STATUTORY RULES OF NORTHERN IRELAND

2006 No. 141

PENSIONS

TERMS AND CONDITIONS OF EMPLOYMENT

The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2006

Made - - - - 16th March 2006

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 97C(2), 109(1)(d) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 35(3) and (4), 40(2), 47(5) and (6), 49(1), (2), (4) and (9)(b), 85(1), 86(1), 89(5) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), and Articles 236(1) and 237(1) of the Pensions (Northern Ireland) Order 2005(**4**).

Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2006 and shall come into operation—

(a) for the purposes of regulation 3, on 6th April 2006 immediately after the coming into operation of the Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations (Northern Ireland) 2005(**5**), and

(b) for all other purposes on 6th April 2006.

(**1**) 1993 c. 49; section 97C was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(**2**) S.I.1995/3213 (N.I. 22)); Article 35 was substituted by Article 221 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 N.I. 1)); Article 40(2) was repealed in part by Article 152(2) of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649); Article 49(1) was amended by Article 154(2) of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 – see also Article 154(5) of that Order; Article 49(9)(b) was substituted by Article 246(1) of the Pensions (Northern Ireland) Order 2005; Article 86(1) was substituted by Article 246(2) 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 of the Pensions (Northern Ireland) Order 2005 and S.R. 2005 No. 434

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

(**4**) S.I. 2005/255 (N.I. 1)); Article 236 was modified by regulation 2 of S.R. 2006 No. 4

(**5**) S.R. 2005 No. 421

Amendment of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations

2. In paragraph 5(b) of the Schedule to the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997(**6**) (contents of accounts audited by the auditor of the scheme) for "regulation 6 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996(**7**) (investments to which restrictions on employer-related investments do not apply)", there shall be substituted "regulation 13 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005(**8**) (investments to which restrictions do not apply)".

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

3.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**9**) shall be amended in accordance with paragraphs (2) to (4).

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

(a) after the definition of "business days" there shall be inserted the following definitions—

> ""insurance policy" means a contract of a kind referred to in Article 2 of the Life Directive, but excluding a contract of a kind referred to in Article 2(2)(c) or (d) of that Directive;
>
> "the Life Directive" means Directive 2002/83/EC of the European Parliament and of the Council of 5th November 2002 concerning life assurance(**10**);";

(b) after the definition of "money purchase scheme"(**11**) there shall be inserted the following definition—

> ""qualifying insurance policy" means an insurance policy issued by an insurer which is—
>
> (a) a person who has permission under Part IV of the 2000 Act(**12**) to effect or carry out contracts of long term insurance, or
>
> (b) an undertaking established in an EEA State (as defined in paragraph 8 of Schedule 3 to the 2000 Act) other than the United Kingdom, which is authorised by the competent authorities of that State to carry on the business of direct insurance for the class of assurance as listed in Annex I to the Life Directive in which the insurance policy falls;";

(c) after the definition of "scheme year" there shall be inserted the following definition—

> ""specified qualifying insurance policy" means a qualifying insurance policy which is a contract falling within paragraph I or III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**13**) (contracts of insurance);";

(d) for the definition of "wholly insured scheme"(**14**) there shall be substituted the following definition—

(**6**) S.R. 1997 No. 40; relevant amending regulations are S.R. 1997 No. 544
(**7**) S.R. 1996 No. 584; revoked by regulation 18 of, and the Schedule to, S.R. 2005 No. 569
(**8**) S.R. 2005 No. 569
(**9**) S.R. 1997 No. 94: relevant amending regulations are S.R. 1997 No. 160, S.R. 2000 No. 69, S.R. 2003 No. 256 and S.R. 2005 No. 421
(**10**) O.J. No. L345, 19.12.2002, p.1
(**11**) The definition of "money purchase scheme" was inserted by paragraph 16(2)(a) of the Schedule to S.R. 1997 No. 160
(**12**) 2000 c. 8
(**13**) S.I. 2001/544
(**14**) The definition of "wholly insured scheme" was substituted by regulation 3(2) of S.R. 2005 No.421

""wholly insured scheme" means a trust scheme, other than a stakeholder pension scheme within the meaning of Article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**15**), which has no investments other than specified qualifying insurance policies.", and

(e) after paragraph (2) there shall be inserted the following paragraph—

"(2A) For the purposes of the definition of "wholly insured scheme", "investments" shall not include—

(a) cash held on deposit by the trustees or managers pending payment to the insurer or to members of the scheme;

(b) cash held on deposit by trustees or managers to meet the accrued liabilities or administrative expenses, or

(c) any investments arising from voluntary contributions.".

