STATUTORY RULES OF NORTHERN IRELAND

2018 No. 165

PENSIONS

The Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018

Made - - - - 11th September 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 109(1), (6) and (7), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 35(4), 36(1), (1A)(a) and (9) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), and Articles 280(1)(b) and 287(2) and (3) of, and paragraph 33(1) of Schedule 6 to, the Pensions (Northern Ireland) Order 2005(**4**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018 and, except as provided for in paragraphs (2) and (3), shall come into operation on 1st October 2019.

(2) This regulation and regulations 2 and 3 shall come into operation on 2nd October 2018.

(3) The following regulations shall come into operation on 1st October 2020—

(a) regulation 5(2);

(**1**) 1993 c. 49; section 109(1) was amended by section 48(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 109(6) and (7) was inserted by section 43 of the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)); section 178(1) was amended by Parts 3 and 4 of Schedule 5 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(**2**) S.I. 1995/3213 (N.I. 22); Article 35 was substituted by Article 221 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); Article 36(1) and (1A) was substituted for Article 36(1) by Article 222(2) of that Order; Article 36(9) was added by Article 222(6) of that Order

(**3**) *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.))

(**4**) S.I. 2005/255 (N.I.) ; paragraph 33 was amended by paragraph 15 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))

(b) regulation 5(4)(b) in so far as it relates to the insertion of paragraph (2A)(b) into regulation 29A of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(**5**), and

(c) regulation 5(5)(c).

(4) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Pension Protection Fund (Compensation) Regulations

2.—(1) The Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005(**7**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) omit the definition of "pensionable service".

(3) After Part 12(**8**) (variable-rate schemes) add—

"PART 13

Schemes which provide fixed pensions in respect of transfer payments

Schemes which provide fixed pensions in respect of transfer payments: modification of Schedule 6

28.—(1) Schedule 6 has effect with the modifications set out in paragraphs (3) to (5) in relation to a scheme if, immediately before the assessment date, under the admissible rules of the scheme a person is entitled or has rights to a relevant fixed pension.

(2) A pension to which a person is entitled or has rights under a scheme is a "relevant fixed pension" for the purposes of this regulation if—

(a) that entitlement or those rights (as the case may be) arose by virtue of a transfer payment to the scheme in respect of the person's rights under another occupational or personal pension scheme;

(b) the initial annual amount of the pension was specified at the time the transfer payment was received (whether or not that amount was subject to revaluation in respect of the period until the pension was to come into payment), and

(c) the pension is neither—

(i) attributable (directly or indirectly) to a pension credit, nor

(ii) payable as a result of a person's death.

(3) Where compensation is payable under paragraph 15 of Schedule 6 (deferred members who have not attained normal pension age at assessment date) in respect of a relevant fixed pension—

(a) paragraph 15 has effect in its application to that pension as if—

(i) in sub-paragraph (5) for "when the pensionable service relating to the pension ended" there were substituted "immediately after the relevant transfer payment was received", and

(ii) after sub-paragraph (5) there were inserted—

(**5**) S.R. 2014 No. 79; regulation 29A was inserted by regulation 3(6) of S.R. 2018 No. 53
(**6**) 1954 c. 33 (N.I.)
(**7**) S.R. 2005 No. 149; relevant amending Regulations are S.R. 2009 No. 78 and S.R. 2018 No. 26
(**8**) Part 12 was added by regulation 2(6) of S.R. 2018 No. 26

"(5A) In sub-paragraph (5) "relevant transfer payment" means the transfer payment by virtue of which the deferred member's rights to the pension were conferred under the scheme.", and

(b) except in a case to which regulation 13A(4)(**9**) (modification of Schedule 6 for schemes with no revaluation) applies, paragraph 16 has effect in its application to that pension as if—

(i) in sub-paragraph (2)(a) for "deferred member's pensionable service in respect of the pension ended" there were substituted "relevant transfer payment was received", and

(ii) after sub-paragraph (2) there were inserted—

"(2A) In sub-paragraph (2)(a) "relevant transfer payment" means the transfer payment by virtue of which the deferred member's rights to the pension were conferred under the scheme.".

