STATUTORY RULES OF NORTHERN IRELAND

2016 No. 172

PENSIONS

The Pension Sharing (Miscellaneous Amendments) Regulations (Northern Ireland) 2016

Made - - - -	*16th March 2016*
Coming into operation	*6th April 2016*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 97C(2), 97H(3), 97J(6)(a), 97L(1), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 21(1)(a), (b)(i), (c) and (d) and (3), 24(2), 27(1), 38(1) and (2) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**2**), and now vested in it(**3**) and sections 51(2), (3)(a) and (4) and 83 of the Pension Schemes Act 2015(**4**).

Citation and commencement

1. These Regulations may be cited as the Pension Sharing (Miscellaneous Amendments) Regulations (Northern Ireland) 2016 and shall come into operation on 6th April 2016.

Amendment of the Pensions on Divorce etc. (Provision of Information) Regulations

2.—(1) The Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000(**5**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) after the definition of "pensionable service" insert—

""pensioner member" has the meaning given by Article 121(1) of the 1995 Order;".

(3) In regulation 2 (basic information about pensions on divorce or dissolution of a civil partnership(**6**)) for paragraph (4) substitute—

"(4) The information in this paragraph is any other information relevant to any power with respect to the matters specified in Article 21(1)(a) and which is not specified in

(**1**) 1993 c. 49; sections 97A to 97Q were inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and section 97J(6)(a) was amended by paragraph 11(b) of Schedule 10 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); 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. 1999/3147 (N.I. 11); Article 21(1) was amended by paragraph 108 of Schedule 29 to the Civil Partnership Act 2004 (c. 33)

(**3**) *See* Article 8(b) of S.R. 1999 No. 481

(**4**) 2015 c. 8

(**5**) S.R. 2000 No. 142; relevant amending provisions are S.R. 2005 No. 536, S.I. 2006/745 and S.R. 2008 No. 370

(**6**) The heading for regulation 2 was amended by paragraph 1(3)(a) of Schedule 1 to S.R. 2005 No. 536

Schedules 2 to 5 (basic information, information to be given on request, summary funding statements and statements of benefits: non money purchase benefits) and Schedule 6 (statements of benefits: money purchase benefits and cash balance benefits(**7**)) or 7 (information to be given by schemes that relates to accessing benefits) (whichever is relevant) to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(**8**), in a case where those Regulations apply.".

(4) In regulation 3 (information about pensions on divorce and dissolution of a civil partnership: valuation of pension benefits(**9**))—

(a) in paragraph (1)(**10**)—

(i) for sub-paragraph (a) substitute—

"(a) paragraphs (3) and (4), if the person with pension rights is an active member, a deferred member or a pensioner member of an occupational pension scheme;";

(ii) omit sub-paragraph (b);

(iii) in sub-paragraph (d)(**11**) for head (ii) substitute—

"(ii) the rights of the person with pension rights are contained in an insurance policy or annuity contract other than a retirement annuity contract;";

(b) for paragraphs (3) and (4) substitute—

"(3) Where a person with pension rights is an active member, a deferred member or a pensioner member of an occupational pension scheme, the value of those rights in relation to a category of benefits referred to in section 89(6)(**12**) (scope of Chapter 1) must be calculated and verified in accordance with regulations 7 to 7C and 7E(1) to (3)(**13**) of the Transfer Values Regulations (manner of calculation of cash equivalents, initial cash equivalents etc), as if—

(a) in the case of benefits other than money purchase benefits, the member has made an application for a statement of entitlement under section 89A on the date that the request for the valuation was received, or

(b) in the case of money purchase benefits, the member has made a valid application under section 91(**14**) to take the cash equivalent of those benefits on the date that the request for the valuation was received.

(4) Where the person with pension rights is continuing to accrue rights to benefits in the category of benefits to be valued, paragraph (3) applies as if the person had ceased to accrue rights in that category of benefits on the date that the request for the valuation was received.";

(c) in paragraph (5) for "section 90(1)(b)" substitute "section 90 (right to cash equivalent)";

(**7**) The heading for Schedule 6 was amended by regulation 73(7) of S.R. 2014 No. 204

(**8**) S.R. 2014 No. 79; Schedule 2 was amended by regulation 73(6) of S.R. 2014 No. 204 and regulation 10 of S.R. 2015 No. 154; Schedule 3 was amended by regulation 11 of S.R. 2015 No. 154 and regulation 17(2) of S.R. 2015 No. 309; Schedule 6 was amended by regulation 73(7) and (8) of S.R. 2014 No. 204; Schedule 7 was amended by regulation 12 of S.R. 2015 No. 154

(**9**) The heading for regulation 3 was amended by paragraph 1(4)(a) of Schedule 1 to S.R. 2005 No. 536

(**10**) Paragraph (1) was amended by paragraph 1(4)(b) of Schedule 1 to S.R. 2005 No. 536

(**11**) Sub-paragraph (d) was amended by paragraph 3(3)(a) of Schedule 2 to S.R. 2008 No. 370

(**12**) Sections 89, 89A and 90 were substituted for sections 89 and 90 by paragraph 54 of Schedule 4 to the Pension Schemes Act 2015

