Changes to legislation: *The Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014 is up to date with all changes known to be in force on or before 05 January 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2014 No. 204

PENSIONS

The Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014

Made - - - - 3rd July 2014
Coming into operation in accordance with regulation 1(1)

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 70(5), 93(1), (2)(b) and (3)(c), 97AF(1), (3)(b) and (4)(b), 97I, 97L(1) and (2)(b), 109, 149(1) and (2)(c), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993 [F1], Articles 10(3), 37(4)(a) to (c) and (e) and (8), 47(5)(a), 64(3)(b), 73(6), (7) and (8)(a), 75(5) and (10) and 166(2) and (3) of the Pensions (Northern Ireland) Order 1995 [F2], Articles 21(1)(b), 27(1) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 [F3], and now vested in it [F4], Articles 103, 110(1)(b) and (5), 119(4), 122(10)(a), 130(1), 145(3)(b), 162(1)(a) and (3), 171(11)(b), 172(1), 189, 211 and 287(2) and (3) of, and paragraphs 12(3A)(b), 17(3A)(b), 20(7) and 33 of Schedule 6 to, the Pensions (Northern Ireland) Order 2005 [F5] and sections 28(1) and (2), 29(1) and 31(1)(a), (b) and (d) of the Pensions Act (Northern Ireland) 2012 [F6].

F1 1993 c. 49; section 93 was amended by paragraph 6 of Schedule 4 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 5(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 97AF was inserted by Article 241 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); sections 97I and 97L were inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 109 was amended by section 48 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, paragraph 13 of Schedule 10 to the Pensions (Northern Ireland) Order 2005, paragraph 4 of Schedule 5 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and paragraph 15 of the Schedule to S.R. 2005 No. 434; section 149(1) was amended by Part 1 of Schedule 5 to the Pensions (Northern Ireland) Order 1995; section 178(1) was amended by Parts 3 and 4 of Schedule 5 to that Order

F2 S.I. 1995/3213 (N.I. 22); Article 37 was substituted by Article 227 of the Pensions (Northern Ireland) Order 2005; Article 73 was substituted by Article 247 of that Order; Article 75(5) was amended by Article 248(3) of that Order

F3 S.I. 1999/3147 (N.I. 11); Article 21 was amended by paragraph 108 of Schedule 29 to the Civil Partnership Act 2004 (c. 33)

F4 *See* Article 8(b) of S.R. 1999 No. 481

F5 S.I. 2005/255 (N.I. 1); Part 3 is modified in its application to partially guaranteed schemes, hybrid schemes and multi-employer schemes by, respectively, S.R. 2005 Nos. 55 (as amended by S.R. 2010 No. 32 and S.R. 2013 No. 95), 84 (as amended by S.I. 2013/472) and 91 (as amended by S.R. 2005 Nos. 194 and 357, S.R. 2008 No. 132, S.R. 2010 No. 111 and S.R. 2012 Nos. 1 and 270); paragraph 12(3A) was inserted by paragraph 5(3) of Schedule 1 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)); paragraph 17(3A) was inserted by paragraph 6(3) of Schedule 1 to that Act

F6 2012 c. 3 (N.I.)

PART 1

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014 and shall come into operation on the day appointed for the coming into operation of section 27 of the Act (definition of money purchase benefits).

(2) In these Regulations—

"the Act" means the Pensions Act (Northern Ireland) 2012;

"the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993;

"the 1995 Order" means the Pensions (Northern Ireland) Order 1995;

"the 1999 Order" means the Welfare Reform and Pensions (Northern Ireland) Order 1999;

"the 2005 Order" means the Pensions (Northern Ireland) Order 2005;

"the applicable rules" has the meaning given by section 90(2) [F7] of the 1993 Act (right to cash equivalent);

"the appointed day" is the day appointed for the coming into operation of section 27 of the Act (definition of money purchase benefits);

"assessment period" is to be construed in accordance with Article 116(2) to (6) of the 2005 Order;

"the Board" means the Board of the Pension Protection Fund established under section 107 of the Pensions Act 2004 [F8];

"cash balance underpin benefits" are cash balance benefits to which, under an occupational pension scheme, a member has rights only if the amount of the cash balance underpin benefits exceeds a defined benefit minimum promised to the member;

"cash equivalent" means a cash equivalent or guaranteed cash equivalent mentioned in section 89A(1) [F9] (salary related schemes: right to statement of entitlement) or 90(1) of the 1993 Act;

"defined benefit minimum", except in Part 2 and regulation 8, means—

(a) in relation to money purchase underpin benefits or cash balance underpin benefits, benefits which are not money purchase benefits, but which accrue or may accrue under an occupational pension scheme in respect of the same period of a member's pensionable service as the member's rights to money purchase underpin benefits or cash balance underpin benefits, or

(b) in relation to top-up benefits, a specified minimum value or amount, where under an occupational pension scheme a member is promised that the member's rights to money purchase benefits or cash balance benefits will be at least equal to that specified minimum value or amount;

"eligible scheme" has the meaning given by Article 110 of the 2005 Order;

"further assessment period" means the assessment period mentioned in Article 143(3) of the 2005 Order (closed schemes: further assessment periods);

"money purchase underpin benefits" are money purchase benefits to which, under an occupational pension scheme, a member has rights only if the amount of the money purchase benefits exceeds a defined benefit minimum promised to the member;

"multi-employer scheme", except in Part 6, has the meaning given by Article 280(4) [F10] of the 2005 Order (modification of Order in relation to certain categories of schemes);

"the Regulator" means the Pensions Regulator established under section 1 of the Pensions Act 2004;

"top-up benefit", except in Part 2 and regulation 8, is a benefit—

(a) the value or amount of which is greater than nil, and

(b) to which, under an occupational pension scheme, a member has rights only where the amount of the member's rights to money purchase benefits falls short of a defined benefit minimum promised to the member;

"value or amount" includes in particular a rate of pension, whether specified under the scheme or determined by reference to external criteria, such as a statutory minimum requirement.

