STATUTORY RULES OF NORTHERN IRELAND

2016 No. 158

PENSIONS

The Pensions (2015 Act) (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order (Northern Ireland) 2016

Made - - - - 14th March 2016

Coming into operation in accordance with Article 1

The Department for Social Development makes the following Order in exercise of the powers conferred by sections 50 and 51(6) of the Pensions Act (Northern Ireland) 2015(**1**).

PART 1

General

Citation and commencement

1. This Order may be cited as the Pensions (2015 Act) (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order (Northern Ireland) 2016 and shall come into operation—

(a) for the purposes of this Part and Part 2, on 6th April 2016;

(b) for the purposes of Part 3, on 6th April 2017;

(c) for the purposes of Part 4, on 6th April 2019, and

(d) for the purposes of Part 5, on 6th April 2021.

(**1**) 2015 c. 5 (N.I.)

PART 2

Amendments coming into operation on 6th April 2016

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**2**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 12 (transfer of member's accrued rights without consent)—

(a) for paragraph (2)(b)(ii)(**3**) substitute—

"(ii) the employers are companies or partnerships bearing a relationship to each other in one of the ways described in paragraph (2A).";

(b) after paragraph (2) insert—

"(2A) The relationships between the employers referred to in paragraph (2)(b)(ii) are—

(a) the employers are members of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006(**4**);

(b) the employers are—

(i) an employer who is the principal employer for the purposes of the scheme in accordance with the scheme rules, or who is the employer who has power to act on behalf of all employers in the scheme in relation to the scheme rules, and

(ii) an employer subject to the rules of the scheme, or

(c) the employers are partnerships having at least half of their partners in common.".

(3) In regulation 24 (schemes funded by level annual premiums) after paragraph (3)(**5**) insert—

"(3A) For the purposes of paragraph (3)(a), any alteration of the scheme which arises solely from the abolition of contracting-out for salary related schemes under the Pensions Act (Northern Ireland) 2015(**6**) does not constitute a material alteration.".

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

3. In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**7**) in the definition of "section 5(2B) rights"(**8**)—

(a) in paragraph (a) for "contracted-out by virtue of section 5(2B) of the Act" substitute "that was a salary related contracted-out scheme(**9**)";

(b) in paragraph (b)—

(**2**) S.R. 1991 No. 37; relevant amending Regulations are S.R. 1992 No. 304, S.R. 1996 No. 620 and S.R. 2013 No.72
(**3**) Paragraph (2) was substituted by regulation 35 of S.R. 1992 No. 304 and sub-paragraph (b)(ii) was amended by regulation 2(7)(a) of S.R. 1996 No. 620 and regulation 2(4) of S.R. 2013 No. 72
(**4**) 2006 c. 46
(**5**) Paragraph (3) was amended by regulation 2(14) of S.R. 1996 No. 620
(**6**) *See* Schedule 13 to the Pensions Act (Northern Ireland) 2015
(**7**) S.R. 1996 No. 493; relevant amending Regulations are S.R. 1997 No. 160, S.R. 1999 No. 486 and S.R. 2012 No. 124
(**8**) The definition of "section 5(2B) rights" was substituted by paragraph 5(2) of the Schedule to S.R. 1997 No. 160 and amended by regulation 4(2)(b) of S.R. 1999 No. 486 and Article 12(2)(b) of S.R. 2012 No. 124
(**9**) *See* section 3B of the Pension Schemes (Northern Ireland) Act 1993 (c. 49) as inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(i) after "has been made" insert "(other than a payment made in accordance with regulation 10 of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**10**) (transfer payments to occupational and personal pension schemes in respect of section 5(2B) rights))";

(ii) after "such a scheme," insert "whether before or after the second abolition date(**11**),";

(c) in paragraph (b)(i) for "contracted-out by virtue of section 5(2B) of the Act" substitute "that was a salary related contracted-out scheme".

