STATUTORY RULES OF NORTHERN IRELAND

2010 No. 373

PENSIONS

The Occupational, Personal and Stakeholder Pension Schemes (Disclosure of Information) (Amendment) Regulations (Northern Ireland) 2010

Made - - - - 10th November 2010

Coming into operation 1st December 2010

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational, Personal and Stakeholder Pension Schemes (Disclosure of Information) (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 1st December 2010.

(2) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(**6**) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 1 (interpretation)—

(**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 178(1) was amended by Parts III and IV of Schedule 5 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(**2**) S.I. 1995/3213 (N.I. 22)

(**3**) S.I. 1999/3147 (N.I. 11)

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

(**5**) 1954 c. 33 (N.I.)

(**6**) S.R. 1987 No. 288; relevant amending provisions are S.R. 1988 No. 107, S.R. 1992 No. 304, S.R. 1994 No. 300, S.R. 1996 Nos. 95 and 508, S.R. 2002 No. 410, S.R. 2003 No. 256, S.R. 2005 No. 536, S.I. 2006/744 and S.R. 2007 No. 185

(a) in paragraph (2)—

(i) after the definition of "the 2000 Act"(**7**) insert—

""address" means postal address (except in the expressions "electronic address" and website address");";

(ii) after the definition of "contracted-out employment"(**8**) insert—

""electronic communication" has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001(**9**);";

(iii) for the definition of "excluded person"(**10**) substitute—

""excluded person" means a person—

(a) whose present address and electronic address are not known to the trustees of the scheme;

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

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

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

(c) in respect of whom no contribution has been made to the scheme by or on behalf of the member during the 2 calendar years preceding the date on which the information in question would otherwise fall to be disclosed;";

(iv) after the definition of "pensionable age"(**11**) insert—

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

(b) after paragraph (2) add—

"(3) Without prejudice to any other method of service authorised under section 24 of the Interpretation Act (Northern Ireland) 1954, the requirement to send any document under these Regulations may be met by sending it by ordinary post.".

(3) In regulation 3 (constitution of scheme) for paragraph (2) substitute—

"(2) A copy of the contents of any of the documents referred to in paragraph (1) must, within a reasonable time of a request being made by any person in the categories specified in paragraph (4)(**12**) (not being a request made by a person within 12 months of the last occasion on which a copy of the contents of the same document was made available for inspection by the same person), be made available free of charge—

(a) for inspection at a place which is reasonable having regard to the circumstances of the request; or

(b) on a website (see regulation 9).".

(4) In regulation 5 (information to be made available to individuals)—

(a) for paragraph (2)(**13**) substitute—

(**7**) The definition of "the 2000 Act" was inserted by regulation 2(2) of S.R. 2003 No. 256
(**8**) The definition of "contracted-out employment" was inserted by regulation 2(2)(a) of S.R. 2002 No. 410
(**9**) 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)
(**10**) The definition of "excluded person" was inserted by regulation 18(a) of S.R. 1992 No. 304
(**11**) The definition of "pensionable age" was inserted by regulation 3(2) of S.R. 1996 No. 95
(**12**) Paragraph (4) was amended by paragraph 1(2) of Schedule 2 to S.R. 2005 No. 536
(**13**) Paragraph (2) was amended by regulation 20(a) of S.R. 1992 No. 304, regulation 2(2) of S.R. 1996 No. 508 and regulation 2(3)(a) of S.R. 2002 No. 410

"(2) Each member of the scheme except an excluded person, at least once in every period of 12 months after the date on which the member became a member of the scheme, must be furnished as of course with—

(a) the information mentioned in paragraphs 1(**14**), 2 and 12(**15**) of Schedule 2; and

(b) subject to paragraph (2A)(**16**) of this regulation, the information mentioned in paragraph 2A(1)(**17**) of Schedule 2.

(2ZA) Where information is furnished in accordance with paragraph (2)(b)—

(a) it must be accompanied by the additional information specified in paragraph 2A(6) of Schedule 2; and

(b) the member referred to in paragraph (2) of this regulation must be provided with the further information specified in paragraph 2A(7) of Schedule 2 by one of the methods in paragraph (2C) of this regulation.";

(b) in paragraph (2B)(**18**) for the words from "paragraph, that information" to the end substitute—

"paragraph—

(a) that information must be accompanied by the additional information specified in paragraph 2A(6) of Schedule 2; and

(b) the further information specified in paragraph 2A(7) of Schedule 2 must be provided by one of the methods in paragraph (2C) of this regulation,

as if that additional and further information had been provided under paragraph 2A(1) of Schedule 2.";

(c) after paragraph (2B) insert—

"(2C) The methods referred to in paragraphs (2ZA)(b) and (2B)(b) are for the further information to—

(a) accompany the information described in paragraph 2A(1) of Schedule 2; or

(b) be otherwise furnished by the trustees of the scheme.".