(3) In regulation 21 (circumstances where notice of non-payment of any amount payable to a scheme need not be given) for paragraph (4)(**16**) there shall be substituted the following paragraph—

"(4) Where, under Article 49(9)(b) (other responsibilities of trustees, employers, etc.), there is a requirement on the trustees or managers to give notice within a reasonable time of a failure to pay within a prescribed time an amount corresponding to any contribution payable on behalf of an active member which has been deducted from the member's earnings, the trustees or managers shall not be required to give notice of a failure to pay such amount by the due date for the purposes of paragraph (1) of Article 86 (schedules of payments to money purchase schemes: supplementary), in a case to which that paragraph would otherwise apply.".

Amendment of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations

4.—(1) The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997(**17**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1 (citation, commencement and interpretation) after paragraph (3) there shall be added the following paragraphs—

"(4) Notwithstanding section 24(1) of the Interpretation Act (Northern Ireland) 1954(**18**), a notice under regulation 2(4) may be sent by ordinary post to a member.

(5) For the purposes of these Regulations, and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954 where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.".

(3) In regulation 2 (commutation of a pension under an occupational pension scheme)—

(a) for paragraph (1A)(**19**) there shall be substituted the following paragraph—

"(1A) There are also prescribed for the purposes of Article 89(5)(c)(iii) the circumstances where—

(**15**) S.I. 1999/3147 (N.I. 11); Article 3 was amended by Article 262(2) to (4) of the Pensions (Northern Ireland) Order 2005
(**16**) Paragraph 4 was added by regulation 2(4) of S.R. 2000 No. 69
(**17**) S.R. 1997 No. 153; relevant amending regulations are S.R. 2002 No. 109 and S.R. 2005 No. 171
(**18**) 1954 c. 33 (N.I.)
(**19**) Paragraph (1A) was inserted by regulation 8 of S.R. 2002 No. 109

(a) the rights of the member consist only of rights derived from equivalent pension benefits under Part III of the National Insurance Act (Northern Ireland)1966(**20**), and

(b) either—

(i) the member has consented to the commutation, or

(ii) he has not consented but the conditions in paragraph (4) are satisfied.", and

(b) after paragraph (3) there shall be added the following paragraph—

"(4) For the purposes of paragraph (1A)(b)(ii), the conditions are that—

(a) the trustees or managers of the scheme have sent to the member's last known address written notice of their intention to commute his rights from equivalent pension benefits under Part III of the National Insurance Act (Northern Ireland) 1966, and

(b) no response has been received from the member before the end of the period of two months beginning with the date on which the notice was sent.".

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations

5. In regulation 4 of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**21**) (commutation of part of pension credit benefit), in paragraph (1)(a)(i), at the end, for "or" there shall be substituted "and".

Amendment of the Personal Pension Schemes (Payments by Employers) Regulations

6. After regulation 5 of the Personal Pension Schemes (Payments by Employers) Regulations (Northern Ireland) 2000(**22**) (prescribed period for the purpose of calculating the due date for the payment of any contribution on behalf of an employee) there shall be inserted the following regulation—

"**The issue of payment statements to an employee**

5A.—(1) Where section 107A(**23**) (monitoring of employers' payments to personal pension schemes) applies the trustees or managers of the scheme must before the end of the interval specified in paragraph (4) or (5), as the case may be, send the employee a statement setting out the amounts and dates of the payments made under the direct payment arrangements during the period specified in paragraph (2) or (3), as the case may be.

(2) Where the scheme is not a stakeholder pension scheme the period is, in the case of—

(a) the first statement referred to in paragraph (1), the period of not more than 12 months beginning with the date the employee joined the scheme and ending with the date of the last payment which appears on that statement, and

(b) the second or any subsequent statement ("the relevant statement"), a period of not more than 12 months beginning with the day following the date of the last payment which appeared on the statement immediately preceding the relevant statement.

(**20**) 1966 c. 6
(**21**) S.R. 2000 No. 146 to which there are amendments not relevant to these Regulations
(**22**) S.R. 2000 No. 349; relevant amending Regulations are S.R. 2005 No. 421
(**23**) Section 107A was inserted by Article 10 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and is amended by Article 245 of, and paragraph 12 of Schedule 10 to, the Pensions (Northern Ireland) Order 2005