STATUTORY RULES OF NORTHERN IRELAND

2006 No. 85

PENSIONS

The Occupational Pension Schemes (Fraud Compensation Levy) Regulations (Northern Ireland) 2006

Made - - - -	*6th March 2006*
Coming into operation	*1st April 2006*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 10(3), 75(10) and 87(2) of the Pensions (Northern Ireland) Order 1995(**1**), and now vested in it(**2**), and Articles 171(1), (4), (6) and (11) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005(**3**).

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Fraud Compensation Levy) Regulations (Northern Ireland) 2006 and shall come into operation on 1st April 2006.

Interpretation

2.—(1) In these Regulations—

"the Order" means the Pensions (Northern Ireland) Order 2005;

"life member", in relation to a scheme, means a person who is an active member but whose service under the scheme is only pensionable service for the purposes of death benefits;

"member", in relation to a scheme, means a person who is one or more of the following—

(a) an active member (but not a life member);

(b) a deferred member (including where a life member would be a deferred member if he were not an active member);

(c) a pensioner member, or

(d) a pension credit member;

"the reference day" has the meaning given in regulation 4;

(**1**) S.I. 1995/3213 (N.I. 22); Article 10(3) applies by virtue of Article 286(a) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); Article 87(2) was amended by paragraph 60(b) of Schedule 10 to that Order

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

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

"registrable scheme" means a scheme to which regulation 2 of the Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005(**4**) applies;

"relevant public authority" has the meaning given in Article 280(4) (modification of the Order in relation to certain categories of schemes);

"scheme" means an occupational pension scheme to which Chapter 4 of Part III of the Order (fraud compensation) applies;

"scheme year", in relation to a scheme, means—

(a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, a period of 12 months beginning on 1st April, or on such other date as the trustees or managers select, or

(b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees or managers in connection with—

(i) the commencement or termination of the scheme, or

(ii) a variation of the date on which the year or period referred to in paragraph (a) is to begin;

"stakeholder pension scheme" means a stakeholder pension scheme within the meaning of Article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**5**) which is established under a trust;

"unallocated assets", in relation to a scheme, means any assets of the scheme which have not been specifically allocated for the provision of benefits to, or in respect of, members (whether generally or individually).

(2) In these regulations any reference to a numbered Article is a reference to the Article of the Order bearing that number.

The fraud compensation levy

3.—(1) For the purposes of meeting expenditure payable out of the Fraud Compensation Fund, trustees or managers of schemes shall be liable to pay a fraud compensation levy in respect of each financial year.

(2) One fraud compensation levy only shall be payable in respect of each financial year.

(3) The fraud compensation levy payable shall—

(a) be payable by reference to the total number of members of the scheme on the reference day, and

(b) not exceed 23 pence per member.

(4) Where a scheme becomes a registrable scheme during a financial year, any fraud compensation levy shall be calculated to reflect the proportion of that year during which the scheme is a registrable scheme.

(5) Where a scheme ceases to be a registrable scheme during a financial year, any fraud compensation levy payable is payable in full for that year.

The reference day

4.—(1) Subject to paragraph (2), the reference day for a scheme is the last day of the scheme year which ended before the beginning of the previous financial year.

(2) If the scheme—

(**4**) S.R. 2005 No. 93; regulation 2 was amended by regulation 5(3) of S.R. 2006 No. 65
(**5**) S.I. 1999/3147 (N.I. 11); Article 3 was amended by Article 262(2) to (4) of the Pensions (Northern Ireland) Order 2005

(a) is established too late to have such a scheme year, or

(b) has only one member on the day that is a reference day under paragraph (1),

the reference day is the date on which the scheme becomes a registrable scheme.

Payment of the fraud compensation levy

5.—(1) The fraud compensation levy shall be payable on the first day of a financial year ("payable date").

(2) If the amount of any fraud compensation levy payable is not notified under Article 171(7)(c) (fraud compensation levy: notice of amount of levy) to the trustees or managers of a scheme before the payable date, the levy is payable within the period of 28 days beginning with the date on which the notification is given.

Notices

6.—(1) Subject to paragraph (2), where any fraud compensation levy is payable, the notice referred to in Article 171(6) (fraud compensation levy: notice of rates) must be given—

(a) in writing to the trustees or managers of the scheme, and

(b) in a manner which specifies the rates by way of the amount payable per member.

(2) The Board shall take reasonable steps to ascertain the address to which the notice should be sent.

Waiver

7.—(1) Where any fraud compensation levy is payable, the Board shall waive payment of an amount payable by way of the levy if the trustees or managers of the scheme confirm in writing to the Board—

(a) that—

(i) there is no employer in relation to the scheme, or

(ii) the employer is insolvent, and

(b) in the case of a scheme in which all the benefits that may be provided (other than death benefits) are money purchase benefits, there are insufficient unallocated assets in the scheme to meet its liabilities in respect of the payment of the levy in full.

(2) For the purposes of paragraph (1), an employer is insolvent if an insolvency event, within the meaning of Article 105, has occurred in relation to him.

(3) Paragraph (1) shall not apply in the case of a stakeholder pension scheme.

Multi-employer schemes

8.—(1) If a scheme in relation to which there is more than one employer is divided into two or more sections and the provisions of the scheme are such that they meet conditions A and B, the provisions of these Regulations (apart from this regulation) apply as if each section of the scheme were a separate scheme.

(2) Condition A is that contributions payable to the scheme by an employer, or by a member in employment under that employer, are allocated to the section that applies to that employer or, if more than one section applies to the employer, to the section which is appropriate in respect of the employment in question.

(3) Condition B is that a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section.