STATUTORY RULES OF NORTHERN IRELAND

2005 No. 170

PENSIONS

The Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Miscellaneous Amendments) Regulations (Northern Ireland) 2005

Made - - - -	*25th March 2005*
Coming into operation	*6th April 2005*

The Department for Social Development, in exercise of the powers conferred by sections 8C, 15, 24, 24A, 109, 164(4) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 51(5), 122(2) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**) and Articles 37(1) and (3) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**3**), and now vested in it(**4**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART 1

INTRODUCTORY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

(**1**) 1993 c. 49; section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and modified by regulation 13A of S.R. 1996 No. 618 which was inserted by paragraph 10(6) of the Schedule to S.R. 1997 No. 160; section 15 was amended by Article 129 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649); section 24 was amended by Article 139 of, and paragraph 27 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, by paragraph 4 of Schedule 2, and Schedule 10, to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and by paragraph 3 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995; section 109 was amended by section 48 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and section 164(4) was substituted by Article 151 of the Pensions (Northern Ireland) Order 1995

(**2**) S.I. 1995/3213 (N.I. 22); Article 51(5) is amended by Article 255(6) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

(**3**) S.I. 1999/3147 (N.I. 11); Article 37(1) and (3) is amended by Article 257(2) and (5) of the Pensions (Northern Ireland) Order 2005

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

(2) In these Regulations –

"the 1995 Order" means the Pensions (Northern Ireland) Order 1995;

"the Discharge of Liability Regulations" means the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(**5**);

"the Disclosure of Information Regulations" means the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(**6**);

"the Indexation Regulations" means the Occupational Pension Schemes (Indexation) Regulations (Northern Ireland) 1997(**7**);

"the Pension Credit Benefit Regulations" means the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**8**);

"the Protected Rights Regulations" means the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**9**).

(3) The Interpretation Act (Northern Ireland) 1954(**10**) shall apply to these Regulations as it applies to an Act of the Assembly.

PART 2

AMENDMENTS RELATING TO INDEXATION

Modification of Article 51 of the 1995 Order

Removal of indexation: money purchase benefits provided under a hybrid scheme

2.—(1) This regulation applies to any pension under a hybrid scheme which becomes a pension in payment on or after 6th April 2005.

(2) No increase under Article 51 of the 1995 Order(**11**) (annual increase in rate of pension) is required to be made of so much of any pension within paragraph (1) as is money purchase benefit.

(3) In this regulation –

"hybrid scheme" means an occupational pension scheme –

(a) which is not a money purchase scheme, but

(b) where some of the benefits that may be provided are money purchase benefits;

"money purchase benefits" and "money purchase scheme" have the meanings given by section 176(1) of the Pension Schemes (Northern Ireland) 1993(**12**).

(**5**) S.R. 1997 No. 159; relevant amending regulations are S.R. 1999 No. 486
(**6**) S.R. 1997 No. 98; relevant amending regulations are S.R. 1999 No. 486
(**7**) S.R. 1997 No. 8
(**8**) S.R. 2000 No. 146, to which there are amendments not relevant to these Regulations
(**9**) S.R. 1997 No. 56; relevant amending regulations are S.R. 2002 No. 109
(**10**) 1954 c. 33 (N.I.)
(**11**) Article 51 was amended by section 47 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 40 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and is amended by Article 255 of the Pensions (Northern Ireland) Order 2005
(**12**) The definition of "money purchase scheme" was substituted by paragraph 13(a) of Schedule 4 to the Pensions (Northern Ireland) Order 1995

Indexation Regulations

Interpretation

3. In regulation 1(2) of the Indexation Regulations (interpretation) –

(a) before the definition of "appointed day" there shall be inserted the following definition –

""the Act" means the Pension Schemes (Northern Ireland) Act 1993;";

(b) after the definition of "pension scheme" there shall be added the following definition –

""section 5(2B) rights" means –

(a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a pension scheme contracted-out by virtue of section 5(2B) of the Act(**13**), so far as attributable to an earner's service in contracted-out employment on or after 6th April 1997 (including service of an earner who is not in employment at the time of the transfer or transfer payment);

(b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from –

(i) such rights as are referred to in paragraph (a) under another pension scheme contracted-out by virtue of section 5(2B) of the Act, or

(ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of employment on or after 6th April 1997.".

Indexation: treatment of transfers made before 6th April 2005 from pension schemes

4. In regulation 2 of the Indexation Regulations (indexation of occupational pensions derived from the acceptance of transfer payments from pension schemes) –

(a) for the heading there shall be substituted the following heading –

"Indexation of occupational pensions derived from the acceptance of transfers from pension schemes: transfers made before 6th April 2005";

(b) in paragraph (1) for "Subject to paragraph (2)" there shall be substituted "Subject to paragraphs (2) and (3)";

(c) after paragraph (2) there shall be added the following paragraph –

"(3) Paragraph (1) shall not apply in any case where the transfer credit referred to in that paragraph is allowed by reference to a transfer which is made on or after 6th April 2005.".

