STATUTORY RULES OF NORTHERN IRELAND

2012 No. 124

PENSIONS

The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012

Made - - - - 15th March 2012

Coming into operation in accordance with Article 1

Approved by resolution of the Assembly on 11th September 2012

The Department for Social Development makes the following Order in exercise of the powers conferred by section 114(1) and (2) of the Pensions (No. 2) Act (Northern Ireland) 2008(**1**).

PART 1

General

Citation and commencement

1. This Order may be cited as the Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 and shall come into operation—

(a) for the purposes of this Part and Article 7 of Part 2, immediately before 6th April 2012;

(b) for the purposes of the other provisions of Part 2, on 6th April 2012;

(c) for the purposes of Part 3, on 6th April 2013, and

(d) for the purposes of Part 4, on 6th April 2015.

PART 2

Amendments coming into operation immediately before, or on, 6th April 2012

Amendment of the Insolvency (Northern Ireland) Order

2. In Article 283 of the Insolvency (Northern Ireland) Order 1989(**2**) (income payments orders)—

(a) at the end of paragraph (8)(a) omit "and";

(b) omit paragraph (8)(b);

(**1**) 2008 c. 13 (N.I.)

(**2**) S.I. 1989/2405 (N.I. 19); paragraphs (8) and (9) were added by paragraph 11(b) of Schedule 1 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(c) in paragraph (9) for "and "protected rights" have" substitute "has".

Amendment of the Judicial Pensions and Retirement Act

3. In Schedule 2 to the Judicial Pensions and Retirement Act 1993(**3**) (transfer of accrued benefits)—

(a) in paragraph 1(1) (interpretation) omit the definition of "protected rights"(**4**);

(b) in paragraph 6 (method of taking cash benefit)—

(i) in sub-paragraph (6)(a) omit "or his protected rights";

(ii) in sub-paragraph (6)(b) omit "or protected rights";

(iii) in sub-paragraph (7) for "protected rights or those" substitute "that";

(c) in paragraph 7(2)(a)(ii) (calculation of cash equivalents) omit "or give effect to protected rights";

(d) in paragraph 9(2) (option to be exercised in writing) omit "or give effect to protected rights".

Amendment of the Pension Schemes Act

4.—(1) The Pension Schemes Act is amended in accordance with paragraphs (2) to (26).

(2) In section 16(3) (transfer of accrued rights) for "sections 22 to 29" substitute "sections 27 and 29".

(3) In section 27(2) (investment and resources of schemes) for "The scheme" substitute "A scheme which was an appropriate scheme or a money purchase contracted-out scheme immediately before the abolition date"(**5**).

(4) In section 29(**6**) (tax requirements to prevail over certification requirements)—

(a) in the sidenote for "certification requirements" substitute "requirements of section 27";

(b) for "sections 22 to 28" substitute "section 27".

(5) In section 33(**7**) (alteration of rules of contracted-out schemes)—

(a) in subsection (1) after "rules of a" insert "salary related";

(b) in subsection (3) after "section to a" insert "salary related".

(6) Omit section 34(**8**) (alteration of rules of appropriate schemes).

(7) In section 35 (general power to make regulations) omit ", and Part II of that Schedule as respects personal pension schemes".

(8) In section 38A(**9**) (reduced rates of Class 1 contributions, and rebates)—

(a) at the beginning of subsection (3)(**10**) insert "Subject to subsection (5A),";

(**3**) 1993 c. 8

(**4**) The definition of "protected rights" was amended by paragraph 46(5)(a)(i) of Schedule 8 to the Pension Schemes Act 1993 (c. 48) and by paragraph 43(5)(a)(i) of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49) and is amended by Article 4 of S.I. 2011/1730

(**5**) The definition of "abolition date" is inserted by paragraph 34(2)(a) of Schedule 4 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

(**6**) Section 29 was amended by Article 8(5) of S.I. 2006/745

(**7**) Section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and amended by paragraph 13 of Schedule 1 to S.R. 2005 No. 433

(**8**) Section 34 was amended by paragraph 33 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, Article 132 of S.I. 2001/3649 and paragraph 14 of Schedule 1 to S.R. 2005 No. 433

(**9**) Section 38A was inserted by Article 134(4) of the Pensions (Northern Ireland) Order 1995

(**10**) Subsection (3) was amended by paragraph 52(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(b) after subsection (5) insert—

"(5A) Where—

(a) a payment under subsection (3) is due in respect of an earner, and

(b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC(**11**) are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.".

