STATUTORY RULES OF NORTHERN IRELAND

2018 No. 51

PENSIONS

The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations (Northern Ireland) 2018

Made - - - -	*14th March 2018*
Coming into operation	*6th April 2018*

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 8C, 16(1)(a) and (3), 33A and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and now vested in it(**2**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations (Northern Ireland) 2018 and shall come into operation on 6th April 2018.

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

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

2.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**4**) are amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(2) (interpretation)—

(a) in the definition of "connected employer transfer" and "connected employer transfer payment"(**5**)—

(**1**) 1993 c. 49; sections 8A to 8D were inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and repealed by paragraph 11 of Schedule 13 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)), but saved for certain purposes, *see*S.R. 2016 No. 106; section 16(1) was amended by paragraph 2(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and paragraph 18 of Schedule 13 to the Pensions Act (Northern Ireland) 2015; section 16(3) was amended by Article 31(2) of S.R. 2012 No. 124; section 33A was inserted by paragraph 25 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(**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**) 1954 c. 33 (N.I.)

(**4**) S.R. 1996 No. 618; relevant amending provisions are S.R. 1997 No. 160, S.R. 2005 No. 433, S.R. 2013 No. 72, S.R. 2016 No. 158 and S.R. 2017 No. 111

(**5**) The definition of "connected employer transfer" and "connected employer transfer payment" was substituted by regulation 4(2) of S.R. 2013 No. 72 and amended by Article 5(2)(a) of S.R. 2016 No. 158

(i) for "from a scheme that was a salary related contracted-out scheme to a scheme that was a salary related contracted-out scheme", in both places where it occurs, substitute "from one salary related scheme to another";

(ii) in paragraph (b)(ii) for "each of the employers is one" substitute "the employers are members";

(b) after the definition of "regulated apportionment arrangement"(**6**) insert—

""salary related scheme" means a scheme which—

(a) is not a scheme under which all the benefits that may be provided are money purchase benefits, and

(b) does not fall within a class prescribed in regulations made by the Department under section 96D(**7**) (interpretation of Chapter);".

(3) In regulation 7(**8**) (general)—

(a) in paragraph (1) for "a scheme that was a salary related contracted-out scheme", in both places where it occurs, substitute "a salary related scheme";

(b) in paragraph (2A)—

(i) for "an occupational pension scheme that was a salary related contracted-out scheme" substitute "a salary related scheme";

(ii) for "that occupational pension scheme" substitute "that scheme".

(4) For regulation 9(**9**) (connected employer transfer payments) substitute—

"**Connected employer transfer payments**

9. A connected employer transfer payment may be made subject to the condition set out in regulation 12(3) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**10**) (transfer of member's accrued rights without consent), irrespective of whether that condition would otherwise apply to the member concerned, and either—

(a) for a transfer to a scheme that was a salary related contracted-out scheme, the condition set out in regulation 8(c)(**11**), or

(b) for a transfer to a scheme that has never been a contracted-out scheme, the condition that the benefits (including benefits for the earner's widow, widower or surviving civil partner) to be credited in the receiving scheme in respect of that part of the transfer payment which relates to the earner's accrued section 5(2B) rights(**12**), or pensions in payment deriving from section 5(2B) rights, must be such as would have complied with section 8A(1)(**13**) (the statutory standard) as it had effect immediately before 6th April 2016.".

(5) In regulation 11A(1)(**14**) (transfers in respect of section 5(2B) rights in the case of a regulated apportionment arrangement or where an assessment period has commenced) for "an

(**6**) The definition of "regulated apportionment arrangement" was inserted by regulation 2(2)(b) of S.R. 2017 No. 111
(**7**) Section 96D was inserted by paragraph 60 of Schedule 4 to the Pension Schemes Act 2015 (c. 8). *See* the definition of "salary related occupational pension scheme" in that section
(**8**) Regulation 7 was amended by paragraph 10(4) of the Schedule to S.R. 1997 No. 160 and Article 5(5) of S.R. 2016 No. 158
(**9**) Regulation 9 was amended by regulation 4(3) of S.R. 2013 No. 72
(**10**) S.R. 1991 No. 37; regulation 12(3) was substituted by regulation 3(2)(a) of S.R. 2011 No. 89
(**11**) Regulation 8(c) was amended by Article 5(6)(c) of S.R. 2016 No. 158
(**12**) The definition of "section 5(2B) rights" was substituted by Article 5(2)(e) of S.R. 2016 No. 158
(**13**) Section 8A(1) was amended by paragraph 3 of Schedule 1 to S.R. 2005 No. 433
(**14**) Regulation 11A was inserted by regulation 2(6) of S.R. 2017 No. 111

occupational pension scheme that was a salary related contracted-out scheme" substitute "a salary related scheme".

(6) In regulation 12(**15**) (modifications of Part III of the 1993 Act on transfers of, and transfer payments in respect of, guaranteed minimum pensions from occupational pension schemes)—

(a) for "a scheme that was a salary related contracted-out scheme" substitute "a salary related scheme";

(b) in paragraph (b)—

(i) after "(transfer of accrued rights: meaning of "accrued rights")" insert ", 20A(1)(a)(**16**) (conversion of guaranteed minimum pension into other benefits: introduction)";

(ii) for "paragraphs 1, 3 and 5" substitute "paragraphs 1, 1A(**17**), 3 and 5";

(c) in paragraph (c)—

(i) for "sections 4(2) and 155" substitute "sections 4(2), 20A(1)(a) and 155";

(ii) for "paragraphs 1 and 5" substitute "paragraphs 1, 1A and 5".

(7) In Schedule 1 (further conditions for transfers of guaranteed minimum pensions)—

(a) in the heading to Part 1(**18**) for "a Scheme that was a Salary Related Contracted-out Scheme" substitute "a Salary Related Scheme";

(b) in paragraph 1—

(i) in sub-paragraph (a) for "place, and" substitute "place;";

(ii) in sub-paragraph (b) for "sections 9 and 13." substitute "section 9 or (as the case may be) 13, and";

(iii) after sub-paragraph (b) add—

"(c) comply with sections 9 to 20E in respect of accrued rights.";

(c) for paragraph 6 substitute—

"**6.**—(1) The date of commencement of the pension the liability for which is transferred—

(a) if the pension is payable to the person who has become entitled to it, must be the date from which liability for payment is assumed by the receiving scheme, and

(b) if the pension is payable to the widow, widower or surviving civil partner of that person, must be the same as it would have been under the provisions of the transferring scheme.

(2) The receiving scheme must contain the same provision (if any) for suspension and forfeiture of that pension as for guaranteed minimum pensions provided by the receiving scheme in accordance with section 9 or (as the case may be) 13.

(3) The receiving scheme must provide for the payment of guaranteed minimum pensions to or in respect of a person who has become entitled to them at a rate that is no lower than the rate at which they would have been paid by the transferring

(**15**) Regulation 12 was amended by Article 5(7) of S.R. 2016 No. 158
(**16**) Sections 20A to 20H were inserted by section 12(3) of the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and section 20A was amended by paragraph 20 of Schedule 13 to the Pensions Act (Northern Ireland) 2015
(**17**) Paragraph 1A is inserted by regulation 2(8)(b) of these Regulations
(**18**) The heading was substituted by Article 5(10)(a) of S.R. 2016 No. 158