STATUTORY RULES OF NORTHERN IRELAND

2007 No. 457

PENSIONS

The Occupational Pension Schemes (EEA States) Regulations (Northern Ireland) 2007

Made - - - -	*31st October 2007*
Coming into operation	*26th November 2007*

The Department for Social Development, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to personal and occupational pensions, makes the following Regulations in exercise of the powers conferred by that section.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (EEA States) Regulations (Northern Ireland) 2007 and shall come into operation on 26th November 2007.

(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 Pension Schemes (Northern Ireland) Act 1993

2.—(1) The Pension Schemes (Northern Ireland) Act 1993(**4**) shall be amended in accordance with paragraphs (2) to (5).

(2) In section 1(1)(**5**) (categories of pension schemes) in the definition of "occupational pension scheme"(**6**) for "member States" substitute "EEA states".

(3) In section 15(4)(a)(i)(**7**) (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts) for "member State" substitute "EEA state".

(4) In section 28A(2)(a)(i)(**8**) (discharge of protected rights on winding up: insurance policies) for "member State" substitute "EEA state".

(**1**) *See* Schedule 2 to the European Communities (Designation) (No. 7) Order 2004 (S.I. 2004/3328)
(**2**) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51)
(**3**) 1954 c. 33 (N.I.)
(**4**) 1993 c. 49
(**5**) Section 1 became section 1(1) by virtue of Article 216(2) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
(**6**) The definition of "occupational pension scheme" was substituted by Article 216(3) of the Pensions (Northern Ireland) Order 2005
(**7**) Section 15(4) was amended by Article 129(2) of S.I. 2001/3649
(**8**) Section 28A was inserted by Article 143(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by Article 19 of S.I. 2002/1555

(5) In section 176(1) (general interpretation) after the definition of "earnings factors" insert—

""EEA agreement" means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time;

"EEA state", in relation to any time, means—

(a) a state which at that time is a member State, or

(b) any other state which at that time is a party to the EEA agreement;".

Amendment of the Pensions (Northern Ireland) Order 1995

3. In Article 49(8A) of the Pensions (Northern Ireland) Order 1995(**9**) (other responsibilities of trustees, employers, etc.) in the definition of "Deposit taker" in paragraph (c) for "a member state" substitute "an EEA state".

Amendment of the Welfare Reform and Pensions (Northern Ireland) Order 1999

4. In paragraph 6(2)(a) of Schedule 5 to the Welfare Reform and Pensions (Northern Ireland) Order 1999(**10**) (pension credits: mode of discharge: qualifying arrangements) for "member State" substitute "EEA state".

Amendment of the Pensions (Northern Ireland) Order 2005

5.—(1) The Pensions (Northern Ireland) Order 2005(**11**) shall be amended in accordance with paragraphs (2) to (10).

(2) In Article 230(1) and (6) (non-European scheme to be trust with UK-resident trustee) for "member States" substitute "EEA states".

(3) In Article 231(1) (representative of non-European scheme to be treated as trustee) for "member States" substitute "EEA states".

(4) In Article 263(6) (occupational pension scheme receiving contributions from European employer)—

(a) for ""host member State"" substitute ""host EEA state"";

(b) for "a member State" substitute "an EEA state".

(5) In Article 265(1)(c) and (2)(a)(i) (approval in relation to particular European employer) for "host member State" substitute "host EEA state".

(6) In Article 266 (notification of legal requirements of host member State outside United Kingdom) in the heading and in paragraphs (1)(a) and (b) and (2)(b) for "host member State" substitute "host EEA state".

(7) In Article 267 (duty of trustees or managers to act consistently with law of host member State) in the heading and in paragraph (1) for "host member State" substitute "host EEA state".

