STATUTORY RULES OF NORTHERN IRELAND

2009 No. 365

PENSIONS

The Occupational and Personal Pension Schemes (Authorised Payments) Regulations (Northern Ireland) 2009

Made - - - - 10th November 2009

Coming into operation 1st December 2009

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 8C(1)(c), 17(1), 24(4), 28A(2)(c), 67(6), 97C(2), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 74(3)(e), 89(5)(c)(ii) and (iii) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**) and Article 73(4) of, and paragraph 7(4) of Schedule 5 to, 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 and Personal Pension Schemes (Authorised Payments) Regulations (Northern Ireland) 2009 and shall come into operation on 1st December 2009.

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

(**1**) 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 17(1) was substituted by Article 261(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); section 24(4) was amended by paragraph 3(2) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and Article 261(3) of the Pensions (Northern Ireland) Order 2005; section 28A was inserted by Article 143(1) of the Pensions (Northern Ireland) Order 1995 and amended by Article 19 of S.I. 2002/1555 and regulation 2(4) of S.R. 2007 No. 457; section 97C was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 178(1) was amended by Parts III and IV of Schedule 5 to the Pensions (Northern Ireland) Order 1995

(**2**) S.I. 1995/3213 (N.I. 22); Article 74(3)(e) was added by Article 247(2)(c) of the Pensions (Northern Ireland) Order 2005; Article 89(5) was amended by paragraph 46(4) of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, Article 243(2) of the Pensions (Northern Ireland) Order 2005 and paragraph 24 of the Schedule to S.R. 2005 No. 434

(**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.)

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

2. For regulation 5 of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**6**) (short service benefit in lump sum form) substitute—

"**Short service benefit in lump sum form**

5. For the purposes of section 67(6) of the Act (basic principle as to short service benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of short service benefit in the form of a lump sum before normal pension age are that the payment of a lump sum—

(a) to the member is permitted in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004(**7**); or

(b) is—

(i) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004);

(ii) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009(**8**) (commutation payments); and

(iii) made to or in respect of a member.".

Amendment of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations

3. In regulation 5 of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996(**9**) (conditions upon which appropriate policies of insurance may be commuted)—

(a) in paragraph (1) for "paragraph (2)" substitute "paragraph (2), (2A)";

(b) after paragraph (2) insert—

"(2A) This paragraph is satisfied if the lump sum payment is—

(a) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004);

(b) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (commutation payments), and

(c) made to or in respect of a member.".

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

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**10**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 20(1)(**11**) (payment of a lump sum instead of a pension payable under a relevant scheme)—

(a) omit "is permitted either";

(b) in sub-paragraphs (a) and (b) at the beginning insert "is permitted";

(**6**) S.R. 1991 No. 37; regulation 5 was substituted by regulation 3(2) of S.R. 2007 No. 185
(**7**) 2004 c.12
(**8**) S.I. 2009/1171
(**9**) S.R. 1996 No. 94; regulation 5 was substituted by Article 27(2) of S.I. 2006/744
(**10**) S.R. 1996 No. 493; relevant amending provisions are S.I. 2006/744 and S.R. 2006 No. 223
(**11**) Regulation 20 was substituted by Article 28(5) of S.I. 2006/744

(c) at the end of sub-paragraph (a) omit "or";

(d) after sub-paragraph (b) add—

"or

(c) is—

(i) made by a registered pension scheme (within the meaning given in section 150(2) of the 2004 Act);

(ii) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (commutation payments), and

(iii) made to or in respect of a member.".

(3) In regulation 60(1)(b)(i)(**12**) (payment of a guaranteed minimum pension as a lump sum)—

(a) omit "qualifies as";

(b) in sub-heads (aa) and (bb) at the beginning insert "qualifies as";

(c) at the end of sub-head (aa) omit "or";

(d) after sub-head (bb) add—

"(cc) is made by a registered pension scheme (within the meaning given in section 150(2) of the 2004 Act), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (commutation payments) and is made to or in respect of a member, or".

Amendment of the Occupational Pension Schemes (Winding Up) Regulations

5. In regulation 8(6)(b) of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**13**) (requirements to be satisfied by transferee schemes, annuities, etc.) for head (i) substitute—

"(i) of a lump sum—

(aa) that is a trivial commutation lump sum or a winding up lump sum for the purposes of Part 1(**14**) of Schedule 29 to the Finance Act 2004 (registered pension schemes: authorised lump sums – lump sum rule) is made to a member, or

(bb) is made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (commutation payments) and is made to or in respect of a member, and".

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations

6. In regulation 8 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**15**) (giving effect to protected rights by the provision of a lump sum)—

(**12**) Regulation 60 was substituted by Article 28(10) of S.I. 2006/744 and amended by regulation 2 of S.R. 2006 No. 223

(**13**) S.R. 1996 No. 621; regulation 8(6) was added by regulation 11 of S.R. 2005 No. 171 and amended by regulation 2 of S.R. 2007 No. 338

(**14**) *See* paragraphs 7 to 10 of Schedule 29

(**15**) S.R. 1997 No. 56; relevant amending provisions are S.I. 2006/744 and S.I. 2007/829