STATUTORY RULES OF NORTHERN IRELAND

2007 No. 185

PENSIONS

The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2007

Made - - - -	*20th March 2007*
Coming into operation	*6th April 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, sections 1(1), 5(2B)(c), 8C(1)(a), 12(3), 16(1), 24(2)(b) and (4), 67(6), 109(1) and (2) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**3**), Articles 35(7), 40(1), 66A(3), 73(2)(b), 73B(8) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**4**), Articles 3(5)(c) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**5**), and now vested in it(**6**), and Articles 165(1)(a), 200(1)(b) and (2), 203(1)(b), 206(4), 218(8)(c), 219(10), 226(2)(a), 236(1), 263(6), 264(1), 265(1), 268(1) and 287(3) of the Pensions (Northern Ireland) Order 2005(**7**).

(**1**) *See* Schedule 2 to the European Communities (Designation) (No. 7) Order 2004 (S.I. 2004/3328)

(**2**) 1972 c. 68

(**3**) 1993 c. 49; section 1 was amended by Article 216 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); section 5(2B) was substituted by Article 133(3) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 38(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671); section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995; section 12(3) was amended by paragraph 21 of Schedule 3 to that Order, *see also* paragraph 3 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); 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.)); section 24(2)(b) was amended by paragraph 2(2) of Schedule 5 to that Act; section 24(4) was amended by paragraph 3(2) of Schedule 5 to that Act and Article 261(3) of the Pensions (Northern Ireland) Order 2005; section 109(1) was amended by section 48(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**4**) S.I. 1995/3213 (N.I. 22); Article 35 was substituted by Article 221 of the Pensions (Northern Ireland) Order 2005; Article 40 was amended by Article 152 of S.I. 2001/3649, Article 26 of S.I. 2004/355 and paragraph 45 of Schedule 10 to the Pensions (Northern Ireland) Order 2005; Article 66A was inserted by section 51 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 73 was substituted, and Article 73B inserted, by Article 247(1) of the Pensions (Northern Ireland) Order 2005

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

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

(**7**) S.I. 2005/255 (N.I. 1); Part III is modified in its application to partially guaranteed schemes by S.R. 2005 No. 55, in its application to hybrid schemes by S.R. 2005 No. 84 and in its application to multi-employer schemes by S.R. 2005 No. 91 (as amended by S.R. 2005 Nos. 194 and 357) and Part IV is modified by S.R. 2005 Nos. 568 and 570

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2007 and shall come into operation on 6th April 2007.

(2) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Assembly.

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

2. In Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(**9**) (information to be made available to individuals)—

(a) in paragraph 1(**10**) omit sub-paragraphs (b) and (c), and

(b) in paragraph 5 for "regulation 10(12) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1987" substitute "regulation 12(12) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**11**) (death of scheme member before effect given to his protected rights)".

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

3.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**12**) shall be amended in accordance with paragraphs (2) and (3).

(2) For regulation 5(**13**) (short service benefit in lump sum form) substitute—

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

5. For the purposes of section 67(6) (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 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(**14**).".

(3) In regulation 8 (early retirement or deferred retirement) for paragraph (2) substitute—

"(2) The member's benefit must not be payable before normal pension age except in the circumstances where the member has either—

(a) met the ill-health condition specified in paragraph 1 of Schedule 28 to the Finance Act 2004 (registered pension schemes – defined benefits and money purchase arrangements – ill health condition) immediately before he became entitled to the benefit under the scheme, or

(b) attained normal minimum pension age as defined in section 279 of that Act (other definitions).".

(**8**) 1954 c. 33 (N.I.)
(**9**) S.R. 1987 No. 288; relevant amending Regulations are S.R. 1988 No. 107, S.R. 1992 No. 304, S.R. 1993 No. 126 and S.R. 1994 No. 300
(**10**) Paragraph 1 was amended by regulation 6(e) of S.R. 1998 No. 107, regulation 23 of S.R. 1992 No. 304, regulation 3 of S.R. 1993 No. 126 and paragraph 13(5) of Schedule 2 to S.R. 1994 No. 300
(**11**) S.R. 1997 No. 56; regulation 12(12) was amended by paragraph 32(a) of Schedule 2 to S.R. 2005 No. 433
(**12**) S.R. 1991 No. 37; relevant amending Regulations are S.R. 1994 No. 300 and S.R. 1996 No. 620
(**13**) Regulation 5 was amended by paragraph 26(6) of Schedule 2 to S.R. 1994 No. 300 and regulation 2(3) of S.R. 1996 No. 620
(**14**) 2004 c.12

