STATUTORY RULES OF NORTHERN IRELAND

2014 No. 79

PENSIONS

The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014

Made - - - - 13th March 2014

Coming into operation 6th April 2014

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 109, 164(1) and (4), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 10(3), 41(1), (5), (5A) and (6) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**) and Articles 3(1)(b), 21(1)(a), (b)(i) and (c)(i) and (2), 31(1)(b)(ii), 42(1) and 73(3) and (4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**3**), and now vested in it(**4**).

PART 1

General

Citation, commencement and expiry

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 and shall come into operation on 6th April 2014.

(2) On 6th April 2015 the following provisions cease to have effect—

(a) paragraphs 2 and 3 of Schedule 6, and

(b) paragraph 11(1)(b) and (2) of Schedule 8.

(**1**) 1993 c. 49; section 109 was amended by section 48 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)), paragraph 13 of Schedule 10 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I.1)), 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 164 was substituted by Article 151(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and subsection (4) was amended by paragraph 22 of Schedule 10 to the Pensions (Northern Ireland) Order 2005; section 178(1) was amended by Parts 3 and 4 of Schedule 5 to the Pensions (Northern Ireland) Order 1995

(**2**) S.I. 1995/3213 (N.I. 22); Article 41 was amended by paragraph 10(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, paragraph 46 of Schedule 10, and Schedule 11, to the Pensions (Northern Ireland) Order 2005 and paragraph 22 of the Schedule to S.R. 2005 No. 434

(**3**) 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)

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

Interpretation

2.—(1) In these Regulations—

"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(**5**);

"accrued rights"—

(a) in relation to an occupational pension scheme, has the meaning given in Article 121(2) of the 1995 Order, and

(b) in relation to a personal pension scheme, means rights that have accrued under the scheme;

"beneficiary" means a person, other than a member, who is entitled to the payment of benefits under the scheme;

"electronic communication" has the meaning given in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001(**6**);

"excluded person" means a member or beneficiary—

(a) whose present postal address and electronic address are not known to the trustees or managers of the scheme, and

(b) in respect of whom the trustees or managers of the scheme have sent correspondence to that member's or beneficiary's last known—

(i) postal address and that correspondence has been returned, or

(ii) electronic address and the trustees or managers of the scheme are satisfied that that correspondence has not been delivered;

"funded" means setting aside resources (other than assets at the disposal of the employer of any person who is employed in relevant employment) for a benefit before the benefit becomes payable that are related to the intended rate or amount of the benefit;

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

"illustration date" means the date specified by the trustees or managers of the scheme as the date by reference to which amounts are calculated for the purpose of giving the information in Part 2 of Schedule 6;

"lifestyling" means an investment strategy that aims progressively to reduce the potential for significant variation caused by market conditions in the value of the member's rights;

"member"—

(a) in relation to an occupational pension scheme, has the meaning given in Article 121(1)(**7**) of the 1995 Order, and

(b) in relation to a personal pension scheme, means a member of the scheme;

"prospective member" means a person who, under the terms of that person's contract of service or the scheme rules or both—

(a) can choose to become a member of the scheme;

(**5**) S.I. 2005/255 (N.I. 1)
(**6**) 2001 c. 9 (N.I.); the definition of "electronic communication" in section 4(1) was amended by paragraph 170 of Schedule 17 to the Communications Act 2003 (c. 21)
(**7**) The definition of "member" was amended by paragraph 50(2) of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(b) will be able to choose to become a member of the scheme if that person continues in the same employment for a certain period of time;

(c) will become a member of the scheme automatically unless that person chooses not to become a member of the scheme, or

(d) can become a member of the scheme if that person's employer consents;

"recipient" means the person, organisation or body to whom these Regulations require information or documents to be made available;

"recognised trade union" means an independent trade union (within the meaning given in Article 2(3) of the Employment Rights (Northern Ireland) Order 1996(**8**)) that is recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of a scheme;

"the Regulator" means the Pensions Regulator(**9**) established under section 1 of the Pensions Act 2004(**10**);

"relevant employment" means any employment to which the scheme relates;

"relevant guidance" means the document entitled "AS TM1: Statutory Money Purchase Illustrations" that is adopted or prepared, and from time to time revised, by the Financial Reporting Council Limited(**11**);

"relevant person" means a—

(a) member or prospective member of the scheme;

(b) spouse or civil partner of a member or prospective member;

(c) beneficiary of the scheme;

(d) recognised trade union;

"retirement date" has the meaning given in regulation 19(5);

"scheme year" means, in relation to an occupational pension scheme—

(a) a year specified for the purposes of the scheme in any scheme document or, if there is no such year specified, a period of 12 months commencing on 1st April or on such other date as the trustees choose, or

(b) a period between 6 and 18 months specified by the trustees in connection with—

(i) the commencement or termination of the scheme, or

(ii) a variation of the date on which the period referred to in paragraph (a) is to commence;

"tax registered scheme" means a scheme that—

(a) is registered under section 153 of the Finance Act 2004(**12**) (registration of pension schemes);

(b) was formerly registered under that section;

(c) is deemed to be registered under that section by virtue of paragraph 1 of Schedule 36 to that Act (pension schemes etc: transitional provisions and savings), or