(9) In section 39 (payment of minimum contributions to personal pension schemes) after subsection (6) insert—

"(6A) Where—

(a) a payment under subsection (1) is due in respect of an earner, and

(b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.".

(10) In section 46 (powers of Inland Revenue to approve arrangements for scheme ceasing to be certified)—

(a) in subsection (1)(**12**)—

(i) omit "or a personal pension scheme";

(ii) for "contracted-out or, as the case may be, an appropriate" substitute "salary related contracted-out";

(iii) for paragraphs (a) and (b) substitute—

"(a) of earners' accrued rights to guaranteed minimum pensions under the scheme or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day, and

(b) of the liability for the payment of such pensions in respect of persons who have then become entitled to receive them.";

(b) in subsection (2)(**13**) for "contracted-out scheme or an appropriate" substitute "salary related contracted-out";

(c) in subsection (4)(**14**)—

(i) omit "(other than a money purchase scheme)";

(ii) for "22 to 29" substitute "27 and 29";

(iii) for "39 to 41" substitute "39 and 41";

(d) in subsection (6) for "which is not a money purchase contracted-out scheme" substitute "to which subsection (1) applies".

(11) In section 48 (supervision of schemes which have ceased to be certified)—

(a) in subsection (1)—

(**11**) The definition of "HMRC" is inserted by paragraph 34(2)(a) of Schedule 4 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

(**12**) Subsection (1) was amended by paragraph 37(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 60(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and Part 2 of Schedule 10 to the Pensions (No. 2) Act (Northern Ireland) 2008

(**13**) Subsection (2) was amended by paragraph 60(2) and (3) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(**14**) Subsection (4) was amended by paragraph 60(2) and (5) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(i) after "supervision of" insert "salary related";

(ii) omit the words from "and section 50 shall apply" to the end;

(b) in subsection (2)(**15**) after "as respects any" insert "salary related";

(c) in subsection (2A) omit paragraph (b);

(d) omit subsection (3)(**16**).

(12) In section 49(3)(**17**) (supervision: former contracted-out schemes) omit "or (b)".

(13) Omit section 50(**18**) (supervision: former appropriate personal pension schemes).

(14) In section 92 (further provisions concerning exercise of option under section 91)—

(a) in subsection (2)(**19**)—

(i) in paragraph (a) omit "or his protected rights";

(ii) in paragraph (b) omit "or protected";

(b) in subsection (3)(**20**)—

(i) in paragraph (a) omit "or the member's protected rights";

(ii) at the end of paragraph (a) omit "and";

(iii) omit paragraph (b).

(15) In section 95(1) (trustees' duties after exercise of option) omit "or give effect to such protected rights".

(16) In section 151(**21**) (requirement to give information to the Department, Secretary of State or Inland Revenue for the purposes of certain provisions) for ", section 113 and section 155 (so far as it relates to protected rights payments)" substitute "and section 113".

(17) In section 152(1)(**22**) (information for purposes of contracting-out) for "or appropriate scheme" substitute "or a personal pension scheme which was an appropriate scheme before the abolition date".