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

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996(**15**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of "overseas scheme"(**16**) substitute—

""overseas scheme" means an occupational pension scheme which has its main administration outside the member States but does not include a scheme which is contracted-out in the Isle of Man by virtue of satisfying section 9(2) or (3) of the Pension Schemes Act 1993 as it has effect in the Isle of Man(**17**);".

(3) In regulation 62(2) (fixed rate revaluation of guaranteed minimum pensions for early leavers) —

(a) in sub-paragraph (e)(**18**) for "6th April 2002, 4.5 per cent." substitute "6th April 2002 but before 6th April 2007, 4.5 per cent. ", and

(b) after sub-paragraph (e) add —

"(f) where that period of service terminates on or after 6th April 2007, 4 per cent. compound.".

Amendment of the Protected Rights (Transfer Payment) Regulations

5. In regulation 1(2) of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(**19**) (interpretation) for the definition of "overseas scheme"(**20**) substitute—

""overseas scheme" means—

(a) an occupational pension scheme which has its main administration outside the member States, or

(b) a European pensions institution as defined in Article 269(8) of the Pensions (Northern Ireland) Order 2005 (functions of Regulator in relation to institutions administered in other member States),

but does not include one which is contracted-out within the meaning of section 3(3) nor one in respect of which section 49(**21**) (supervision: former contracted-out schemes) applies by virtue of section 48(1) (supervision of schemes which have ceased to be certified);".

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

6. In regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**22**) (interpretation) for the definition of "overseas scheme"(**23**) substitute—

""overseas scheme" means—

(**15**) S.R. 1996 No. 493; relevant amending Regulations are S.R. 1999 No. 486 and S.R. 2002 No. 109
(**16**) The definition of "overseas scheme" was amended by regulation 4(2)(a) of S.R. 1999 No. 486
(**17**) *See* Article 3 of, and the Schedule to, the Pension Schemes Act 1993 (Application) Order 1995, Statutory Document No. 531/95, which applies (with modifications) section 9 of the Pension Schemes Act 1993 (c. 48) to the Isle of Man; and *see* Article 3(1)(b) of, and Schedule 1 to, the Pensions Act 1995 (Application) Order 1997, Statutory Document No. 501/97, which applies to the Isle of Man the amendments to that section 9 in section 136 of the Pensions Act 1995 (c. 26)
(**18**) Sub-paragraph (e) was added by regulation 2(14)(b) of S.R. 2002 No. 109
(**19**) S.R. 1996 No. 509; relevant amending Regulations are S.R. 1997 No. 160
(**20**) The definition of "overseas scheme" was amended by paragraph 6(2)(a) of the Schedule to S.R. 1997 No. 160
(**21**) Section 49 was amended by paragraph 40 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 61 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 6 of Schedule 10 to the Pensions (Northern Ireland) Order 2005
(**22**) S.R. 1996 No. 618; relevant amending Regulations are S.R. 1997 No. 160
(**23**) The definition of "overseas scheme" was amended by paragraph 10(2)(a) of the Schedule to S.R. 1997 No. 160

(a) an occupational pension scheme which has its main administration outside the member States, or

(b) a European pensions institution as defined in Article 269(8) of the Pensions (Northern Ireland) Order 2005 (functions of Regulator in relation to institutions administered in other member States),

but does not include a salary-related contracted-out scheme nor one in respect of which section 49 (supervision: former contracted-out schemes) applies by virtue of section 48(1) (supervision of schemes which have ceased to be certified);".

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

7. In regulation 8 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**24**) (giving effect to protected rights by the provision of a lump sum) omit paragraph (2).

