STATUTORY RULES OF NORTHERN IRELAND

2005 No. 193

PENSIONS

The Occupational and Personal Pension Schemes (Pension Liberation) Regulations (Northern Ireland) 2005

Made - - - -	*5th April 2005*
Coming into operation	*27th April 2005*

The Department for Social Development, in exercise of the powers conferred on it by Articles 15(7), 17(4) and 287(3) of the Pensions (Northern Ireland) Order 2005(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Pension Liberation) Regulations (Northern Ireland) 2005 and shall come into operation on 27th April 2005.

(2) In these Regulations –

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

(b) any reference to a numbered Article is a reference to the Article of the Order bearing that number; and

(c) any reference to a numbered section is a reference to the section of the Pension Schemes Act bearing that number.

Modification of references to "transfer" in the Pension Schemes Act

2.—(1) In their application to cases where an order is made under Article 15(6) (pension liberation: Court's power to order restitution) or 17(2)(b) (pension liberation: repatriation orders), the provisions referred to in this regulation and regulation 3 shall have effect with the modifications there specified.

(2) The references to "a transfer payment" in sections 6(**2**), 64A(**3**) and 67(**4**) (protected rights and money purchase benefits; safeguarded rights; basic principle as to short service benefit), and

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

(**2**) Section 6 was amended by paragraph 18 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), paragraph 39 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and Article 29(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

any regulations made under any of those sections, shall be modified so as to have effect as if those references included a reference to –

(a) property or money transferred by virtue of an order made by the High Court under Article 15(4) and applied in accordance with directions contained in an order made by virtue of Article 15(6); or

(b) money paid by virtue of an order made by the Regulator under Article 17(2)(a) and applied in accordance with directions contained in an order made by virtue of Article 17(2)(b).

(3) Paragraph (5) shall cease to have effect from the coming into operation of paragraph 26 of Schedule 10 to the Order (minor and consequential amendments).

(4) Paragraph (6) shall have effect from the coming into operation of paragraph 26 of Schedule 10 to the Order.

(5) In relation to the references to "transfer credits" in sections 52(**5**), 69(**6**) and 71 (provisions supplementary to section 51; form of short service benefit and its alternatives; credits), and any regulations made under any of those sections, the definition of "transfer credits" in section 176(1) (general interpretation) shall be modified so as to apply as if at the end there were added –
"or by reference to a transfer or payment made by virtue of an order under Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 which the trustees or managers have been directed to apply, pro rata, as if it were a transfer of his accrued rights from another scheme".

(6) In relation to the references to "transfer credits" in sections 52, 69 and 71, and any regulations made under any of those sections, the definition of "transfer credits" in section 176(1) shall be modified so as to apply as if at the end there were added – "or

(c) a transfer or payment made by virtue of an order under Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 which the trustees or managers have been directed to apply, pro rata, as if it were a transfer of his accrued rights from another scheme;".

(7) The references in section 174(1)(a)(i) and (b) and (3) (linked qualifying service), and any regulations made under that section, to a transfer of rights accrued under one scheme to a second scheme shall be modified so as to have effect as if they included a transfer or payment made by virtue of an order under Article 15(4) or 17(2)(a) which the trustees or managers of the second scheme have been directed to apply, pro rata, as if it were a transfer of accrued rights from the first scheme.

(8) From the coming into operation of paragraph 25 of Schedule 10 to the Order, the modification of section 174, and any regulations made under that section, made in paragraph (7) shall also apply to references in subsection (1)(a)(i) and (iii) and (b) of that section, and in any such regulations, to a transfer payment made in respect of accrued rights to the second scheme or to the trustees or managers of that scheme, and to a cash equivalent or cash transfer sum paid in respect of the member to the trustees or managers of the second scheme.

Modification of statutory discharges in the Pension Schemes Act

3.—(1) Section 95(1) (trustees' duties after exercise of option) shall be modified so as to have effect as if after paragraph (b) there were inserted – "and

(c) the trustees or managers of the scheme have taken all reasonable steps to ensure that, where the member requires them to use the cash equivalent in one of the ways specified in section 91(2)(a) or (b) or, as the case may be, 91(3)(a) or (b) (ways of taking right to cash

(**3**) Section 64A was inserted by Article 33 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**4**) Section 67 is amended by Article 240 of the Pensions (Northern Ireland) Order 2005
(**5**) Section 52 is amended by paragraph 43 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 64 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and Part III (11) of Schedule 9 to the Child Support, Pensions and Social Security Act 2000 (c. 19)
(**6**) Section 69 is amended by Part I of Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999