STATUTORY RULES OF NORTHERN IRELAND

2009 No. 115

PENSIONS

The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2009

Made - - - - 16th March 2009

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 7(5)(b) and (c), 8C(1)(a), 16(1) and (2), 97C(2), 97D(2)(b) and (4)(b), 97E(1)(c), 97F(6)(b), 164(1) and (4), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 10(3), 40(1), 68(2)(e), 74(3)(e) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**), Articles 38(1) and (2), 42(2) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**3**), and now vested in it(**4**), and Articles 211, 219(10), 220(2), 286 and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005(**5**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2009.

(2) Except where paragraph (3) applies, these Regulations shall come into operation on 6th April 2009.

(3) Regulation 17 shall come into operation—

(a) for the purposes of paragraphs (1) and (4)(b), on 6th April 2009, and

(**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 16(1) was amended by paragraph 2(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); sections 97C, 97D, 97E and 97F were inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 97E(1) was amended by paragraph 93 of Schedule 29 to the Civil Partnership Act 2004 (c. 33); section 164 was substituted by Article 151(1) of the Pensions (Northern Ireland) Order 1995 and subsection (4) was amended by paragraph 22 of Schedule 10 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); 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 68 was amended by paragraph 43 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 50 of Schedule 10 to the Pensions (Northern Ireland) Order 2005; Article 74(3)(e) was added by Article 247(2)(c) of the Pensions (Northern Ireland) Order 2005

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

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

(**5**) S.I. 2005/255 (N.I. 1)

(b) for all other purposes, on 23rd September 2010.

(4) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

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

2. In regulation 27B of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**7**) (offence and penalties) for "the Occupational Pensions Regulatory Authority may" substitute "the Pensions Regulator(**8**) may by notice in writing".

Amendment of the Occupational Pension Schemes (Revaluation) Regulations

3. After regulation 12 of the Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1991(**9**) (lump sum in respect of service before 6th April 1975) insert—

"**Purpose for which trustees may modify the scheme**

12A.—(1) This regulation prescribes a purpose for which the trustees of a trust scheme may by resolution modify the scheme under Article 68 of the Pensions (Northern Ireland) Order 1995.

(2) The purpose is to—

(a) reduce the rate or amount by which the scheme revalues any benefits(**10**) that accrue after the date of the resolution; or

(b) change the method for determining that rate or amount in order to make such a reduction.

(3) No modification may be made for the purpose in paragraph (2) without the consent of—

(a) where there is one employer in relation to the scheme, that employer; or

(b) where there is more than one employer in relation to the scheme—

(i) all those employers; or

(ii) a person nominated by all those employers, or in accordance with the scheme rules, to act as their representative.".

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

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**11**) shall be amended in accordance with paragraphs (2) and (3).

(**6**) 1954 c. 33 (N.I.)
(**7**) S.R. 1991 No. 37; regulation 27B was inserted by regulation 2(18) of S.R. 1996 No. 620
(**8**) The Pensions Regulator is established by section 1 of the Pensions Act 2004 (c. 35); *see also* Article 6(1) of the Pensions (Northern Ireland) Order 2005 which transferred the functions of the Occupational Pensions Regulatory Authority to the Pensions Regulator
(**9**) S.R. 1991 No. 38 to which there are amendments not relevant to these Regulations
(**10**) *See* sections 79 and 80 of, and paragraphs 1 and 2 of Schedule 2 to, the Pension Schemes (Northern Ireland) Act 1993. Section 79 was amended by paragraph 20 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999. Section 80 was amended by paragraph 52 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, Article 258 of the Pensions (Northern Ireland) Order 2005 and paragraph 13 of the Schedule to S.R. 2005 No. 434. Schedule 2 was amended by Part 1 of Schedule 1 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)) and paragraph 20 of the Schedule to S.R. 2005 No. 434
(**11**) S.R. 1996 No. 493; relevant amending Regulations are S.R. 1997 No. 160 and S.R. 2002 No. 109

(2) In regulation 9(**12**) (making of elections by employers for the variation or surrender of contracting-out certificates)—

(a) in paragraph (5)(e)—

(i) at the end of head (i) insert "and";

(ii) at the end of head (ii) omit "and";

(iii) head (iii) shall become sub-paragraph (ea);

(b) in paragraph (5)(ea) at the beginning insert "where the notice is not about surrendering a contracting-out certificate due to the scheme winding up, contain a statement that";

(c) in paragraph (6) for "such a notice as is mentioned in this regulation" substitute "a notice under this regulation which is not about surrendering a contracting-out certificate due to the scheme winding up".

(3) In regulation 12(4) (special provision for holding companies and subsidiaries) for "9(5)(e)(iii)" substitute "9(5)(ea)".

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations

5. In regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**13**) (interpretation) in the definition of ""connected employer transfer" and "connected employer transfer payment"" after "salary related contracted-out scheme", in the first and third places where it occurs, insert "(or a scheme which was formerly a salary related contracted-out scheme)".

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations

6. In regulation 11(6) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(**14**) (disclosure) after "the Regulatory Authority may" insert "by notice in writing".

Amendment of the Occupational Pension Schemes (Winding Up) Regulations

7. In regulation 8(7) of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**15**) (requirements to be satisfied by transferee schemes, annuities, etc.)—

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

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

(c) omit sub-paragraph (c).