Indexation: treatment of transfers made on or after 6th April 2005 from pension schemes

5. After regulation 2 of the Indexation Regulations there shall be inserted the following regulation –

(**13**) Section 5(2B) was substituted by Article 133(3) of the Pensions (Northern Ieland) Order 1995 and amended by paragraph 38 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

"**Indexation of occupational pensions derived from the acceptance of transfers from pension schemes: transfers made on or after 6th April 2005**

2A.—(1) This regulation applies where –

(a) a person's accrued rights to a pension payable under an occupational pension scheme ("scheme A") to which Article 51 applies, or any part of them, derive from the allowance by the scheme of a transfer credit in respect of rights in any pension scheme ("scheme B") of which that person has previously been a member, and

(b) the transfer credit is allowed by reference to a transfer which is made on or after 6th April 2005.

(2) Article 51(2) and (3) shall apply to such part of the pension payable by scheme A as is attributable to any accrued rights deriving from the allowance of the transfer credit –

(a) only to the extent that those accrued rights are –

(i) section 5(2B) rights, or

(ii) rights (other than section 5(2B) rights) which are allowed by reference to rights in scheme B that were subject to the indexation requirement at the time of the transfer, and

(b) as if those accrued rights were attributable to pensionable service on or after the appointed day.".

Indexation: treatment of payments made before 6th April 2005 from insurance policies or annuity contracts

6. In regulation 3 of the Indexation Regulations (indexation of occupational pensions derived from the acceptance of payments from insurance policies or annuity contracts) –

(a) for the heading there shall be substituted the following heading –

"Indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made before 6th April 2005";

(b) the existing text shall be numbered paragraph (1);

(c) at the beginning of paragraph (1) as so numbered there shall be inserted "Subject to paragraph (2),";

(d) after paragraph (1) as so numbered there shall be added the following paragraph –

"(2) Paragraph (1) shall not apply in any case where the payment from the policy of insurance or annuity contract referred to in that paragraph is made on or after 6th April 2005.".

Indexation: treatment of payments made on or after 6th April 2005 from insurance policies or annuity contracts

7. After regulation 3 of the Indexation Regulations there shall be added the following regulation –

"**Indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made on or after 6th April 2005**

4.—(1) This regulation applies where –

(a) a person's accrued rights to a pension payable under an occupational pension scheme ("scheme A") to which Article 51 applies, or any part of them, derive from the acceptance by the scheme of a payment from a policy of insurance or

annuity contract in respect of rights in any pension scheme of which that person has previously been a member, and

(b) the payment was made on or after 6th April 2005.

(2) Article 51(2) and (3) shall apply to such part of the pension payable by scheme A as is attributable to any accrued rights deriving from the acceptance of the payment from the policy of insurance or annuity contract –

(a) only to the extent that those accrued rights are –

(i) section 5(2B) rights, or

(ii) rights (other than section 5(2B) rights) which are allowed by reference to rights specified in paragraph (3), and

(b) as if those accrued rights were attributable to pensionable service on or after the appointed day.

(3) The rights specified in this paragraph are rights to payment under the policy of insurance or annuity contract which –

(a) were subject to provision contained in (or endorsed on) the policy or contract requiring an increase in the annual rate of payment, and

(b) in any case where the policy or contract was entered into before 6th April 2005, would have been subject to such provision if the policy or contract had been entered into on or after that date.".

Protected Rights Regulations

Meaning of "specified pension or annuity"

8. In regulation 1(2) of the Protected Rights Regulations (interpretation), after the definition of "section 5(2B) rights" there shall be inserted the following definition –

""specified pension or annuity" means any pension or annuity which became a pension or annuity in payment before 6th April 2005.".

Indexation requirement limited to specified pensions or annuities

9. In regulation 4 of the Protected Rights Regulations(**14**) (conditions applying to pensions and annuities which give effect to protected rights) –

(a) in paragraph (1)(b) for head (i) there shall be substituted the following heads –

"(i) is necessary to establish what the initial rate and the method of payment of the pension or annuity are to be;

(ia) is necessary to establish that, throughout the lifetime of the member, the pension or annuity shall continue to be paid at a rate which is at least equal to (but may be more than) the initial rate and which, in the case of a specified pension or annuity falling within paragraph (3) or (6) or within Article 51 or 158(**15**), is the rate determined in accordance with that paragraph or Article;";

(b) in paragraph (3) after "In the case of" there shall be inserted "a specified pension or annuity which gives effect to";

(c) in paragraph (6) after "In the case of" there shall be inserted "a specified pension or annuity which gives effect to".

(**14**) Regulation 4 was amended by regulation 5(2) of S.R. 2002 No. 109
(**15**) Article 158 is amended by Article 256(2) of the Pensions (Northern Ireland) Order 2005