STATUTORY RULES OF NORTHERN IRELAND

2005 No. 467

PENSIONS

The Protected Rights (Transfer Payment) (Amendment) Regulations (Northern Ireland) 2005

Made - - - -	*27th October 2005*
Coming into operation	*28th November 2005*

The Department for Social Development, in exercise of the powers conferred by sections 24(2)(b) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**), and now vested in it(**2**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Protected Rights (Transfer Payment) (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 28th November 2005.

Amendment of the Protected Rights (Transfer Payment) Regulations

2.—(1) The Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(**3**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2) after the definition of "appropriate personal pension scheme" there shall be inserted the following definition—

> ""mixed benefit contracted-out scheme" means an occupational pension scheme to which Article 146(1) of the Pensions (Northern Ireland) Order 1995 (hybrid occupational pension schemes) applies and which is contracted-out;";

(b) in paragraph (3) at the beginning there shall be inserted "Subject to paragraphs (5) and (6),";

(c) after paragraph (4) there shall be added the following paragraphs—

> "(5) For the purposes of these Regulations, and not withstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(**4**), where a period of time is expressed

(**1**) 1993 c. 49. Section 24(2)(b) was amended by paragraph 2(2) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) S.R. 1996 No. 509; relevant amending regulations are S.R. 2000 No. 262
(**4**) 1954 c. 33 (N.I.)

to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

(6) Without prejudice to any other method of service authorised under section 24 of the Interpretation Act (Northern Ireland) 1954, service of a document under these Regulations may be effected by sending the document by ordinary post.".

(3) For regulation 2 (general) there shall be substituted the following regulation—

"**2.**—(1) Effect may be given to a member's protected rights by making a transfer payment from—

(a) an appropriate personal pension scheme;

(b) a money purchase contracted-out scheme;

(c) the money purchase part of a mixed benefit contracted-out scheme, or

(d) a scheme mentioned in sub-paragraph (a), (b) or (c) which has ceased to be a contracted-out scheme,

to a scheme specified in paragraph (2).

(2) A transfer payment in respect of protected rights may be made to either an—

(a) appropriate personal pension scheme, or

(b) occupational pension scheme,

in accordance with regulations 3 to 5.

(3) In these Regulations a "transfer payment" means a transfer payment such as is described in this regulation.".

(4) For regulation 3(**5**) (transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes) there shall be substituted the following regulation—

"**Transfer payments to appropriate personal pension schemes**

3. A transfer payment may be made to an appropriate personal pension scheme if—

(a) the member consents in writing or regulation 3A applies;

(b) the transfer payment (or, if it forms part of a larger payment giving effect to both protected rights and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 93(**6**) (calculation of cash equivalents), and

(c) the transfer payment in respect of the member's protected rights is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the member.".

(5) After regulation 3A(**7**) (transfer payments from stakeholder pension schemes without the member's consent) there shall be inserted the following regulations—

"**Transfer payment to a money purchase contracted-out scheme or the money purchase part of a mixed benefit contracted-out scheme with the member's consent**

3B.—(1) A transfer payment may be made to either—

(**5**) Regulation 3 was amended by regulation 28(2) of S.R. 2000 No. 262

(**6**) Section 93 was amended by paragraph 6 of Schedule 4 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 5(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**7**) Regulation 3A was inserted by regulation 28(3) of S.R. 2000 No. 262

(a) a money purchase contracted-out scheme, or

(b) the money purchase part of a mixed benefit contracted-out scheme,

if the conditions specified in paragraph (2) are satisfied.

(2) The conditions specified in this paragraph are—

(a) the member consents in writing;

(b) the transfer payment (or, if it forms part of a larger payment giving effect to both protected rights and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 93;

(c) the transfer payment in respect of the member's protected rights is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the member, and

(d) either the member—

(i) is employed by an employer who is a contributor to the receiving scheme, or

(ii) has previously been a member of the receiving scheme.

Transfer payment to a money purchase contracted-out scheme or the money purchase part of a mixed benefit contracted-out scheme without the member's consent

3C.—(1) A transfer payment may be made to either—

(a) a money purchase contracted-out scheme, or

(b) the money purchase part of a mixed benefit contracted-out scheme,

without the member's consent if the requirements of paragraph (2) are satisfied.

(2) The requirements of this paragraph are that the conditions specified in either—

(a) paragraphs (3) and (4), or

(b) paragraph (8),

are satisfied.

(3) The conditions specified in this paragraph are—

(a) the transfer payment (or, if it forms part of a larger payment giving effect to both protected rights and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 93;

(b) the transfer payment in respect of the member's protected rights is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the member, and

(c) the transferring scheme is either—

(i) a money purchase contracted-out scheme;

(ii) the money purchase part of a mixed benefit contracted-out scheme, or

(iii) a scheme mentioned in head (i) or (ii) which has ceased to be a contracted-out scheme.

(4) The conditions specified in this paragraph are—

(a) subject to paragraph (7), the trustees have sent a notice to the member at his last known postal address or electronic mail address in relation to the proposed transfer;