(4) Sub-paragraph (14) of paragraph 26A(**10**) of Schedule 6 (meaning of the compensation cap) does not apply in so far as it relates to the meaning of "pensionable service".

(5) Except for the purposes of sub-paragraphs (1) and (2) of paragraph 26(**11**) of Schedule 6 (compensation cap), paragraph 36 of Schedule 6 (accrual rate, pensionable service and pensionable earnings) has effect as if—

(a) in sub-paragraph (4) for "sub-paragraph (5)" there were substituted "sub-paragraphs (5) and (6)", and

(b) after sub-paragraph (5) there were added—

"(6) For the purposes of this Schedule, where a person is entitled or has rights under a scheme to a pension and—

(a) that entitlement or those rights (as the case may be) arose by virtue of a transfer payment to the scheme in respect of the person's rights under another occupational or personal pension scheme,

(b) the initial annual amount of the pension was specified at the time the transfer payment was received (whether or not that amount was subject to revaluation in respect of the period until the pension was to come into payment), and

(c) the pension is neither—

(i) attributable (directly or indirectly) to a pension credit, nor

(ii) payable as a result of a person's death,

the person is to be treated as having pensionable service within sub-paragraph (4)(b) to which that pension is attributable.".".

Amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations

3. In regulation 1(2) of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005(**12**) (interpretation) for the definition of "pensionable service" substitute—

(**9**) Regulation 13A was inserted by regulation 4 of S.R. 2009 No. 78
(**10**) Paragraph 26A was inserted by paragraph 3 of Schedule 20 to the Pensions Act (Northern Ireland) 2015
(**11**) Paragraphs 26(1) and (2) was amended by section 49(2) to (5) of the Pensions Act (Northern Ireland) 2015
(**12**) S.R. 2005 No. 91 to which there are amendments not relevant to these Regulations

""pensionable service" has the meaning given by paragraph 36(4) of Schedule 6 to the Order (accrual rate, pensionable service and pensionable earnings);".

Amendment of the Occupational Pension Schemes (Investment) Regulations

4.—(1) The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005(**13**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (statement of investment principles)—

(a) in paragraph (3)—

(i) in sub-paragraph (b)(v) for "investments, and" substitute "investments;";

(ii) for sub-paragraph (b)(vi) substitute—

"(vi) financially material considerations over the appropriate time horizon of the investments, including how those considerations are taken into account in the selection, retention and realisation of investments, and";

(iii) after sub-paragraph (b)(vi) add—

"(vii) the extent (if at all) to which non-financial matters are taken into account in the selection, retention and realisation of investments, and";

(iv) for sub-paragraph (c) substitute—

"(c) their policy in relation to—

(i) the exercise of the rights (including voting rights) attaching to the investments, and

(ii) undertaking engagement activities in respect of the investments (including the methods by which, and the circumstances under which, trustees would monitor and engage with relevant persons about relevant matters).";

(b) after paragraph (3) add—

"(4) For the purposes of this regulation—

"appropriate time horizon" means the length of time that the trustees of a trust scheme consider is needed for the funding of future benefits by the investments of the scheme;

"beneficiaries" means a person, other than a member of the trust scheme, who is entitled to the payment of benefits under the scheme;

"financially material considerations" includes (but is not limited to) environmental, social and governance considerations (including but not limited to climate change), which the trustees of the trust scheme consider financially material;

"non-financial matters" means the views of the members and beneficiaries including (but not limited to) their ethical views and their views in relation to social and environmental impact and present and future quality of life of the members and beneficiaries of the trust scheme;

"relevant matters" includes (but is not limited to) matters concerning an issuer of debt or equity, including their performance, strategy, risks, social and environmental impact and corporate governance, and

"relevant persons" includes (but is not limited to) an issuer of debt or equity, an investment manager or another holder of debt or equity.".

(**13**) S.R. 2005 No. 569; relevant amending Regulations are S.R. 2015 No. 309