(18) In section 155 (inalienability of guaranteed minimum pension and protected rights payments)—

(a) in the sidenote omit "and protected rights payments";

(b) in subsection (1)(a) omit "or to payments giving effect to protected rights under such a scheme";

(c) in subsection (1)(i) and (ii) omit "or those payments";

(d) omit subsection (4);

(**15**) Subsections (2)(a) and (b) and (2A) were substituted for subsection (2)(a) and (b) by paragraph 39(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and subsection (2A) was amended by Part 2 of Schedule 10 to the Pensions (No. 2) Act (Northern Ireland) 2008

(**16**) Subsection (3) was amended by paragraph 39(b) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and Part 2 of Schedule 10 to the Pensions (No. 2) Act (Northern Ireland) 2008

(**17**) Section 49(3) was substituted by paragraph 40(c) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and was amended by paragraph 61 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(**18**) Section 50 was amended by paragraph 41 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 62 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(**19**) Subsection (2) was amended by paragraph 53(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and is amended by paragraph 29 of Schedule 4 to the Pensions Act (Northern Ireland) 2008

(**20**) Subsection (3) was amended by paragraph 53(b) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 14 of the Schedule to S.R. 2005 No. 434

(**21**) Section 151 was substituted by paragraph 70 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(**22**) Section 152 was substituted by paragraph 6 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))

(e) for subsection (4A)(**23**) substitute—

"(4A) Where a person is entitled or prospectively entitled as is mentioned in subsection (1), no order shall be made by any court or the Enforcement of Judgments Office the effect of which would be that he would be restrained from receiving anything the assignment of which is or would be made void by that subsection.".

(19) In section 160 (Crown employment) for subsection (2)(**24**) substitute—

"(2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of—

(a) sections 27 and 29, so far as they relate to personal pension schemes;

(b) sections 39 and 41;

(c) section 44, so far as it relates to minimum contributions;

(d) sections 113, 150 and 151, and

(e) sections 156 and 162.".

(20) In section 161(2)(a)(**25**) (application of certain provisions to cases with foreign element) omit "and section 155 (so far as it relates to protected rights payments).".

(21) In section 165 (decisions and appeals), as substituted by paragraph 99 of Schedule 6 to the Social Security (Northern Ireland) Order 1998(**26**), in subsection (3) omit "or 50".

(22) In section 165 (determination of questions by Department), as remaining in operation for purposes other than those specified in Article 2(1)(b) of the Social Security (1998 Order) (Commencement No. 7 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999(**27**), in subsection (7)(a)(**28**) omit "or appropriate scheme certificates".

(23) In section 172(2)(b)(**29**) (general financial arrangements) for sub-paragraph (ii) substitute—

"(ii) sections 27, 29, 113, 150 and 151;

(iii) sections 156 and 162.".

(24) In section 176 (general interpretation)—

(a) in subsection (1) in the definition of "protected rights" at the end add ", as it had effect immediately prior to the abolition date";

(b) in subsection (4)(**30**) omit—

(i) "23, 24, 25,";

(ii) "28,".

(25) In section 178(3)(**31**) (sub-delegation) omit "23(3),".

(26) In Schedule 1 (certification regulations) omit Part II(**32**) (personal pension schemes).

(**23**) Subsection (4A) was inserted by paragraph 33 of Schedule 1 to the Pensions (Northern Ireland) Order 1995

(**24**) Subsection (2) was amended by Part III of Schedule 5 to the Pensions (Northern Ireland) Order 1995

(**25**) Subsection (2)(a) was amended by paragraph 58 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(**26**) S.I. 1998/1506 (N.I. 10); this substitution was brought into operation for certain purposes only by S.R. 1999 No. 310 (C. 23) and subsections (2) to (4) were subsequently substituted by Article 15(2) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(**27**) S.R. 1999 No. 310 (C. 23)

(**28**) Subsection (7) was added by paragraph 60(c) of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(**29**) Section 172(2)(b) was amended by Part III of Schedule 5 to the Pensions (Northern Ireland) Order 1995

(**30**) Subsection (4) was amended by Schedule 11 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and is amended by paragraph 34(3) of Schedule 4 to the Pensions Act (Northern Ireland) 2008

(**31**) Section 178(3) was amended by Part III of Schedule 5 to the Pensions (Northern Ireland) Order 1995, paragraph 31 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 27 of Schedule 10 to the Pensions (Northern Ireland) Order 2005

(**32**) Part II was amended by paragraph 70(e) of Schedule 3 to Pensions (Northern Ireland) Order 1995