STATUTORY RULES OF NORTHERN IRELAND

# 2016 No. 106

# PENSIONS

## The Pensions (2015 Act) (Savings) Order (Northern Ireland) 2016

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| *Made - - - -* | *4th March 2016* |
| *Coming into operation* | *6th April 2016* |

The Department for Social Development makes the following Order in exercise of the powers conferred by section 53(5) of the Pensions Act (Northern Ireland) 2015 [F1].

**F1** 2015 c. 5 (N.I.)

**Citation, commencement, expiry and interpretation**

**1.**—(1) This Order may be cited as the Pensions (2015 Act) (Savings) Order (Northern Ireland) 2016 and shall come into operation on 6th April 2016.

(2) Article 2(1), (2) **[**[F2], (5) and (7A)**]** ceases to have effect on 6th April 2019.

(3) In this Order—

"the Act" means the Pensions Act (Northern Ireland) 2015;

"contracted-out employment" and "contributions equivalent premium" have the meanings given in section 176(1) [F3] of the Pension Schemes Act;

"earner" has the meaning given in section 176(1) [F4] of the Pension Schemes Act;

"HMRC" means the Commissioners for Her Majesty's Revenue and Customs;

"PPF assessment period" means an assessment period within the meaning of Article 116 of the 2005 Order in relation to the Board of the Pension Protection Fund;

"reference scheme minimum benefit" means a salary related benefit which is defined by reference to section 8B [F5] of the Pension Schemes Act (reference scheme) and which, under the provisions of the scheme, shall be provided as a minimum pension payable to the member;

"salary related contracted-out scheme" and "the second abolition date" have the meanings given in section 176(1) [F6] of the Pension Schemes Act.

**F2** Words in art. 1(2) substituted (6.4.2016) by The Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016 (S.R. 2016/162), arts. 1, **5(2)**

**F3** The definition of "contributions equivalent premium" in section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 (c. 49) was amended by paragraph 66(a)(ii) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and is amended by paragraph 42(6) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

**F4** The definition of "earner" and "earnings" in section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 is amended by paragraph 42(7) of Schedule 13 to the Pensions (Northern Ireland) Act 2015

**F5** Sections 8A to 8D were inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995. Section 8B was amended by paragraph 33 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)), **paragraph 9** of Schedule 7 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)), **regulation 2** of S.R. 1997 No. 162 and paragraph 4 of Schedule 1 to S.R. 2005 No. 433

**F6** The definitions of "salary related contracted-out scheme" and "the second abolition date" are inserted into section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 by paragraph 42(2) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

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**2.**—(1) The provisions of the Pension Schemes Act specified in paragraph (2) and repealed by paragraphs 5, 8 to 11, 22, 28, 29, 36[F7]... and 45(2) and (4) of Schedule 13 to the Act (abolition of contracting-out for salary related schemes) continue to have effect, despite those repeals, for the purposes of allowing or requiring the trustees or managers of a scheme that was a salary related contracted-out scheme, and HMRC, to carry out any necessary activity relating to any period of contracted-out employment which occurred before the second abolition date.

(2) The provisions are—

(a) section 3 [F8] (issue of contracting-out certificates);

(b) section 5 [F9] (requirements for certification of schemes: general);

(c) section 7 [F10] (elections as to employments covered by contracting-out certificates);

(d) sections 8A to 8D [F11] (requirements for certification of occupational pension schemes applying from 6th April 1997);

(e) sections 30 [F12] to 32 (cancellation, variation, surrender and refusal of certificates);

(f) section 37 [F13] (reduced rates of Class 1 contributions);

(g) section 49(3) [F14] (supervision: former contracted-out schemes);

[F15](h) . . . . . .

(i) paragraphs 1 to 4 and 6 to 8 [F16] of Schedule 1 (certification regulations).

(3) Sections 8A to 8D of the Pension Schemes Act continue to have effect, as if the repeals made by paragraphs 10 and 11 of Schedule 13 to the Act had not been made, in relation to a scheme that was a salary related contracted-out scheme and which provides a reference scheme minimum benefit in order to meet the statutory standard in section 8A, and in relation to the period of a member's contracted-out employment which ended before or on the second abolition date.

(4) Section 12(2) of the Pension Schemes Act (revaluation of earnings factors for purposes of section 10: early leavers, etc.) continues to have effect, as if it had not been substituted by paragraph 16 of Schedule 13 to the Act, in relation to earners whose service in contracted-out employment ended before the second abolition date.