(**8**) S.I. 1996/1919 (N.I. 16)
(**9**) The Pensions Regulator can be contacted at Napier House, Trafalgar Place, Brighton BN1 4DW or at www.thepensionsregulator.gov.uk
(**10**) 2004 c. 35
(**11**) The Financial Reporting Council can be contacted at 5th Floor, Aldwych House, 71-91 Aldwych, London WC2B 4HN and at www.frc.org.uk
(**12**) 2004 c. 12; section 153 was amended by paragraphs 2 and 3 of Schedule 10 to the Finance Act 2005 (c. 7)

(d) has applied for registration under that section and HMRC have not decided whether to register the scheme;

"wholly insured scheme" means a scheme under which all the benefits provided are secured by a policy or policies of insurance or annuity contract or contracts.

(2) Subject to paragraph (3), the Interpretation Act (Northern Ireland) 1954(**13**) shall apply to these Regulations as it applies to an Act of the Assembly.

(3) 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.

Recognised trade union

3. Where there is a question about whether an organisation is a recognised trade union, that question must be referred to an industrial tribunal.

Application of these Regulations

4.—(1) Subject to paragraphs (2), (3) and (6), the trustees or managers of an occupational pension scheme that falls within paragraph 1 of Schedule 1 must give information in accordance with regulations 6, 8 to 22, 24 and 25.

(2) Regulations 9, 10, 12, 13 and 15 do not apply to a public service pension scheme(**14**) if—

(a) there are no requirements for assets related to the intended rate or amount of benefit under the scheme to be set aside in advance (disregarding requirements relating to additional voluntary contributions);

(b) it is made under Article 9 of the Superannuation (Northern Ireland) Order 1972(**15**) (superannuation of persons employed in local government service, etc.), or

(c) it is made under Part 2 of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965(**16**) or Article 3 of the Assembly Pensions (Northern Ireland) Order 1976(**17**).

(3) Regulation 17 does not apply to a stakeholder pension scheme within the meaning of Article 3(**18**) of the 1999 Order.

(4) Subject to paragraph (6), the trustees or managers of a pension scheme that is—

(a) an occupational pension scheme that does not fall within paragraph 1 of Schedule 1, or

(b) established under the Salvation Army Act 1963(**19**),

must give information in accordance with regulation 7.

(5) Subject to paragraphs (3) and (6), the managers of a personal pension scheme that falls within paragraph 2 of Schedule 1 must give information in accordance with regulations 10, 17 to 19, 21 and 23.

(6) Paragraphs (1), (4) and (5) do not require the trustees or managers of a scheme to give information to—

(**13**) 1954 c. 33 (N.I.)
(**14**) *See* section 1 of the Pension Schemes (Northern Ireland) Act 1993
(**15**) S.I. 1972/1073 (N.I. 10); Article 9 was amended by Article 34 of the Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18))
(**16**) 1965 c. 18 (N.I.)
(**17**) S.I. 1976/1779
(**18**) Article 3 was amended by Article 262(3) of the Pensions (Northern Ireland) Order 2005, Article 16(2) of S.I. 2006/745 and paragraph 37(a) of Schedule 4 to the Pensions Act (Northern Ireland) 2008
(**19**) 1963 c. xxxii

(a) a member or prospective member if no person who employs that member in relevant employment has informed the trustees or managers of the scheme that that member is a member or prospective member;

(b) a recognised trade union if no person who employs a member or prospective member in relation to whom the trade union is a recognised trade union has informed the trustees or managers of the scheme that the trade union is a recognised trade union, or

(c) a member of an occupational pension scheme where all the members are trustees or managers of the scheme.

(7) When any information is given in accordance with paragraph (1), (4) or (5), it must be accompanied by the postal address and electronic address to which a person should send requests for further information or any other enquiry.

Civil penalties relating to occupational pension schemes

5. Where in relation to an occupational pension scheme a person fails without reasonable excuse to comply with any requirement imposed under these Regulations, the Regulator may, by notice in writing, require that person to pay, within 28 days, a penalty that must not—

(a) in the case of an individual, exceed £5,000, and

(b) in any other case, exceed £50,000.

PART 2

Information for new and prospective members

Basic scheme information

6.—(1) The basic scheme information mentioned in paragraph (2) must be given in accordance with this regulation.

(2) The basic scheme information is the information listed in —

(a) Part 1 of Schedule 2, and

(b) Part 3 of that Schedule where the scheme contains provision for lifestyling (see regulation 18).

(3) The information must be given to—

(a) prospective members, if it is practicable to do so, and

(b) members who have not already been given the information.

(4) The information must also be given to a relevant person who—

(a) makes a request for the information, and

(b) has not been given that information in the previous 12 months.

(5) Where the trustees or managers of the scheme have in relation to a member or prospective member received jobholder information, the information must be given within one month of the date that information was received.

(6) Where the trustees or managers of the scheme have not received jobholder information in relation to a member or prospective member, the information must be given within 2 months of the date the person became an active member of the scheme.

(7) Where the trustees or managers of the scheme have received a request for the information from a relevant person, the information must be given within 2 months of that request.