given in section 96AD of the 1993 Act (interpretation of Chapter).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prevent transfers under section 91 of the Pension Schemes (Northern Ireland) Act 1993 ('the 1993 Act') from an unfunded public service defined benefits scheme to a qualifying recognised overseas pension scheme which can provide flexible benefits as a result of the transfer.

Section 71 of the Pension Schemes Act 2015 ('the 2015 Act') restricted, by means of amendments to section 91 of the 1993 Act, transfers out of unfunded public service defined benefits schemes. The restriction does not apply if the scheme to which the transfer is to be made satisfies requirements prescribed in regulations. Section 71(9) of the 2015 Act provides that regulations made under section 91(2)(d) and 91(5)(a) of the 1993 Act apply for the purposes of section 91(2A)(d) and 91(5A) of the 1993 Act respectively, until the coming into operation of the first regulations made under the latter provisions. With the coming into operation of these Regulations, the first made under section 91(2A)(d) and 91(5A) of the 1993 Act, regulations 12(4) and 12(5) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (S.R. 1996 No.619) will no longer apply for the purposes of those provisions.

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