(5) Section 46 [F17] of the Pension Schemes Act (powers of HMRC to approve arrangements for scheme ceasing to be certified) continues to have effect, as if that section had not been repealed by paragraph 33 of Schedule 13 to the Act, in relation to a salary related contracted-out scheme which ceased to be such a scheme before the second abolition date.

(6) Sections 51 to 64 of the Pension Schemes Act continue to have effect, as if they had not been repealed by paragraph 37 of Schedule 13 to the Act, for the purposes of allowing or requiring the trustees or managers of a scheme described in paragraph (7) to elect to pay, and pay, a contributions equivalent premium, in relation to members of the scheme whose contracted-out employment ended[F18]... before the second abolition date.

(7) A scheme referred to in paragraph (6) is—

(a) one which started to wind up before the second abolition date, or

(b) one—

(i) which had not started to wind up before the second abolition date;

(ii) which entered a PPF assessment period before 6th April 2016, and where the assessment period continues after 6th April 2019, and

(iii) where the trustees or managers of the scheme elected to pay a contributions equivalent premium after the start of the PPF assessment period but cannot make that payment during the assessment period due to the restriction in Article 119(4)(b) of the 2005 Order (restrictions on winding up, discharge of liabilities etc.).

**[**[F19](7A) Sections 51 to 64 of the Pension Schemes Act (state scheme premiums) continue to have effect as if they had not been repealed by paragraph 37 of Schedule 13 to the Act (abolition of contracting-out for salary related schemes) for the purposes of allowing action to be taken by HMRC and the trustees or managers of a scheme in relation to the payment of a contributions equivalent premium in respect of an earner to whom section 51(2)(a) to (c) applied before the second abolition date.

(7B) Sections 52 to 64 of the Pension Schemes Act additionally continue to have effect as if they had not been repealed by paragraph 37 of Schedule 13 to the Act in so far as necessary for the purposes of Article 3 of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016 with the modifications specified in paragraphs (7C) to (7F).

(7C) In section 52 (provisions supplementary to section 51)—

(a) omit subsection (2);

(b) in subsection (4) for the words following paragraph (b) substitute—

"the earner's length of service in employment for the purposes of Article 3(3)(b) of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016 shall include any period of linked qualifying service which was contracted-out employment by reference to the other scheme.";

(c) in subsection (6) for "section 51(2A)" substitute "Article 3(5) of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016";

(d) in subsection (8)—

(i) for "section 51" substitute "Article 3 of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016";

(ii) for "sections 51 to 64" substitute "sections 52 to 64";

(e) in subsection (9) for "section 51" substitute "Article 3 of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016".

(7D) In section 53 (elections to pay contributions equivalent premiums)—

(a) for subsection (1) substitute—

"(1) Where the relevant person is required to make a contributions equivalent premium or elects to do so under Article 3 of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016, the relevant person must notify HMRC in writing in such form as HMRC may reasonably require for the purpose of identifying the earner to whom the election relates.

(1A) Such notification must be given—

(a) where the circumstances specified in Article 3(5)(d) of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016 apply, within the period of two years starting with the date the scheme began to be wound up; or

(b) where the circumstances specified in Article 3(5)(a), (b) or (c) of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016 apply, within the period beginning one month before, and ending 6 months after, the date on which the earner's service in employment in relation to the scheme or membership of the scheme ceased.

(1B) In this section the "relevant person" means—

(a) in a case where a transfer has been made in relation to the scheme under Article 145 of the Pensions (Northern Ireland) Order 2005 (effect of Board assuming responsibility for a scheme), the Board of the Pension Protection Fund (as defined in that Order); and

(b) in all other cases, the trustees or managers of the scheme.";

(b) in subsection (2) for "prescribed person" substitute "relevant person";

(c) omit subsection (4).

(7E) In section 54(7) (amount of premiums payable under section 51) for "section 51(2)" substitute "Article 3 of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016".

(7F) In section 56 (effect of payment of premiums on rights)—

(a) in subsection (4) for "section 51(2A)(a) and (b), (d) and (e)" substitute "Article 3(5)(a), (b) and (d) of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016";

(b) in subsection (5) for "section 51(2A)(c)" substitute "Article 3(5)(c) of the Pensions (2015 Act) (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order (Northern Ireland) 2016".**]**

(8) Section 83(1)(a) [F20] of the Pension Schemes Act (general protection principle) continues to have effect, as if sub-paragraph (i) had not been substituted by paragraph 38 of Schedule 13 to the Act, in relation to earners whose service in contracted-out employment ended before the second abolition date.