(**13**) Regulations 7 to 7E were substituted for regulations 7 and 8 by regulation 4 of S.R. 2008 No. 370. Regulations 7B and 7C were amended by regulation 3(2) and (3) of S.R. 2008 No. 388. Regulations 7 to 7C were amended by regulation 31(3) to (6) of S.R. 2014 No. 204. Regulation 7C was amended by regulation 4(5) of S.R. 2015 No. 164

(**14**) Section 91 was amended by paragraph 4 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)), Article 133 of S.I. 2001/3649 and section 71 of, and paragraph 55 of Schedule 4 to, the Pension Schemes Act 2015

(d) in paragraph (6) for "Chapter IV of Part IV of the Act by section 89(1)(b) (scope of Chapter IV)" substitute "Chapter 1 of Part 4ZA(**15**) of the Act (transfers and contribution refunds) by section 89(5)(b)".

(e) for paragraphs (8) and (10)(**16**) substitute—

"(8) When calculating and verifying a cash equivalent, regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations are to be read as if—

(a) in regulation 7—

(i) in paragraph (1)(a) the words "and then making any reductions in accordance with regulation 7D" were omitted;

(ii) in paragraph (1)(b) for "regulation 7E" there were substituted "regulation 7E(1) to (3)";

(iii) in paragraph (2) for "trustees" there were substituted "person responsible for the pension arrangement";

(iv) in paragraph (3) for "trustees are" there were substituted "person responsible for the pension arrangement is";

(b) in regulations 7A and 7B for "trustees", in each place where it occurs, there were substituted "person responsible for the pension arrangement";

(c) in regulation 7C—

(i) in paragraph (3) for "trustees", in both places where it occurs, there were substituted "person responsible for the pension arrangement";

(ii) in paragraph (4)(b)(iv) for "trustees determine" there were substituted "person responsible for the pension arrangement determines";

(d) in regulation 7E—

(i) in paragraph (1) for "trustees have" there were substituted "person responsible for the pension arrangement has";

(ii) in paragraph (2) for "trustees" there were substituted "person responsible for the pension arrangement".".

(5) In regulation 4(2) (provision of information in response to a notification that a pension sharing order or provision may be made)—

(a) in sub-paragraph (b)—

(i) in head (i) for "commenced, and" substitute "commenced;";

(ii) in head (ii) for "winding up;" substitute "winding up, and";

(iii) after head (ii) add—

"(iii) whether the member's rights to benefit are to be or are likely to be reduced in accordance with Articles 73 to 74(**17**) of the 1995 Order (winding up);";

(b) in sub-paragraph (c)(**18**) after "(reductions in initial cash equivalents)" insert "if the member were to transfer the cash equivalent of those rights out of the scheme".

(**15**) *See* paragraph 50 of Schedule 4 to the Pension Schemes Act 2015

(**16**) Paragraphs (7) and (8) were substituted for paragraphs (7) to (9) by paragraph 3(3)(b) of Schedule 2 to S.R. 2008 No. 370 and paragraph (10) was amended by paragraph 3(3)(c) of Schedule 2 to S.R. 2008 No. 370

(**17**) Articles 73 to 73B were substituted for Article 73 by Article 247(1) of the Pensions (Northern Ireland) Order 2005. Articles 73A and 73B were amended by section 64(1) and (2) of the Pension Schemes Act 2015. Articles 73 and 73B were amended by paragraphs 76 and 77 of Schedule 4 to the Pension Schemes Act 2015. Article 74 was amended by paragraph 45 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, Article 247(2) of the Pensions (Northern Ireland) Order 2005 and Article 60 of S.I. 2002/1555

(**18**) Sub-paragraph (c) was amended by paragraph 3(4) of Schedule 2 to S.R. 2008 No. 370

Amendment of the Pensions on Divorce etc. (Charging) Regulations

3.—(1) The Pensions on Divorce etc. (Charging) Regulations (Northern Ireland) 2000(**19**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(4)(a) (general requirements as to charges)—

(a) in head (i) for "(salary related schemes: right to statement of entitlement, and right to cash equivalent)" substitute "(right to statement of entitlement: benefits other than money purchase and right to cash equivalent);

(b) for head (iii) substitute—

"(iii) regulation 17 (statements of benefits: money purchase benefits) or any of the provisions of Part 6(**20**) (lifestyling and accessing benefits) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014;".

(3) In regulation 3(2) (charges recoverable in respect of the provision of basic information)—

(a) for sub-paragraph (d) substitute—

"(d) any costs incurred by the trustees or managers of an occupational or personal pension scheme in connection with the provision of information under regulation 6 (basic scheme information) or 7 (basic scheme information to be given by certain schemes) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 that the trustees or managers provide to the member free of charge under those Regulations;";

(b) in sub-paragraph (e) for head (iii) substitute—

"(iii) regulation 17 or any of the provisions of Part 6 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014, or".

(4) In regulation 9(2) (charges in respect of pension sharing activity – method of recovery) for sub-paragraph (f)(**21**) substitute—

"(f) deduction from the amount of a transfer value which is calculated in accordance with regulation 24 of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**22**) (manner of calculation and verification of cash equivalents).".

