
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 619

The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996

Part III

Guaranteed Statements of Entitlement and Calculation of Transfer Values

Further provisions as to calculation of cash equivalents and increases and reductions of cash equivalents (other than guaranteed cash equivalents)

8.—(1) A cash equivalent such as is mentioned in section 89A shall not be reduced under this regulation once it has become a guaranteed cash equivalent and a direction such as is mentioned in paragraph (2) shall not affect such a cash equivalent unless it is made before the guarantee date.

(2) Where it is the established custom for additional benefits to be awarded from the scheme at the discretion of the trustees or the employer, the cash equivalent shall, unless the trustees have given a direction that cash equivalents shall not take account of such benefits, take account of any such additional benefits as will accrue to the member in question if the custom continues unaltered.

(3) The trustees shall not make a direction such as is mentioned in paragraph (2) unless, within 3 months before making the direction, they have consulted the actuary and have obtained the actuary's written report on the implications for the state of funding of the scheme of making such a direction, including the actuary's advice as to whether or not in the actuary's opinion there would be any adverse implications for the funding of the scheme should the trustees not make such a direction.

(4) In the case of a scheme to which Article 56 applies, each respective part of the cash equivalent which relates to liabilities referred to in Article 73(3)(a), (c)(i) or (d) may be reduced by the percentage which is the difference between—

- (a) 100 per cent; and
- (b) the percentage of the liabilities mentioned in the relevant sub-paragraph of Article 73(3) which the actuarial valuation shows the scheme assets as being sufficient to satisfy,

where the actuarial valuation is the latest actuarial valuation obtained in accordance with Article 57 before the guarantee date.

(5) If, by virtue of regulations made under Article 61, Article 56 applies to a section of a scheme as if that section were a separate scheme, paragraph (4) of this regulation shall apply as if that section were a separate scheme and as if the reference therein to a scheme were accordingly a reference to that section.

(6) Where—

- (a) the guarantee date falls before whichever is the earlier of the date on which the trustees first obtain an actuarial valuation under Article 57 and the date of expiry of the first period within which they are required to obtain such a valuation; and
- (b) the latest actuarial statement issued to the scheme in accordance with the provisions of regulation 8(7) of the Occupational Pension Schemes (Disclosure of Information)

Regulations (Northern Ireland) 1986(1) shows that on the date of that statement the scheme does not have sufficient assets to meet its liability in respect of the whole or any specified part of the accrued rights to benefit of its members,

the cash equivalent, or, as the case may be, that part of it which relates to that specified part of those accrued rights, may be reduced by the percentage by which the scheme is so shown to be deficient.

(7) In a case where a contributions equivalent premium has been paid in respect of a member in accordance with section 51(2) (state scheme etc. premiums), the cash equivalent shall be reduced (to nil if need be) to the extent that it represents the member's accrued rights which have been extinguished by virtue of section 56(3) (effect of payment of premiums on rights) by payment of that premium.

(8) Where a member's cash equivalent is to be used for acquiring transfer credits under the rules of another scheme or for acquiring rights under the rules of a personal pension scheme and the receiving scheme has undertaken to provide benefits at least equal in value to the benefits represented by that cash equivalent on payment of a lesser sum, including nil, then that cash equivalent shall be reduced to that lesser sum.

(9) Where effect has been given to protected rights in accordance with section 28A(4) (discharge of protected rights on winding up: insurance policies), the cash equivalent of those rights shall be reduced to nil.

(10) Where all or any of a member's benefits have been appropriately secured, the cash equivalent in respect of those benefits shall be reduced to nil.

(11) For the purposes of paragraph (10), "appropriately secured" means the same as in section 15 (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts) except that a policy of insurance or annuity contract which is taken out or entered into with an authorised friendly society (as defined for the purposes of regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(5) (means of assuring short service benefit)), but which otherwise satisfies the conditions for being appropriate for the purposes of section 15, is to be treated as if it were appropriate for the purposes of that section provided the terms of such policy or contract are not capable of being amended, revoked or rescinded.

(12) Where a scheme has (in the case of a cash equivalent mentioned in section 89A, before the guarantee date) begun to be wound up, a cash equivalent may be reduced to the extent necessary for the scheme to comply with Article 73 and regulations made under that Article.

(13) If, by virtue of regulations made under Article 73, that Article applies to a section of a scheme as if that section were a separate scheme, paragraph (12) shall apply as if that section were a separate scheme and as if the references therein to a scheme were accordingly references to that section.

(14) Where all or any of the benefits to which a cash equivalent relates have been surrendered, commuted or forfeited before the date on which the trustees do what is needed to carry out what the member requires, the cash equivalent of the benefits so surrendered, commuted or forfeited shall be reduced to nil.

(15) In a case where 2 or more of the paragraphs of this regulation fall to be applied to a calculation, they shall be applied in the order in which they occur in this regulation.

(1) [S.R. 1986 No. 225](#), to which there are amendments not relevant to these regulations

(2) Section 51 is amended by Article 138(1) of, and paragraph 42 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995

(3) Section 56 is amended by paragraph 46 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(4) Section 28A was inserted by Article 143(1) of the Pensions (Northern Ireland) Order 1995

(5) [S.R. 1991 No. 37](#); the definition of "authorised friendly society" was substituted by regulation 8(b) of [S.R. 1995 No. 7](#)