Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. ***

EXITING THE EUROPEAN UNION, NORTHERN IRELAND PENSIONS, NORTHERN IRELAND

The Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018(**1**).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament**.**

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2018 and come into force on exit day.

(**1**) 2018 c. 16.

PART 2

Amendment of Acts and Orders in Council

Amendment of the Pension Schemes (Northern Ireland) Act 1993

2.—(1) The Pension Schemes (Northern Ireland) Act 1993(**2**) is amended as follows.

(2) In section 1 (categories of pension schemes)(**3**), in subsection (1), in the definition of "occupational pension scheme"(**4**) omit paragraph (b) and the "and" before it, but not the "or" following it.

(3) In section 15 (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts)(**5**), in subsection (4)(a)(i) omit "or any other EEA state".

(4) In section 145 (procedure on an investigation)(**6**), in subsection (6)—

(a) in paragraph (k), omit ", EEA central counterparty" and ", EEA CSD";

(b) in paragraph (m)(**7**), omit "other than the United Kingdom".

(5) In section 154A (other disclosures by the Department)(**8**), in the table in subsection (1), in the entry beginning "A recognised investment exchange"—

(a) in column 1 omit ", EEA central counterparty" and ", EEA CSD";

(b) in column 2, for the words from "or central securities depository" to the end of the entry substitute ", central securities depository or central counterparty".

(6) In section 161 (application of certain provisions to cases with foreign element)(**9**), in subsection (6), for "territory of the member States" substitute "United Kingdom".

(7) In section 175A (insurer and long-term insurance business)(**10**), in subsection (1) omit paragraph (b) and the "or" before it.

(8) In section 176(1) (general interpretation)(**11**), omit the definitions of "EEA agreement" and "EEA state"(**12**).

Amendment of the Pensions (Northern Ireland) Order 1995

3.—(1) The Pensions (Northern Ireland) Order 1995(**13**) is amended as follows.

(2) In Article 49 (other responsibilities of trustees, employers, etc.), in paragraph (8A)(**14**)—

(a) omit sub-paragraph (b);

(**2**) 1993 c. 49.
(**3**) Section 1 was amended by Article 216(2) and (3) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and regulation 2(2) of S.R. 2007 No. 457.
(**4**) The definition of "occupational pension scheme" was substituted by Article 216(3) of the Pensions (Northern Ireland) Order 2005 and amended by regulation 2(2) of S.R. 2007 No. 457.
(**5**) Section 15(4)(a) was amended by Article 129(2) of S.I. 2001/3649 and regulation 2(3) of S.R. 2007 No. 457.
(**6**) Section 145(6) was amended by paragraph 20(b) of Schedule 10 to the Pensions (Northern Ireland) Order 2005, regulation 22(2) of S.I. 2013/504 and paragraph 8(2) of the Schedule to S.I. 2017/1064; there are other amendments but none is relevant.
(**7**) Paragraph (m) was added by paragraph 20(b) of Schedule 10 to the Pensions (Northern Ireland) Order 2005.
(**8**) Section 154A was inserted by paragraph 9 of Schedule 4 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 21 of Schedule 10 to the Pensions (Northern Ireland) Order 2005 and paragraph 8(3) of the Schedule to S.I. 2017/1064; there are other amendments but none is relevant.
(**9**) Section 161(6)(a) was amended by section 41(5)(a) of the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)).
(**10**) Section 175A was inserted by Article 137(1) of S.I. 2001/3649.
(**11**) Section 176(1) was amended by regulation 2(5) of S.R. 2007 No. 457; there are other amendments but none is relevant.
(**12**) The definitions of "EEA agreement" and "EEA state" were inserted by regulation 2(5) of S.R. 2007 No. 457.
(**13**) S.I. 1995/3213 (N.I. 22); Article 49 was amended by Article 154(5) of S.I. 2001/3649, regulation 3 of S.R. 2007 No. 457 and Article 4 of S.I. 2013/472; there are other amendments but none is relevant.
(**14**) Paragraph (8A) was inserted by Article 154(5) of S.I. 2001/3649.

(b) in sub-paragraph (c), omit the words after "Bank of England".

Amendment of the Welfare Reform and Pensions (Northern Ireland) Order 1999

4.—(1) The Welfare Reform and Pensions (Northern Ireland) Order 1999(**15**) is amended as follows.

(2) In Schedule 5 (pension credits: mode of discharge), in paragraph 6(2)(a) (qualifying arrangements), omit "or any other EEA state".

Amendment of the Pensions (Northern Ireland) Order 2005

5.—(1) The Pensions (Northern Ireland) Order 2005(**16**) is amended as follows.

(2) In Article 68 (inspection of premises), in paragraph (2)(a), in the list of provisions—

(a) in the parenthetical description of Article 230, for "non-European" substitute "non-UK";

(b) omit "Part VII (cross-border activities within European Union);".

(3) In Article 82 (other permitted disclosures), for paragraph (2)(h) substitute—

"(h) in pursuance of retained EU law.".

(4) In Article 183 (other permitted disclosures), for paragraph (2)(g) substitute—

"(g) in pursuance of retained EU law.".

(5) In Article 226A (requirement for internal controls)(**17**), omit paragraph (4).

(6) In Article 230 (non-European scheme to be trust with UK-resident trustee)(**18**)—

(a) in the heading, for "Non-European" substitute "Non-UK";

(b) in paragraphs (1) and (6), for "EEA states" substitute "United Kingdom".