Amendment of the Pension Sharing (Valuation) Regulations

4.—(1) The Pension Sharing (Valuation) Regulations (Northern Ireland) 2000(**23**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) omit the definition of "initial cash equivalent"(**24**).

(3) In regulation 2(1) (rights under a pension arrangement which are not shareable)—

(a) in sub-paragraph (b)—

(i) for head (iv)(**25**) substitute—

(**19**) S.R. 2000 No. 143; relevant amending Regulations are S.R. 2008 No. 370
(**20**) Part 6 was amended by regulations 6 to 9 of S.R. 2015 No. 154
(**21**) Sub-paragraph (f) was amended by paragraph 4 of Schedule 2 to S.R. 2008 No. 370
(**22**) S.R. 2000 No. 146; regulation 24 was substituted by paragraph 7(4) of Schedule 2 to S.R. 2008 No. 370 and is amended by regulation 5(6) of these Regulations
(**23**) S.R. 2000 No. 144; relevant amending provisions are S.I. 2006/744, S.R. 2005 No. 536 and S.R. 2008 No. 370
(**24**) The definition of "initial cash equivalent" was inserted by paragraph 5(2)(e) of Schedule 2 to S.R. 2008 No. 370
(**25**) Head (iv) was substituted by Article 36(3)(a) of S.I. 2006/744

"(iv) dependants', nominees' or successors' income withdrawal within the meaning of, as the case may be, paragraph 21, 27D or 27J of Schedule 28 to the Finance Act 2004(**26**),";

(ii) after "surviving civil partner"(**27**) insert ", nominee, successor";

(iii) for "arrangement, and" substitute "arrangement;";

(b) after sub-paragraph (b) insert—

"(ba) any rights relating to sums and assets held for the purposes of—

(i) a dependant's drawdown pension fund or flexi-access drawdown fund within the meaning of, as the case may be, paragraph 22 or 22A(**28**) of Schedule 28 to the Finance Act 2004;

(ii) a nominee's or successor's flexi-access drawdown fund within the meaning of, as the case may be, paragraph 27E or 27K(**29**) of Schedule 28 to the Finance Act 2004 (nominee's flexi-access drawdown fund and successor's flexi-access drawdown fund);";

(c) in sub-paragraph (c)(**30**) for "service." substitute "service, and";

(d) after sub-paragraph (c) add—

"(d) any rights in respect of a cash transfer sum or contribution refund that the member would be entitled to under section 97AB(**31**) (right to cash transfer sum and contribution refund) if pensionable service were to be terminated.".

(4) For regulation 4(**32**) (manner of calculation and verification of cash equivalents: occupational pension schemes) substitute—

"**Manner of calculation and verification of cash equivalents: occupational pension schemes**

4.—(1) Subject to this regulation, where a person with pension rights is, for the purposes of Part 2 of the Pensions Order, an active member, a deferred member or a pensioner member of an occupational pension scheme, or where a person with pension rights attains, or is over, normal pension age and is not in receipt of the pension, the value of rights in relation to a category of benefits referred to in section 89(6)(**33**) (scope of Chapter 1) must be calculated and verified in accordance with regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations (manner of calculation of cash equivalents, initial cash equivalents etc), as if—

(a) in the case of benefits other than money purchase benefits, the member has made an application for a statement of entitlement under section 89A (right to statement of entitlement: benefits other than money purchase), or

(b) in the case of money purchase benefits, the member has made an application under section 91(**34**) (ways of taking right to cash equivalent) to use the cash equivalent of those benefits.

(**26**) 2004 c. 12; paragraph 21 was substituted by paragraph 15 of Schedule 16 to the Finance Act 2011 (c. 11) and amended by paragraph 20 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30); paragraphs 27A to 27K were inserted by paragraph 3(1) of Schedule 2 to the Taxation of Pensions Act 2014

(**27**) The words "surviving civil partner" were inserted by paragraph 3 of Schedule 1 to S.R. 2005 No. 536

(**28**) Paragraph 22 was amended by paragraph 21 of Schedule 10 to the Finance Act 2005 (c. 7), paragraph 16 of Schedule 16 to the Finance Act 2011 and paragraph 21 of Schedule 1 to the Taxation of Pensions Act 2014. Paragraph 22A was inserted by paragraph 4(1) of Schedule 1 to the Taxation of Pensions Act 2014

(**29**) Paragraphs 27E and 27K were amended by paragraphs 13(4) to (6) of Schedule 4 to the Finance Act 2015 (c. 11)

(**30**) Sub-paragraph (c) was substituted by Article 36(3)(b) of S.I. 2006/744

(**31**) Sections 97AA to 97AI were inserted by Article 241 of the Pensions (Northern Ireland) Order 2005

(**32**) Regulation 4 was substituted by paragraph 5(3) of Schedule 2 to S.R. 2008 No. 370

(**33**) Section 89 was substituted by paragraph 54 of Schedule 4 to the Pension Schemes Act 2015

(**34**) section 91 was amended by paragraph 55 of Schedule 4 to the Pension Schemes Act 2015