Amendment of the Occupational Pension Schemes (Indexation) Regulations

8. After regulation 4 of the Occupational Pension Schemes (Indexation) Regulations (Northern Ireland) 1997(**16**) (indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made on or after 6th April 2005) add—

(**12**) Regulation 9 was amended by paragraph 5(7) of the Schedule to S.R. 1997 No. 160 and regulation 2(4) of S.R. 2002 No. 109
(**13**) S.R. 1996 No. 618; the definition of ""connected employer transfer" and "connected employer transfer payment"" was amended by Article 29(2) of S.I. 2006/744
(**14**) S.R. 1996 No. 619; regulation 11 was amended by regulation 4 of S.R. 2005 No. 20 and regulation 5 of S.R. 2008 No. 370
(**15**) S.R. 1996 No. 621; regulation 8(7) was added by regulation 11 of S.R. 2005 No. 171
(**16**) S.R. 1997 No. 8; regulation 4 was added by regulation 7 of S.R. 2005 No. 170

"**Purpose for which trustees may modify the scheme**

5.—(1) This regulation prescribes a purpose for which the trustees of a trust scheme may by resolution modify the scheme under Article 68.

(2) The purpose is to—

(a) reduce the amount of the annual increase in the rate of any pension(**17**) that accrues after the date of the resolution, or

(b) change the method for determining that amount in order to make such a reduction.

(3) No modification may be made for the purpose in paragraph (2) without the consent of—

(a) where there is one employer in relation to the scheme, that employer, or

(b) where there is more than one employer in relation to the scheme—

(i) all those employers, or

(ii) a person nominated by all those employers, or in accordance with the scheme rules, to act as their representative.".

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

9. In regulation 11 of the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(**18**) (civil penalties) after "the Regulatory Authority may" insert "by notice in writing".

Amendment of the Occupational Pension Schemes (Age-related Payments) Regulations

10. In regulation 10 of the Occupational Pension Schemes (Age-related Payments) Regulations (Northern Ireland) 1997(**19**) (penalties) for "the Occupational Pensions Regulatory Authority may" substitute "the Pensions Regulator may by notice in writing".

Amendment of the Pensions on Divorce etc. (Provision of Information) Regulations

11. In regulation 9 of the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000(**20**) (penalties) for "the Occupational Pensions Regulatory Authority may" substitute "the Pensions Regulator may by notice in writing".

Amendment of the Pensions on Divorce etc. (Charging) Regulations

12. In regulation 9(6)(b) of the Pensions on Divorce etc. (Charging) Regulations (Northern Ireland) 2000(**21**) (charges in respect of pension sharing activity – method of recovery) for "the Occupational Pensions Regulatory Authority" substitute "the Pensions Regulator".

(**17**) *See* Article 51 of the Pensions (Northern Ireland) Order 1995 as amended by paragraph 40 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, section 47(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, Article 255 of the Pensions (Northern Ireland) Order 2005 and Article 11(2) of S.I. 2006/745

(**18**) S.R. 1997 No. 98; regulation 11 was substituted by regulation 17 of S.R. 2005 No. 170

(**19**) S.R. 1997 No. 167

(**20**) S.R. 2000 No. 142

(**21**) S.R. 2000 No. 143 to which there are amendments not relevant to these Regulations

Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations

13. In regulation 1(2) of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000(**22**) (interpretation) in the definition of "Regulatory Authority" for "the Occupational Pensions Regulatory Authority" substitute "the Pensions Regulator".

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations

14.—(1) The Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**23**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of "incapacity";

(b) in the definition of "Regulatory Authority" for "the Occupational Pensions Regulatory Authority" substitute "the Pensions Regulator".

(3) For regulations 3(**24**) (commutation of the whole of pension credit benefit) and 4(**25**) (commutation of part of pension credit benefit) substitute—

"**Pension credit benefit in lump sum form**

3. For the purposes of section 97C(2) (basic principle as to pension credit benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of pension credit benefit in the form of a lump sum before normal benefit age are those which permit payment of a lump sum in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004(**26**).".

(4) In regulation 7 (early retirement or deferred retirement)—

(a) for paragraphs (2) and (3) substitute—

"(2) The benefits referred to in paragraph (1) must include a benefit that is both—

(a) payable to the person entitled to the pension credit benefit, and

(b) not payable before normal benefit age except where the person entitled to the benefit has either—

(i) met the ill-health condition in accordance with paragraph 1 of Schedule 28 to the Finance Act 2004 (registered pension schemes: authorised pensions – defined benefits and money purchase arrangements) immediately before that person became entitled to the benefit, or

(ii) attained normal minimum pension age (as defined in section 279(1) of that Act).";

(b) in paragraph (4)(a) for "incapacity or serious ill health" substitute "physical or mental infirmity";

(c) omit paragraph (6).

(5) In regulation 13 (conditions on which pension credit benefit secured by insurance policies and annuity contracts may be commuted) for the words from "if it satisfies" to the end substitute "in the circumstances described in regulation 3 (pension credit benefit in lump sum form)".

(**22**) S.R. 2000 No. 145 to which there are amendments not relevant to these Regulations
(**23**) S.R. 2000 No. 146; relevant amending provisions are S.I. 2006/744, S.R. 2006 No. 141and S.R. 2007 No. 338
(**24**) Regulation 3 was amended by Article 38(2) of S.I. 2006/744 and regulation 3 of S.R. 2007 No. 338
(**25**) Regulation 4 was amended by Article 38(3) of S.I. 2006/744 and regulation 5 of S.R. 2006 No. 141
(**26**) 2004 c. 12