(5) In regulation 6 (availability of other information)—

(a) after paragraph (2) insert—

"(2A) Any scheme member may request a copy of any document or series of documents referred to in paragraph (1)(**19**) if—

(a) the document or series of documents is not the latest and does not relate to a scheme year which ended more than 5 years previously; and

(b) the request is not being made by a person within 3 years of the last occasion on which a copy of the same document or series of documents was made available for the same person.";

(b) for paragraph (3)(**20**) substitute—

(**14**) Paragraph 1 was amended by regulation 6(e) of S.R. 1988 No. 107, regulation 23 of S.R. 1992 No. 304, paragraph 13(5) of the Schedule to S.R. 1994 No. 300, Article 23(4)(a) of S.I. 2006/744 and regulation 2(a) of S.R. 2007 No. 185
(**15**) Paragraph 12 was added by regulation 2(3) of S.R. 1996 No. 508
(**16**) Paragraph (2A) was inserted by regulation 2(3)(b) of S.R. 2002 No. 410
(**17**) Paragraph 2A was inserted by regulation 2(4) of S.R. 2002 No. 410
(**18**) Paragraph (2B) was inserted by regulation 2(3)(b) of S.R. 2002 No. 410
(**19**) Paragraph (1) was amended by regulation 21(a) of S.R. 1992 No. 304
(**20**) Paragraph (3) was amended by regulation 21(c) of S.R. 1992 No. 304

"(3) Subject to paragraph (5)(**21**), where a request has been made in accordance with paragraph (2A), a copy of the document or series of documents must, within a reasonable time of the request, be made available free of charge—

(a) for inspection at a place which is reasonable having regard to the circumstances of the request; or

(b) on a website (see regulation 9).".

(6) For regulation 7 (service of documents by post) substitute—

"**Service of information and documents by a scheme**

7.—(1) Except where these Regulations otherwise provide, the trustees of the scheme may furnish any relevant information by—

(a) sending it to the recipient's last known address; or

(b) subject to paragraphs (2) to (4), using either or both of the following methods—

(i) sending it to the recipient's last known electronic address,

(ii) making it available on a website (see regulation 9).

(2) Where the recipient has requested in writing that—

(a) any relevant information; or

(b) all relevant information,

is not furnished in accordance with paragraph (1)(b), that relevant information may not be furnished in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished in accordance with paragraph (1)(b) where the trustees of the scheme are satisfied that the electronic communications have been designed —

(a) so that the recipients will be able to—

(i) get access to, and

(ii) store or print,

the relevant information; and

(b) taking into account the requirements of disabled recipients.

(4) Where—

(a) a recipient is a member or beneficiary of the scheme on 1st December 2010; and

(b) that recipient has not received relevant information by means of an electronic communication before 1st December 2010,

relevant information may not be furnished to that recipient in accordance with paragraph (1)(b) unless the trustees of the scheme have given that recipient by post (including ordinary post) the written notice referred to in paragraph (5).

(5) The written notice mentioned in paragraph (4) must state that—

(a) the trustees of the scheme propose to furnish relevant information to the recipient by means of an electronic communication; and

(b) the recipient may request in writing that relevant information is not furnished by means of an electronic communication.

(**21**) Paragraph (5) was added by regulation 21(d) of S.R. 1992 No. 304 and amended by regulation 2(3) of S.R. 2003 No. 256

(6) In this regulation, "relevant information" means any information or document which these Regulations require the trustees of a scheme to furnish to any person.

Service of information, documents and notifications to a scheme

8. Any person may—

(a) make a request for information or documents; or

(b) give a notification,

to the trustees of the scheme for the purposes of these Regulations by sending it to the trustees' last known address.

Provision of information on a website

9.—(1) This regulation sets out the conditions which must be met when making information or documents available on a website under—

(a) regulation 3(2)(b);

(b) regulation 6(3)(b); and

(c) regulation 7(1)(b)(ii).

(2) When the trustees of the scheme make the first information or document available on a website, they must send a notification to the recipient's last known—

(a) address; or

(b) electronic address.

(3) The notification referred to in paragraph (2) must include—

(a) a statement that the information or document is available on the website;

(b) the website address;

(c) details of the place on the website where the information or document may be read; and

(d) an explanation of how the recipient may read the information or document on the website.

(4) Except where paragraph (6) applies, when the trustees of the scheme make any subsequent information or document available on a website, they must send a notification to the recipient's last known—

(a) address; or

(b) electronic address.

(5) The notification referred to in paragraph (4) must include a statement that the information or document is available on the website.

(6) This paragraph applies where—

(a) at least 3 letters have been—

(i) given to the recipient by hand, or

(ii) sent to the recipient's last known address;

(b) each of those letters—

(i) asks the recipient to send that recipient's electronic address to the trustees of the scheme, and

(ii) states that the recipient may request in writing that information or documents are not furnished or given by means of an electronic communication; and