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

8. In regulation 5 of the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(**25**) (information to be made available to individuals)—

(a) in paragraph (12ZA)(**26**) for "(except excluded persons), within a reasonable period after the date" substitute "(except excluded persons), on, or before, or within a reasonable period after, the date", and

(b) after paragraph (15)(**27**) add—

"(16) The requirement in paragraph (12ZA) does not apply in relation to a member or beneficiary whose only entitlement to benefits under the scheme is, or will be, to money purchase benefits.".

Amendment of the Stakeholder Pension Schemes Regulations

9. In regulation 14 of the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000(**28**) (charges etc. - permitted reductions in members' rights)—

(a) in paragraph (1) for "paragraphs (2) to (5)" substitute "paragraphs (2) to (5A)", and

(b) after paragraph (5) insert—

"(5A) The value of a member's rights under the scheme may be reduced by the amount of any payment made to discharge the liability of the trustees or managers in respect of any tax liability under the Finance Act 2004 in relation to that member.".

Amendment of the Occupational Pension Schemes (Winding up, etc.) Regulations

10.—(1) The Occupational Pension Schemes (Winding up, etc.) Regulations (Northern Ireland) 2005(**29**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 3(1) (schemes to which Article 73 of the 1995 Order does not apply)—

(**24**) S.R. 1997 No. 56; regulation 8 was amended by Article 32(3) of S.I. 2006/744
(**25**) S.R. 1997 No. 98; the relevant amending regulations are S.R. 1997 No. 160 and S.R. 2005 No. 568
(**26**) Paragraph (12ZA) was inserted by paragraph 6(3)(b) of Schedule 3 to S.R. 2005 No. 568
(**27**) Paragraphs (14) and (15) were added by paragraph 19(4)(e) of the Schedule to S.R. 1997 No. 160
(**28**) S.R. 2000 No. 262; regulation 14 was substituted by regulation 2(9) of S.R. 2005 No. 110
(**29**) S.R. 2005 No. 171 to which there are amendments not relevant to these Regulations

(a) in sub-paragraph (j) for head (i) substitute—

"(i) the provisions of the scheme provide that any decision made by the trustees is made by the unanimous agreement of the trustees who are members of the scheme, or";

(b) in sub-paragraph (k) for head (i) substitute—

"(i) the provisions of the scheme provide that any decision made by the company in its capacity as trustee is made by the unanimous agreement of the directors who are members of the scheme; or", and

(c) omit sub-paragraph (l).

(3) In regulation 8(4)(a) (entitlement to death benefits treated as arising before commencement of winding up period) for "former spouse" substitute "former spouse, former civil partner".

Amendment of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations

11. In regulation 2 of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005(**30**) (prescribed schemes)—

(a) in paragraph (1)—

(i) in sub-paragraph (f)(i) for "all decisions which fall to be made by the trustees are made by unanimous agreement by" substitute "any decision made by the trustees is made by the unanimous agreement of";

(ii) in sub-paragraph (g)—

(aa) for "where a company is a trustee" substitute "where a company is the sole trustee";

(bb) in head (i) for "are made by the unanimous agreement of all the directors" substitute "is made by the unanimous agreement of the directors", and

(cc) in head (ii) for "one of the directors is a trustee who" substitute "one of the directors of the company", and

(iii) omit sub-paragraph (k), and

(b) in paragraph (2) for "within paragraph (1)(a) to (k)" substitute "within paragraph (1)(a) to (j)".

Amendment of the Pension Schemes (Categories) Regulations

12. In regulation 2 of the Pension Schemes (Categories) Regulations (Northern Ireland) 2005(**31**) (prescription of certain pension schemes as occupational pension schemes) after paragraph (5) add—

"(6) This regulation applies to the Pilots' National Pension Fund which is a pilots' benefit fund established under byelaws made by the Trinity House of Deptford Strond under section 15(1)(i) of the Pilotage Act 1983(**32**).".

(**30**) S.R. 2005 No. 381

(**31**) S.R. 2005 No. 413

(**32**) 1983 c.21; section 15 was repealed by Schedule 3 to the Pilotage Act 1987 (c.21) and saved by paragraph 4 of Schedule 1 to that Act so that any pilots' benefit fund established under section 15(1)(i) of the Pilotage Act 1983 continues in existence notwithstanding the repeal of section 15