STATUTORY RULES OF NORTHERN IRELAND

2013 No. 72

PENSIONS

The Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013

Made - - - -	*15th March 2013*
Coming into operation	*6th April 2013*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 8C(1), 16(1) and (2), 33(1) and (2), 69(2)(b) and (4)(b), 89(1)(a), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993 [F1], Articles 68(2)(e) and 166(1) and (2) of the Pensions (Northern Ireland) Order 1995 [F2] and Articles 3(1)(b) and (5), 4(2), 5(1) and (5), 37(1) and 73(4)(a) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 [F3], and now vested in it [F4].

F1 1993 c. 49; section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); section 16(1) was amended by paragraph 2(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and subsection (1) was amended by Article 4(5) of S.R. 2012 No. 124; section 89(1)(a) was substituted by Article 148(2) of the Pensions (Northern Ireland) Order 1995; section 178(1) was amended by Parts III and IV of Schedule 5 to that Order

F2 S.I. 1995/3213 (N.I. 22)

F3 S.I. 1999/3147 (N.I. 11); Article 3(5) was amended by Article 262(3) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); Article 4(2) was amended by Article 262(5) of the Pensions (Northern Ireland) Order 2005 and paragraph 38 of Schedule 4 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)); Article 5(1) and (5) was amended by section 69(3) and (6) of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)); Article 37(1) was amended by Article 257(2) of the Pensions (Northern Ireland) Order 2005 and section 20(10) of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.))

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 and shall come into operation on 6th April 2013.

(2) The Interpretation Act (Northern Ireland) 1954 [F5] shall apply to these Regulations as it applies to an Act of the Assembly.

F5 1954 c. 33 (N.I.)

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

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991 [F6] are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) [F7] (interpretation) after the definition of "the Act" insert—

""European pensions institution" has the meaning given in Article 269(8) of the Pensions (Northern Ireland) Order 2005 [F8];".

(3) After regulation 11A [F9] (further alternative to short service benefit – transfer to an overseas arrangement) insert—

"**Further alternative to short service benefit – transfer to a European pensions institution without consent**

11B.—(1) For the purposes of section 69(2)(b) and (4)(b) (form of short service benefit and its alternatives), a scheme may, instead of providing short service benefit, provide for the transfer of the member's accrued rights to a European pensions institution without the member's consent where the conditions in regulation 12(2) [F10] and (3) [F11] are satisfied.

(2) For the purposes of paragraph (1) of this regulation, the references to "receiving scheme" in regulation 12(2), (3) and (4A) [F12] are to be read as references to "receiving European pensions institution".

(3) Where it is proposed that a member's accrued rights are to be transferred in accordance with this regulation, information about the proposed transfer and details of the value of the rights to be transferred (including rights in respect of death in service benefits and survivors' benefits) shall be furnished to the member not less than one month before the date on which the proposed transfer is due to take place.".

(4) In regulation 12(2)(a) and (b) (transfer of member's accrued rights without consent) for "apply to" substitute " relate to persons who are or have been in ".

F6 S.R. 1991 No. 37; relevant amending Regulations are S.R. 1992 No. 304, S.R. 1993 No. 324, S.R. 1996 No. 620, S.R. 1999 No. 378 and S.R. 2011 No. 89
F7 Regulation 1(2) was substituted by regulation 2(2) of S.R. 1996 No. 620
F8 S.I. 2005/255 (N.I. 1); the definition of "European pensions institution" was amended by regulation 5(8)(e) of S.R. 2007 No. 457
F9 Regulation 11A was inserted by regulation 2(6) of S.R. 1996 No. 620
F10 Paragraph (2) was substituted by regulation 35 of S.R. 1992 No. 304 and amended by regulation 2(7)(a) of S.R. 1996 No. 620
F11 Paragraph (3) was substituted by regulation 3(2)(a) of S.R. 2011 No. 89
F12 Paragraph (4A) was substituted by regulation 2(a) of S.R. 1993 No. 324 and amended by regulation 2(b) of S.R. 1999 No. 378 and regulation 3(2)(c) of S.R. 2011 No. 89

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

F13 3. . . . . . .

F13 Reg. 3 revoked (6.4.2016) by The Occupational Pension Schemes (SchemesthatwereContracted-out) Regulations (NorthernIreland) 2016 (S.R. 2016/107), reg. 1(a), **Sch. 2**

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

4.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 **F14** are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of " "connected employer transfer" and "connected employer transfer payment"" **F15** substitute—

""connected employer transfer" and "connected employer transfer payment" mean respectively a transfer of guaranteed minimum pensions from a salary related contracted-out scheme to a salary related contracted-out scheme and a transfer payment in respect of section 5(2B) rights **F16** from a salary related contracted-out scheme to a salary related contracted-out scheme where either—

(a) the transferring scheme and the receiving scheme relate to persons who are or have been in employment with the same employer, or

(b) the transferring scheme and receiving scheme relate to persons who are or have been in employment with different employers, and the earner or person concerned is one of a group of persons in respect of whom transfers or transfer payments are being made from the transferring scheme to the receiving scheme and either—

(i) the transfer or transfer payment is a consequence of a financial transaction between the employers, or

(ii) each of the employers is one 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 **F17**,

and in this definition "salary related contracted-out scheme" includes a scheme which was formerly a salary related contracted-out scheme..".

