STATUTORY RULES OF NORTHERN IRELAND

2011 No. 305

PENSIONS

The Occupational Pension Schemes (Contracting-out) (Amendment) Regulations (Northern Ireland) 2011

Made - - - -	*9th September 2011*
Coming into operation	*1st October 2011*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 8A(4) and (5), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and now vested in it(**2**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Contracting-out) (Amendment) Regulations (Northern Ireland) 2011 and shall come into operation on 1st October 2011.

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

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

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

(2) In regulation 23 (requirements for meeting the statutory standard)—

(a) for paragraph (a)(**5**) substitute—

"(a) must comply with any standards adopted or prepared, and from time to time revised, by the Board for Actuarial Standards(**6**) which are relevant to the matters specified in section 8A(4) of the Act;";

(**1**) 1993 c. 49; section 8A was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and subsection (5) was amended by Part 8 of Schedule 6 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)); section 178(1) was amended by Parts III and IV of Schedule 5 to the Pensions (Northern Ireland) Order 1995

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

(**3**) 1954 c. 33 (N.I.)

(**4**) S.R. 1996 No. 493; relevant amending provisions are S.R. 2002 No. 109, S.R. 2007 No. 64 and S.R. 2008 No. 365

(**5**) Paragraph (a) was substituted by paragraph 3(b) of the Schedule to S.R. 2007 No. 64 and amended by paragraph 2 of the Schedule to S.R. 2008 No. 365

(**6**) The definition of "the Board for Actuarial Standards" was inserted by paragraph 3(a) of the Schedule to S.R. 2007 No. 64

(b) in paragraph (f)(**7**) after "payment of a lump sum" insert "but may not have regard to any payment of a lump sum made as a result of the death of an earner";

(c) at the end of paragraph (f) omit "and";

(d) after paragraph (g) add—

"(h) must not have regard to any discretionary benefits, and

(i) must comply with the further requirements set out in Schedule 3.".

(3) After Schedule 2 (revocations) add Schedule 3 as set out in the Schedule to these Regulations.

Revocations

3. The following provisions are revoked—

(a) paragraph 3(b) of the Schedule to the Occupational and Personal Pension Schemes (Prescribed Bodies) Regulations (Northern Ireland) 2007(**8**);

(b) paragraph 2 of the Schedule to the Pensions (2008 Act) (Actuarial Guidance) (Consequential Provisions) Order (Northern Ireland) 2008(**9**).

Sealed with the Official Seal of the Department for Social Development on 9th September 2011

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(**7**) Paragraph (f) was amended, and paragraph (g) was added, by regulation 2(10)(b) of S.R. 2002 No. 109
(**8**) S.R. 2007 No. 64
(**9**) S.R. 2008 No. 365

SCHEDULE

Regulation 2(3)

Schedule to be added to the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996

"SCHEDULE 3

Regulation 23(i)

Further requirements for meeting the statutory standard

1. The actuary must complete a reference scheme test certificate.

2. The reference scheme test certificate must—

(a) certify whether in the actuary's opinion, the scheme satisfies the statutory standard in relation to the provision of pensions for—

(i) earners, and

(ii) the widows, widowers or surviving civil partners of earners, and

(b) specify the date of the information used by the actuary for the purposes of completing the certificate (referred to in this Schedule as the "effective date").

3. The actuary must—

(a) send the completed reference scheme test certificate to HMRC and send a signed copy of that certificate to the employer, or

(b) send the completed reference scheme test certificate to the employer and inform the employer that that certificate should be sent to HMRC.

4. Where the actuary is sending the first reference scheme test certificate for a scheme, the actuary must also inform—

(a) the trustees or managers of the scheme and the employer ("E") that HMRC provide guidance on contracting-out, including guidance on what changes need to be notified to HMRC;

(b) E that E should provide a copy of the completed certificate to the trustees or managers of the scheme, and

(c) E that E should keep a record of any subsidiary or associated employers.

5.—(1) Where the employer asks the actuary to advise whether the statutory standard is satisfied, the actuary must inform the trustees or managers of the scheme that the employer has asked for that advice.

(2) Sub-paragraph (1) does not apply if the actuary has previously informed the trustees or managers of the scheme that the actuary provides advice to the employer.

6. Where the scheme calculates pensions by different methods for different members, the actuary—

(a) must decide whether the pensions provided under each method are broadly equivalent to, or better than, the pensions which would be provided under a reference scheme, and

(b) must not complete a reference scheme test certificate for any members whose pensions are calculated by a method which does not provide pensions that are broadly equivalent to, or better than, the pensions which would be provided under a reference scheme.

7. The actuary must not complete a reference scheme test certificate if the average value of pension provided under the scheme is less than the average value of pension which would be provided under a reference scheme.

8. Where an employer asks for a separate reference scheme test certificate which only includes that employer's employees, the actuary must—

(a) provide that employer with a separate reference scheme test certificate, and

(b) consider only the employees of that employer for that certificate.

9. Where—

(a) an employer has two or more schemes, and

(b) none of those schemes can be contracted-out by itself under section 5(1) of the Act (requirements for certification of schemes: general),

the actuary may take into account the pensions provided under all those schemes.

10. The actuary must use any information about the earner's remuneration which—

(a) the actuary considers is relevant for the reference scheme test certificate;

(b) is the latest available information, and

(c) subject to paragraph 11, refers to the period of one year.

11. Where—

(a) the actuary is satisfied that the information about the earner's remuneration which refers to a period of one year is significantly abnormal, and

(b) the employer writes to the actuary stating that that employer is also so satisfied,

the actuary may use such information for the purposes of paragraph 10(c) which refers to the period of 3 years ending on the effective date.

12.—(1) This paragraph applies where, on the effective date, the scheme has not been established but is in the process of being established.

(2) For the purposes of carrying out the comparison under regulation 23, the actuary must use estimated membership information.

(3) In this paragraph "estimated membership information" means any information about the earners whom the actuary expects to join the scheme when it is established which—

(a) the actuary considers is necessary for the purposes of the comparison under regulation 23, and

(b) may include information on the age, gender and earnings of those earners.

13.—(1) The pensions provided under the scheme for the purposes of carrying out the comparison under regulation 23 are the pensions referred to in sub-paragraph (2).

(2) The pensions are those which the actuary expects will accrue in the 3 years after the effective date.

(3) For the purposes of sub-paragraph (2), the actuary must—

(a) assume that the earner leaves pensionable service—

(i) at the end of the 3-year period mentioned in sub-paragraph (2), or

(ii) if the earner attains normal pension age before the end of that 3-year period, on the date on which the earner attains normal pension age;

(b) assume that pensions are payable from the date on which the earner attains normal pension age;

(c) where the earner has accrued that earner's maximum pension under the scheme during any part of the 3-year period mentioned in sub-paragraph (2), assume that that maximum