STATUTORY RULES OF NORTHERN IRELAND

2010 No. 80

PENSIONS

The Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2010

Made - - - - 10th March 2010

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 164A(1) and (5), 188(4)(a), 189(2) and 287(2) and (3) of, and paragraphs 25(1) and 33 of Schedule 6 to, the Pensions (Northern Ireland) Order 2005(**1**).

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2010 and shall come into operation—

(a) for the purposes of this regulation and regulations 2, 3 and 5, on 1st April 2010, and

(b) for the purposes of regulation 4, on 6th April 2010.

Amendment of Schedule 8 to the Pensions (Northern Ireland) Order

2. In Schedule 8 to the Pensions (Northern Ireland) Order 2005 (reviewable matters) after paragraph 19A(**2**) insert—

> "**19B.** Any determination by the Board under regulation 19A(7) or (8) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations (Northern Ireland) 2006(**3**) (interest for late payment of the pension protection levy) to waive interest or the failure to make any such determination.".

(**1**) S.I. 2005/255 (N.I. 1); Article 164A was inserted by paragraph 4 of Schedule 9 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))

(**2**) Paragraph 19A was inserted by regulation 8 of S.R. 2007 No. 157

(**3**) S.R. 2006 No. 155; regulation 19A is inserted by regulation 5 of these Regulations

Amendment of the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations

3. In the Schedule to the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005(**4**) (interested person(**5**)) after paragraph 19A(**6**) insert —

"19B. Paragraph 19B	19B. The trustees or managers of the scheme in respect of which the Board has made, or failed to make, a determination to waive interest under regulation 19A(7) or (8) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006 (interest for late payment of the pension protection levy).".

Amendment of the Pension Protection Fund (Compensation) Regulations

4.—(1) The Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005(**7**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (circumstances where a person shall be entitled to early payment of compensation)—

(a) in paragraph (2) for sub-paragraph (b) substitute—

"(b) that on the date on which the compensation is to become payable early—

(i) the person has attained the age of 55, or

(ii) paragraph 22(**8**) of Schedule 36 to the 2004 Act(**9**) (rights to take benefit before normal minimum benefit age) applies to the person and that person has attained—

(aa) the age of 50, and

(bb) the age referred to in paragraph 22(8) of that Schedule.";

(b) in paragraph (3)—

(i) in sub-paragraph (a)—

(aa) for head (ii) substitute—

"(ii) the name of the scheme for which the Board has assumed responsibility ("the relevant scheme"), and";

(bb) in head (iii) for "("the requested early payment date");" substitute ", and";

(ii) in sub-paragraph (b) for "scheme, and" substitute "scheme.";

(iii) omit sub-paragraph (c);

(c) omit paragraph (4).

(3) In regulation 23 (cash balance schemes: modification of paragraphs 5, 15 and 19 of Schedule 6)—

(a) in paragraph (1) for "This regulation applies" substitute "Subject to paragraph (1A), this regulation applies";

(**4**) S.R. 2005 No. 138; relevant amending Regulations are S.R. 2005 Nos. 357 and S.R. 2007 No. 157
(**5**) The definition of "interested person" in regulation 1(2) was amended by regulation 7(2)(c) of S.R. 2005 No. 357
(**6**) Paragraph 19A was inserted by regulation 9 of S.R. 2007 No. 157
(**7**) S.R. 2005 No. 149; relevant amending Regulations are S.R. 2006 No. 155
(**8**) Paragraph 22 was amended by paragraphs 54 and 55 of Schedule 10 to the Finance Act 2005 (c. 7) and paragraph 43 of Schedule 23 to the Finance Act 2006 (c. 25)
(**9**) The definition of "the 2004 Act" in regulation 1(2) was inserted by regulation 22(2)(a) of S.R. 2006 No. 155

(b) after paragraph (1) insert—

"(1A) This regulation does not apply to a cash balance scheme which is also a career average revalued earnings scheme within the meaning of regulation 24(1).".

(4) After Part 10 (cash balance schemes) add—

"PART 11

CAREER AVERAGE REVALUED EARNINGS SCHEMES

Career average revalued earnings schemes: modification of paragraphs 8, 10, 11 and 14 of Schedule 6

24.—(1) This regulation applies to a career average revalued earnings scheme, that is to say an occupational pension scheme where the whole of the pension entitlement is determined by reference to the member's earnings in each year of pensionable service, and where those earnings, or a proportion of those earnings accrued as a pension, may be revalued each year until the member attains normal pension age or the pension is put into payment.