(8) In Article 269 (functions of Regulator in relation to institutions administered in other member States)—

(a) in the heading for "member States" substitute "EEA states";

(b) in paragraph (1) for "host member State" substitute "host EEA state";

(c) in paragraph (2) for "another member State" substitute "another EEA state";

(**9**) S.I. 1995/3213 (N.I. 22); Article 49(8A) was inserted by Article 154(5) of S.I. 2001/3649
(**10**) S.I. 1999/3147 (N.I. 11); paragraph 6 was amended by Article 160 of S.I. 2001/3649
(**11**) S.I. 2005/255 (N.I. 1)

(d) in paragraph (4)(b) for "member State" substitute "EEA state";

(e) in paragraph (8) in the definition of "European pensions institution" for "a member State" substitute "an EEA state".

(9) In Article 270 (stopping disposal of assets of institutions administered in other member States) —

(a) in the heading for "member States" substitute "EEA states";

(b) in paragraph (1)—

(i) for "a member State" substitute "an EEA state";

(ii) for "that member State" substitute "that EEA state".

(10) In Article 271 (interpretation of Part VII)—

(a) in the definitions of "competent authority" and "social and labour law" for "a member State" substitute "an EEA state";

(b) in the definition of "host member State" for ""host member State"" substitute ""host EEA state"".

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

6. In regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**12**) (interpretation)—

(a) after the definition of "earnings period" insert—

> ""EEA agreement" means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time;
>
> "EEA state", in relation to any time, means—
>
> (a) a state which at that time is a member State, or
>
> (b) any other state which at that time is a party to the EEA agreement;";

(b) in the definition of "overseas scheme"(**13**) for "member States" substitute "EEA states".

Amendment of the Protected Rights (Transfer Payment) Regulations

7. In regulation 1(2) of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(**14**) (interpretation)—

(a) after the definition of "appropriate personal pension scheme" insert—

> ""EEA agreement" means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time;
>
> "EEA state", in relation to any time, means—
>
> (a) a state which at that time is a member State, or
>
> (b) any other state which at that time is a party to the EEA agreement;";

(**12**) S.R. 1996 No. 493; relevant amending Regulations are S.R. 2007 No. 185
(**13**) The definition of "overseas scheme" was substituted by regulation 4(2) of S.R. 2007 No. 185
(**14**) S.R. 1996 No. 509; relevant amending Regulations are S.R. 2007 No. 185

(b) in the definition of "overseas scheme"(**15**) for "member States", in both places where it occurs, substitute "EEA states".

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

8. In regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**16**) (interpretation)—

(a) after the definition of "earner" insert—

> ""EEA agreement" means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time;
>
> "EEA state", in relation to any time, means—
>
> (a) a state which at that time is a member State, or
>
> (b) any other state which at that time is a party to the EEA agreement;";

(b) in the definition of "overseas scheme"(**17**) for "member States", in both places where it occurs, substitute "EEA states".

Amendment of the Pension Schemes (Categories) Regulations

9.—(1) The Pension Schemes (Categories) Regulations (Northern Ireland) 2005(**18**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1 (interpretation) for paragraph (2) substitute—

> "(2) In these Regulations—
>
> "the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993;
>
> "EEA agreement" means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time;
>
> "EEA state", in relation to any time, means—
>
> (a) a state which at that time is a member State, or
>
> (b) any other state which at that time is a party to the EEA agreement.".

(3) In regulation 2(2)(b) (prescription of certain pension schemes as occupational pension schemes) for "member States" substitute "EEA states".

Amendment of the Occupational Pension Schemes (Scheme Funding) Regulations

10.—(1) The Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005(**19**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) after the definition of "the commencement date" insert—

> ""EEA agreement" means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time;
>
> "EEA state", in relation to any time, means—

(**15**) The definition of "overseas scheme" was substituted by regulation 5 of S.R. 2007 No. 185
(**16**) S.R. 1996 No. 618; relevant amending Regulations are S.R. 2007 No. 185
(**17**) The definition of "overseas scheme" was substituted by regulation 6 of S.R. 2007 No. 185
(**18**) S.R. 2005 No. 413 to which there are amendments not relevant to these Regulations
(**19**) S.R. 2005 No. 568 to which there are amendments not relevant to these Regulations