(3) In regulations 4 (connected employer transfers of guaranteed minimum pensions), 7(2)(b) (transfers of liability in respect of section 5(2B) rights: general) and 9 (connected employer transfer payments) omit "to a salary related contracted-out scheme".

F14 S.R. 1996 No. 618; relevant amending provisions are S.R. 1997 No. 160, S.R. 1999 No. 486, **S.I.** 2006/744, S.R. 2009 No. 115 and S.R. 2012 No. 124

F15 The definition of " "connected employer transfer" and "connected employer transfer payment"" was amended by Article 29 of S.I. 2006/744 and regulation 5 of S.R. 2009 No. 115

F16 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

F17 2006 c. 46

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations

5. In regulation 2 of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 **F18** (pre-1986 leavers)—

(a) the existing provision shall be numbered paragraph (1);

(b) in paragraph (1)(b), for "the rate of inflation as measured by the retail prices index" substitute " a rate that maintains the value of pensions or other benefits by reference to the rise in the general level of prices ";

(c) after paragraph (1) add—

"(2) For the purposes of paragraph (1)(b), "a rate that maintains the value of pensions or other benefits by reference to the rise in the general level of prices" shall be construed in accordance with regulation 2(b) of the Occupational Pension Schemes (Transfer Values) Regulations 1996 [F19] (pre-1986 leavers).".

F18 S.R. 1996 No. 619
F19 S.I. 1996/1847; regulation 2(b) was amended by regulation 6 of S.I. 2013/459

Amendment of the Occupational Pension Schemes (Winding Up) Regulations

6. In regulation 6(4) of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996 [F20] (arrangements for discharge of liabilities under Article 74)—

(a) after "regulation" insert " 11B or ";

(b) before "transfer of member's" insert " further alternative to short service benefit – transfer to a European pensions institution and ".

F20 S.R. 1996 No. 621 to which there are amendments not relevant to these Regulations

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations

7. For regulation 32 of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 [F21] (increase of relevant pension) substitute—

"**Increase of relevant pension**

32.—(1) Subject to regulations 33 and 34, a relevant pension shall be increased each year by either—

(a) the appropriate percentage, or

(b) where the rules of an occupational pension scheme require the relevant pension to be increased at intervals of not more than 12 months, the relevant percentage.

(2) A relevant pension shall not be increased under paragraph (1) if, under the rules of the occupational pension scheme, it is for the time being increased, and since the relevant date has always been increased, at intervals of not more than 12 months by at least—

(a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules of the scheme, or

(b) if lower, the default percentage for that period.

(3) In paragraph (2) "the relevant date" means—

(a) 1st January 2011 or, if later, the date on which the relevant pension became a pension in payment, or

(b) if the relevant pension was transferred to the occupational pension scheme from another occupational pension scheme as a pension in payment after 1st January 2011, the date of the transfer.

(4) If the relevant pension was transferred to the occupational pension scheme as mentioned in paragraph (3)(b), paragraph (2) does not apply to the relevant pension unless, immediately before the transfer, paragraph (2) (read with this paragraph if relevant) applied to the relevant pension by reference to the scheme from which it was transferred.

(5) In this regulation the default percentage for a period is the percentage for that period which corresponds to—

(a) 5 per cent. per annum in a case where—

(i) the relevant pension is in payment before 6thApril 2005, or

(ii) the relevant pension is not in payment before 6th April 2005 but the entitlement to the relevant pension credit arose before that day;

(b) 2.5 per cent. per annum in a case where the entitlement to the relevant pension credit arises on or after 6th April 2005.

(6) This regulation does not apply to a relevant pension provided to give effect to eligible pension credit rights of a member under a qualifying occupational pension scheme which—

(a) is a cash balance benefit, and

(b) first comes into payment on or after 6th April 2013.

(7) In this regulation—

"appropriate percentage" means—

(a) in a case where entitlement to the relevant pension credit arose before 6th April 2005, the higher revaluation percentage, and

(b) in a case where entitlement to the relevant pension credit arose on or after 6th April 2005, the lower revaluation percentage,

for the latest revaluation period specified in the order under paragraph 2 of Schedule 2 [F22] to the Act (methods of revaluing accrued pension benefits) which is in operation at the time of the increase (expressions used in this definition having the same meaning as in that paragraph);

"cash balance benefit" has the same meaning as in Article 51ZB [F23];

"consumer prices index" means—

(a) the general index of consumer prices (for all items) published by the Statistics Board [F24], or

(b) where that index is not published for a month, any substituted index or figures published by the Board;

"relevant percentage" means—

(a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules of the scheme, or

(b) if lower, the default percentage for that period;

"retail prices index" means—

(a) the general index of retail prices (for all items) published by the Statistics Board, or

(b) where that index is not published for a month, any substituted index or figures published by the Board.".

F21 S.R. 2000 No. 146; regulation 32 was amended by regulation 15 of S.R. 2005 No. 170