(2) In their application to a career average revalued earnings scheme, paragraphs 8 and 11 of Schedule 6 shall have effect with the following modifications—

(a) as if for sub-paragraph (5) of those paragraphs there were substituted—

"(5) Subject to sub-paragraph (5A), the accrued amount means an amount equal to such initial annual rate of pension to which the member would have been entitled under the admissible rules had the member attained normal pension age when the pensionable service relating to the pension ended.

(5A) In any case where the Board is satisfied that it is not possible to identify the initial annual rate of pension in sub-paragraph (5), the Board may, having regard to the admissible rules, determine the accrued amount.", and

(b) as if sub-paragraphs (6) and (7) of those paragraphs were omitted.

(3) In their application to a career average revalued earnings scheme, paragraph 10 of Schedule 6 shall have effect with the following modifications—

(a) as if for sub-paragraph (4) there were substituted—

"(4) Subject to sub-paragraph (4A), the accrued amount means an amount equal to such amount of scheme lump sum to which the member would have been entitled under the admissible rules had the member attained normal pension age when the pensionable service relating to the scheme lump sum ended.

(4A) In any case where the Board is satisfied that it is not possible to identify the amount of scheme lump sum in sub-paragraph (4), the Board may, having regard to the admissible rules, determine the accrued amount.", and

(b) as if sub-paragraphs (5) and (6) were omitted.

(4) In their application to a career average revalued earnings scheme, paragraph 14 of Schedule 6 shall have effect with the following modifications—

(a) as if for sub-paragraph (5) there were substituted—

"(5) Subject to paragraph (5A), the accrued amount means an amount equal to such amount of scheme lump sum to which the member would have been entitled under the admissible rules had the member attained normal pension age when the pensionable service relating to the scheme lump sum ended.

(5A) In any case where the Board is satisfied that it is not possible to identify the amount of scheme lump sum in sub-paragraph (5), the Board may, having regard to the admissible rules, determine the accrued amount.", and

(b) as if sub-paragraphs (6) and (7) were omitted.

Schemes where part of pension entitlement is determined on a career average revalued earnings basis: modification of paragraphs 8, 10, 11 and 14 of Schedule 6

25.—(1) This regulation applies to an occupational pension scheme where part of the pension entitlement is determined on a career average revalued earnings basis, that is to say by reference to the member's earnings in each year of pensionable service applicable to that part, and where those earnings, or a proportion of those earnings accrued as a pension, may be revalued each year until the member attains normal pension age or the pension is put into payment.

(2) In their application to a scheme where part of the pension entitlement is determined on a career average revalued earnings basis, paragraphs 8 and 11 of Schedule 6 shall have effect with the following modifications—

(a) as if for sub-paragraph (5) of those paragraphs there were substituted—

"(5) Subject to sub-paragraphs (6) and (7), the accrued amount is—

$$X + Y$$

where—

X is an amount equal to such initial annual rate of that part of the pension which is determined on a career average revalued earnings basis to which the member would have been entitled under the admissible rules had the member attained normal pension age when the pensionable service relating to that part of the pension ended, or in any case where the Board is satisfied that it is not possible to identify the initial annual rate of pension, such amount as the Board may determine, having regard to the admissible rules, and

Y is AR x PE x PS.

(5A) In sub-paragraph (5)—

"AR" is the active member's annual accrual rate, under the admissible rules, in respect of that part of the pension which is not determined on a career average revalued earnings basis,

"PE" is the active member's annual pensionable earnings, under the admissible rules, in respect of that part of the pension which is not determined on a career average revalued earnings basis, and

"PS" is the active member's pensionable service, under the admissible rules, in years (including any fraction of a year) in respect of that part of the pension which is not determined on a career average revalued earnings basis.";

(b) as if in sub-paragraph (6) of those paragraphs—

(i) for "the pension" there were substituted "that part of the pension which is not determined on a career average revalued earnings basis";

(ii) after "formula" there were inserted "Y is AR x PE x PS", and

(iii) for "the accrued amount" there were substituted "Y", and