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954 [F11] shall apply to these Regulations as it applies to an Act of the Assembly.

(4) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

F7 Section 90 was amended by Article 150 of the Pensions (Northern Ireland) Order 1995, paragraph 24 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 9 of Schedule 10 to the Pensions (Northern Ireland) Order 2005
F8 2004 c. 35
F9 Section 89A was inserted by Article 149 of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 23 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
F10 Article 280 was amended by section 29(2) of the Pensions Act (Northern Ireland) 2012
F11 1954 c. 33 (N.I.)

Meaning of "cash balance benefit"

2.—(1) For the purposes of these Regulations, a benefit is a "cash balance benefit" if conditions 1 and 2 are met.

(2) Condition 1 is that a sum of money ("the available sum") is available under the scheme for the provision of the benefit to or in respect of the member.

(3) Condition 2 is that under the scheme—

(a) there is a promise about the amount of the available sum, but

(b) there is no promise about the rate or amount of any pension to be provided from the available sum.

(4) The promise mentioned in paragraph (3)(a) includes in particular a promise about the change in the value of, or the return from, payments made under the scheme by the member or by any other person in respect of the member.

(5) The promise mentioned in paragraph (3)(b) includes a promise that—

(a) the amount of the available sum will be sufficient to provide a pension of a particular rate or amount, and

(b) the rate or amount of a pension will represent a particular proportion of the available sum.

(6) But a benefit is not prevented from being a cash balance benefit merely because under the scheme there is a promise that—

(a) the rate or amount of the benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of the benefit which was (or would have been) payable to the member, or

(b) the amount of a lump sum payable to a member, or in respect of a deceased member, will represent a particular proportion of the available sum.

PART 2

Money purchase underpin benefits and top-up benefits

Interpretation and application of this Part

3.—(1) This Part—

(a) applies in relation to any period after 1st January 1997, and

(b) is subject to the contrary provision for transitional purposes made by these Regulations.

(2) In this Part—

(a) "defined benefit minimum" means—

(i) in relation to money purchase underpin benefits, benefits which are not money purchase benefits, but which accrue or may accrue under an occupational pension scheme in respect of the same period of a member's pensionable service as the member's rights to money purchase underpin benefits, or

(ii) in relation to top-up benefits, a specified minimum value or amount, where under the scheme a member is promised that the member's rights to money purchase benefits will be at least equal to that specified minimum value or amount, and

(b) a "top-up benefit" is a benefit—

(i) the value or amount of which is greater than nil, and

(ii) to which, under an occupational pension scheme, a member has rights only where the amount of the member's rights to money purchase benefits falls short of a defined benefit minimum promised to the member.

Money purchase underpin benefits

4.—(1) If, at the relevant date, a member of an occupational pension scheme has rights under the scheme to money purchase underpin benefits, the existence of a contingent promise under the scheme to provide a defined benefit minimum to the member does not prevent the money purchase underpin benefits from being money purchase benefits for as long as the defined benefit minimum is of equal or lower value than the amount of the member's rights to money purchase underpin benefits.

(2) In this regulation "the relevant date" means the date as at which the amount of the money purchase underpin benefits and the value of a defined benefit minimum promised under the scheme is being compared (for any purpose) in order to determine which is greater.

Top-up benefits

5.—(1) If, at the relevant date, a member of an occupational pension scheme has rights to—

(a) money purchase benefits, the amount of which is less than a defined benefit minimum promised to the member under the scheme, and

(b) a top-up benefit,

the amount of the member's rights to money purchase benefits by reference to which the top-up benefit is calculated and the value of the top-up benefit must be aggregated to form a single benefit, which is not a money purchase benefit.

(2) In this regulation "the relevant date" means the date as at which the amount of the member's rights to money purchase benefits and the amount of the top-up benefit is being calculated (for any purpose).

PART 3

Protected rights

Schemes which provided protected rights as cash balance benefits etc

6.—(1) This regulation applies to an occupational pension scheme—

(a) which was contracted-out in relation to an earner's employment under section 5(3) [F12] of the 1993 Act (requirements for certification of schemes: general) in relation to a period before the appointed day, and

(b) which provided protected rights in the form of—

(i) cash balance benefits;

(ii) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits), or

(iii) top-up benefits,

in relation to the earner's pensionable service under the scheme.

(2) Where this regulation applies, Part 3 of the 1993 Act (certification of pension schemes and effects on members' state scheme rights and duties) has effect (in relation to periods before, including or after 6th April 2012) as if—

(a) references in Part 3 of that Act and regulations made under that Part to—

(i) "money purchase benefits" included cash balance benefits, a defined benefit minimum or top-up benefits (as the case may be);

(ii) "money purchase scheme" included a scheme which included cash balance benefits, top-up benefits or defined benefit minima (as the case may be), and

(iii) "money purchase contracted-out scheme" included a scheme which was contracted-out on a money purchase basis (whether or not the scheme included only money purchase benefits), and

(b) in section 27 [F13] of that Act (investment and resources of schemes) the reference in subsection (2) to "income or capital gain" were a reference to "notional income or capital gain".

(3) In this regulation "protected rights" has the meaning given by section 6(1) [F14] of the 1993 Act (protected rights and money purchase benefits) as that section stood immediately before 6th April 2012, subject to the modifications specified in paragraph (2).