STATUTORY RULES OF NORTHERN IRELAND

2009 No. 149

PENSIONS

The Occupational Pension Schemes (Contracting-out) (Amendment) Regulations (Northern Ireland) 2009

Made - - - - *2nd April 2009*

Coming into operation *6th April 2009*

Approved by resolution of the Assembly on 16th June 2009

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 20B(5), 20C, 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) 2009 and shall come into operation on 6th April 2009.

(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. After regulation 69 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**4**) (miscellaneous provisions affecting section 47 of the Act) insert—

"**Conversion of guaranteed minimum pensions into other benefits: actuarial equivalence**

69A.—(1) For the purpose of Condition 1 of section 20B of the Act (the conversion conditions), actuarial equivalence is to be determined in accordance with this regulation.

(2) The trustees are responsible for determining actuarial equivalence.

(3) In determining actuarial equivalence, the trustees must—

(a) obtain advice from the actuary about what assumptions are appropriate at the conversion date;

(**1**) 1993 c. 49; sections 20B and 20C are inserted by section 12(3) of 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 (S.I. 1995/3213 (N.I. 22)); *see also* section 181(2) as amended by section 12(12) of the Pensions Act (Northern Ireland) 2008

(**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 Regulations are S.R. 2005 No. 433

(b) consider that advice;

(c) decide what assumptions are appropriate at the conversion date and, if the trustees later think it is necessary, change that decision, and

(d) arrange for the actuary to calculate the actuarial values of the post-conversion benefits and the pre-conversion benefits in accordance with paragraph (4).

(4) In calculating the actuarial values mentioned in paragraph (3)(d), the actuary must—

(a) use the assumptions chosen by the trustees under paragraph (3)(c), and

(b) ignore the value of any—

(i) benefits which have been commuted;

(ii) amounts which have been paid in respect of any benefits;

(iii) amounts in respect of any benefits which, before the conversion date, became due to be paid, and

(iv) discretionary benefits which might be awarded in the future.

(5) When the actuarial values mentioned in paragraph (3)(d) have been calculated, the actuary must send the trustees a certificate if the post-conversion benefits are actuarially at least equivalent to the pre-conversion benefits.

(6) The certificate must—

(a) state that—

(i) the calculations have been completed, and

(ii) the post-conversion benefits are actuarially at least equivalent to the pre-conversion benefits, and

(b) be sent to the trustees no later than 3 months after the calculations have been completed.

Conversion of guaranteed minimum pensions into other benefits: survivors' benefits

69B.—(1) For the purposes of Condition 4 of section 20B of the Act (the conversion conditions), the circumstances in which, and periods during which, the converted scheme must provide survivors' benefits are prescribed in this regulation.

(2) The circumstances are that—

(a) an earner's pre-conversion benefits include a guaranteed minimum pension, and

(b) the scheme before conversion provided that—

(i) if such an earner dies leaving a widow, widower or surviving civil partner (whether before or after attaining pensionable age), the widow, widower or surviving civil partner will be entitled to a guaranteed minimum pension, and

(ii) such a widower or surviving civil partner's guaranteed minimum pension will be payable in the circumstances set out in regulation 57(a) to (c)(**5**).

(3) The periods are—

(a) for widows, widowers and surviving civil partners, any period mentioned in section 13(4A)(a) and (b)(**6**) of the Act (minimum pensions for survivors);

(**5**) Regulation 57 was amended by paragraph 18 of Schedule 2 to S.R. 2005 No. 433

(**6**) Section 13(4A) was inserted by paragraph 1(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and amended by paragraph 5(d) of Schedule 1 to S.R. 2005 No. 433