Amendment of the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations

4. In regulation 10(2) of the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996(**12**) (disapplication of Article 75)—

(a) after the definition of "approved scheme" insert—

""contracted-out" is to be construed in accordance with section 3B(2)(**13**) of the Pension Schemes Act (meaning of "contracted-out scheme" and "appropriate scheme" etc);";

(b) in the definition of "relevant lump sum retirement benefits scheme", in paragraph (b) for "is not contracted-out" substitute "was not contracted-out at any time before the second abolition date";

(c) after the definition of "relevant statutory scheme" insert—

""the second abolition date" has the meaning given in section 176(1) of the Pension Schemes Act(**14**);".

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

5.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**15**) are amended in accordance with paragraphs (2) to (11).

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

(a) in the definition of "connected employer transfer" and "connected employer transfer payment"(**16**)—

(i) omit "and in this definition "salary related contracted-out scheme" includes a scheme which was formerly a salary related contracted-out scheme";

(ii) before "salary related contracted-out scheme", in each of the remaining places where it occurs, insert "scheme that was a";

(b) in the definition of "overseas scheme"(**17**)—

(i) before " salary-related contracted-out scheme" insert "scheme that was a";

(**10**) S.R. 1996 No. 618; regulation 10 was substituted by regulation 7(4) of S.R. 2012 No. 120 and is amended by regulation 22(3) of S.R. 2016 No. 107

(**11**) *See* section 3A of the Pension Schemes (Northern Ireland) Act 1993 as inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(**12**) S.R. 1996 No. 585 to which there are amendments not relevant to this Order

(**13**) Section 3B was inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(**14**) The definition of "the second abolition date" was inserted by paragraph 42(2) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(**15**) S.R. 1996 No. 618; relevant amending provisions are S.R. 1997 No. 160, S.R. 1999 No. 486, S.R. 2007 Nos. 185 and 457 and S.R. 2012 Nos. 120 and 124

(**16**) The definition of "connected employer transfer" and "connected employer transfer payment" was substituted by regulation 4(2) of S.R. 2013 No. 72

(**17**) The definition of "overseas scheme" was substituted by regulation 6 of S.R. 2007 No. 185 and amended by regulation 8(b) of S.R. 2007 No. 457

(ii) omit "nor one in respect of which section 49 (supervision: former contracted-out schemes) applies by virtue of section 48(1) (supervision of schemes which have ceased to be certified)";

(c) in the definition of "the principal appointed day", for "3(2B)" substitute "176(1)(**18**)";

(d) in the opening words omit the definition of "salary related contracted-out scheme(**19**)";

(e) for the definition of "section 5(2B) rights"(**20**) substitute—

""section 5(2B) rights" has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016(**21**);".

(3) In regulation 3 (transfers of guaranteed minimum pensions to salary related contracted-out schemes)—

(a) in the heading, before "salary related" insert "schemes that were";

(b) in the opening words before "salary related" insert "scheme that was a";

(c) in paragraph (c) omit "in the case of a transfer of the accrued rights of an earner who is not in employment which is contracted-out by reference to the receiving scheme,".

(4) In regulation 5(**22**) (transfer payments in respect of guaranteed minimum pensions to occupational and personal pension schemes) omit "a salary related contracted-out scheme,".

(5) In regulation 7(1)(a) and (b)(**23**) (transfers of liability in respect of section 5(2B) rights – general)—

(a) after "from a" insert "scheme that was a";

(b) omit "(or a scheme which was formerly a salary related contracted-out scheme)".

(6) In regulation 8 (transfer payments to salary related contracted-out schemes in respect of section 5(2B) rights)—

(a) in the heading, before "salary related" insert "schemes that were";

(b) in the opening words for "salary related contracted-out scheme" substitute "scheme that was a salary related contracted-out scheme which was contracted-out by virtue of section 5(2B)";

(c) in paragraph (c)(**24**) for the words from "which is contracted-out" to the end of that paragraph substitute "which was contracted-out in relation to the receiving scheme on or after the principal appointed day.".