(7) In Article 231 (representative of non-European scheme to be treated as trustee)(**19**)—

(a) in the heading, for "non-European" substitute "non-UK";

(b) in paragraph (1), for "EEA states" substitute "United Kingdom".

(8) Omit Part 7 (cross-border activities within European Union)(**20**).

(9) In Article 280(2) (modification of this Order in relation to certain categories of schemes) omit sub-paragraph (e) and the "and" before it.

(10) In Schedule 3 (restricted information held by the Regulator) and Schedule 7 (restricted information held by the Board)(**21**), in the entry in the table relating to a recognised investment exchange, in the first column omit ", EEA central counterparty" and ", EEA CSD".

Amendment of the Pensions (No. 2) Act (Northern Ireland) 2008

6.—(1) The Pensions (No. 2) Act (Northern Ireland) 2008(**22**) is amended as follows.

(2) In section 18 (occupational pension schemes)—

(**15**) S.I. 1999/3147 (N.I. 11); paragraph 6(2)(a) of Schedule 5 was amended by Article 160(2) of S.I. 2001/3649 and regulation 4 of S.R. 2007 No. 457.
(**16**) S.I. 2005/255 (N.I. 1).
(**17**) Article 226A was inserted by regulation 2 of S.R. 2005 No. 567.
(**18**) Article 230(1) and (6) was amended by regulation 5(2) of S.R. 2007 No. 457.
(**19**) Article 231(1) was amended by regulation 5(3) of S.R. 2007 No. 457.
(**20**) Part 7 was amended by regulation 5(4) to (10) of S.R. 2007 No. 457, paragraph 33 of Schedule 2 to the Pension Schemes Act (Northern Ireland) 2016 (c. 1 (N.I.)) and regulation 2 of S.R. 2018 No. 182.
(**21**) Schedules 3 and 7 were amended by paragraph 28 of the Schedule to S.I. 2017/1064; there are other amendments but none is relevant.
(**22**) 2008 c. 13 (N.I.).

(a) omit paragraph (b);

(b) in paragraph (c), for "an EEA State" substitute "the United Kingdom".

(3) In section 78 (interpretation of Part 1), omit the definition of the "IORP Directive".

Amendment of the Pension Schemes Act (Northern Ireland) 2016

7.—(1) The Pension Schemes Act (Northern Ireland) 2016(**23**) is amended as follows.

(2) In section 42 (regulatory own fund schemes exempt from indexation), in subsection (3), for inserted paragraphs (9) and (10) substitute—

"(9) In paragraph (1)(a)(ii) "regulatory own fund scheme" means a scheme where the scheme and not any employer in relation to that scheme—

(a) underwrites any liability to cover against biometric risk,

(b) guarantees an investment performance, or

(c) guarantees a level of benefits.

(10) In paragraph (9)—

"biometric risk" means liability risks linked to death, disability and longevity;

"employer" has the meaning given by Article 2(2) of the Pensions (Northern Ireland) Order 2005.".

PART 3

Amendment of secondary legislation

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996

8.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**24**) are amended as follows.

(2) In regulation 1(2)—

(a) omit the definitions of "EEA agreement" and "EEA state";

(b) in the definition of "overseas scheme", for "EEA states" substitute "United Kingdom".

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996

9.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**25**) are amended as follows.

(2) In regulation 1(2)—

(a) omit the definitions of "EEA agreement" and "EEA state";

(b) in the definition of "overseas scheme"—

(i) in paragraph (a), for "EEA states" substitute "United Kingdom";

(**23**) 2016 c. 1 (N.I.); section 42 is yet to be appointed.
(**24**) S.R. 1996 No. 493; amended by S.R. 2007 Nos.185 and 457, S.R. 2012 No. 120 and S.R. 2016 No. 107; there are other amending instruments but none is relevant.
(**25**) S.R. 1996 No. 618; amended by S.R. 2007 Nos. 185 and 457 and S.R. 2016 No. 158; there are other amending instruments but none is relevant.

(ii) omit paragraph (b) and the "or" before it.

Amendment of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996

10.—(1) The Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**26**) are amended as follows.

(2) In regulation 10, omit paragraph (1)(d).

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997

11.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**27**) are amended as follows.

(2) In regulation 1(2), in the definition of "qualifying insurance policy" omit paragraph (b) and the "or" before it.

(3) In regulation 11—

(a) in paragraph (3)(a) omit "or the central bank of another EEA State";

(b) omit paragraph (4)(a).

(4) In regulation 15, omit paragraph (2)(b) and the "or" before it.

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997

12.—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(**28**) are amended as follows.

(2) In regulation 2—

(a) omit paragraph (1)(b) and the "or" before it;

(b) in paragraph (2), omit "and (b)".

Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000

13.—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000(**29**) are amended as follows.

(2) In regulation 11—

(a) omit paragraph (1)(b) and the "or" before it;

(b) in paragraph (2), omit "and (b)".

(**26**) S.R. 1996 No. 621; amended by S.R. 2006 No. 65; there are other amending instruments but none is relevant.
(**27**) S.R. 1997 No. 94; amended by S.R. 2003 No. 256, S.R. 2006 No. 141 and S.I. 2013/472; there are other amending instruments but none is relevant.
(**28**) S.R. 1997 No. 159; amended by S.R. 2003 No. 256 and S.I. 2013/472; there are other amending instruments but none is relevant.
(**29**) S.R. 2000 No. 145; amended by S.R. 2003 No. 256 and S.I. 2013/472; there are other amending instruments but none is relevant.