(7) In regulation 12 (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) before "salary related contracted-out scheme" insert "scheme that was a";

(b) subject to Article 6(1), omit paragraph (a);

(c) subject to Article 6(1), in paragraph (b) for "any other" substitute "a".

(8) In regulation 13 (modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts)—

(**18**) The definition of "the principal appointed day" in section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 was substituted by paragraph 42(9) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(**19**) *See* sections 3B and 176(1) of the Pension Schemes (Northern Ireland) Act 1993 as inserted and amended respectively by paragraphs 6 and 42(2) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(**20**) The definition of "section 5(2B) rights" was substituted by paragraph 10(2)(b) of the Schedule to S.R. 1997 No. 160 and amended by regulation 8 of S.R. 1999 No. 486 and Article 13(2)(b) of S.R. 2012 No. 124

(**21**) S.R. 2016 No. 107

(**22**) Regulation 5 was substituted by regulation 7(3) of S.R. 2012 No. 120

(**23**) Regulation 7(1) was amended by paragraph 10(4) of the Schedule to S.R. 1997 No. 160

(**24**) Regulation 8(c) was amended by paragraph 10(5) of the Schedule to S.R. 1997 No. 160

(a) before "salary related contracted-out scheme" insert "scheme that was a";

(b) subject to Article 6(2), omit paragraph (a);

(c) subject to Article 6(2), in paragraph (b) omit the words from the beginning to "to the receiving scheme,".

(9) Omit regulation 13A(**25**) (modification of section 8C where transfer payments are made to salary related contracted-out schemes).

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

(a) for the heading to Part I substitute "Further Conditions for Transfer to a Scheme that was a Salary Related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions";

(b) in paragraph 2, omit sub-paragraph (a) and the "but" immediately following it;

(c) for the heading to Part II substitute "Further Conditions for Transfer from an Appropriate Policy to a Scheme that was a Salary Related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions".

(11) In Schedule 2 (modifications of Part III of the 1993 Act)—

(a) in paragraphs 1 and 6(**26**) in the definition of "guaranteed minimum pension" for "by an occupational pension scheme" substitute "by a scheme that was a salary related contracted-out scheme";

(b) in paragraph 2 for "is contracted-out" substitute "was contracted-out";

(c) subject to Article 6(1) and (2), omit paragraph 2.

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

6.—(1) Regulation 12(a) and (b) of, and paragraph 2 of Schedule 2 to, the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 (modifications of Part III of the 1993 Act) continue to have effect as if the amendments made by Article 5(7)(b) and (c) and (11)(c) had not been made, in relation to a transfer of accrued rights to guaranteed minimum pensions of an earner who was in employment which was contracted-out by reference to the receiving scheme, where that transfer occurred before the second abolition date.

(2) Regulation 13(a) and (b) of, and paragraph 2 of Schedule 2 to, the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 continue to have effect as if the amendments made by Article 5(8)(b) and (c) and (11)(c) had not been made, in relation to a transfer of accrued rights to guaranteed minimum pensions from an appropriate policy where the earner was in employment which was contracted-out by reference to the receiving scheme and the transfer occurred before the second abolition date.

(3) For the purposes of this Article—

"accrued rights" has the meaning given in section 16(6) of the Pension Schemes Act(**27**) (transfer of accrued rights);

"appropriate policy" means a policy of insurance or an annuity contract as described in section 15(4)(**28**) of the Pension Schemes Act (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts);

(**25**) Regulation 13A was inserted by paragraph 10(6) of the Schedule to S.R. 1997 No. 160 and amended by Article 13(3) of S.R. 2012 No. 124

(**26**) Paragraphs 1 and 6 were substituted by paragraph 10(7) of the Schedule to S.R. 1997 No. 160

(**27**) Section 16(6) was amended by paragraph 7 of Schedule 1 to S.R. 2005 No. 433

(**28**) Section 15(4) was amended by article 129(2) of S.I. 2001/3649 and regulation 2(3) of S.R.2007 No. 457