STATUTORY RULES OF NORTHERN IRELAND

2005 No. 166 (C. 12)

PENSIONS

The Pensions (2005 Order) (Commencement No. 2 and Transitional Provisions) Order (Northern Ireland) 2005

Made - - - - 24th March 2005

The Department for Social Development, in exercise of the powers conferred on it by Articles 1(2) and (6) 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 Order:

Citation and interpretation

1.—(1) This Order may be cited as the Pensions (2005 Order) (Commencement No. 2 and Transitional Provisions) Order (Northern Ireland) 2005.

(2) In this Order –

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

"the Authority" means the Occupational Pensions Regulatory Authority.

Appointed days

2.—(1) The day appointed for the coming into operation of Article 7 of the Order (functions exercisable by the Determinations Panel), in so far as not already brought into operation, and of Schedule 2 to the Order (the reserved regulatory functions), is 6th April 2005.

(2) The day appointed for the coming into operation of Article 249 of the Order (debt due from the employer in the case of multi-employer schemes) is 25th March 2005.

(3) The day appointed for the coming into operation of Articles 255 and 257 of the Order (annual increase in rate of certain occupational and personal pensions), for the purpose only of authorising the making of regulations, is 25th March 2005.

(4) The day appointed for the coming into operation of paragraph 2 of Schedule 1 to the Order (Pensions Regulator – delegation) and paragraph 60(b) of Schedule 10 to the Order (application of further provisions to money purchase schemes), for the purpose only of authorising the making of regulations, is 25th March 2005 and for all other purposes is 6th April 2005.

(5) The day appointed for the coming into operation of Schedule 11 to the Order (repeals) in so far as it relates to the repeal of paragraph 1(2)(a) of Schedule 1 to the Welfare Reform and Pensions

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

(Northern Ireland) Order 1999(**2**) and Article 291 of the Order, in so far as it relates to that provision, is 1st April 2005.

(6) The day appointed for the coming into operation of the provisions set out in Schedule 1 is 6th April 2005.

Transitional modification of Article 7 of the Order

3. Article 7 of the Order (functions exercisable by the Determinations Panel) shall, for the purposes of Article 4(6)(b) and (c) of this Order, be modified so that it shall have effect as if, after paragraph (4), there were inserted the following paragraph –

"(4A) For the purposes of this Part, a function conferred on the Occupational Pensions Regulatory Authority ("OPRA") by or by virtue of the 1995 Order relating to –

(a) the review, under Article 94 of the 1995 Order (review of decisions), of a determination made by OPRA before 6th April 2005 ("the appointed day") of a question falling within OPRA's functions, or

(b) the reference for a decision by the court, under Article 95 of the 1995 Order (references and appeals from the Authority), of any matter arising for determination by OPRA before the appointed day or of any matter arising before that day on –

(i) an application for a review of a determination, or

(ii) a review entered upon by OPRA without an application,

shall, where that function falls to be exercised by or in relation to the Regulator on or after the appointed day, also be a reserved regulatory function.".

Transitional provisions

4.—(1) In this Article "function of the Authority" means a function of the Authority which is transferred to the Regulator under Article 6(1) of the Order (transfer of OPRA's functions to the Regulator) on 6th April 2005 ("the appointed day").

(2) Anything done (or having effect as if done) by or in relation to the Authority before the appointed day pursuant to, or for the purposes of, any function of the Authority shall, so far as is required for continuing its effect, have effect as if done by or in relation to the Regulator pursuant to, or for the purposes of, that function.

(3) Subject to paragraph (5), anything which, immediately before the appointed day, is in the process of being done by or in relation to the Authority pursuant to, or for the purposes of, any function of the Authority shall be continued by or in relation to the Regulator pursuant to, or for the purposes of, that function.

(4) Any reference to the Authority in any document constituting or relating to anything to which paragraph (2) or (3) applies in relation to any function of the Authority shall, so far as is required for giving effect to those provisions, be construed as a reference to the Regulator.

(5) Where any function of the Authority described in paragraph (6) would fall to be exercised on or after the appointed day, or fell to be exercised before the appointed day but has not been exercised, that function shall be exercised by the Regulator as if it were a function of the Regulator conferred on it under or by virtue of the Order.

(6) The functions of the Authority to which paragraph (5) refers are –

(a) the investigation of any matter falling within the Authority's functions where the matter under investigation occurred, or first occurred, before the appointed day,

(**2**) S.I. 1999/3147 (N.I. 11)

(b) the review, under Article 94 of the 1995 Order, of a determination made by the Authority before the appointed day of a question falling within the Authority's functions, and

(c) the reference for a decision by the court, under Article 95 of the 1995 Order, of any matter arising for determination by the Authority before the appointed day or of any matter arising before that day on an application for a review of a determination or on a review entered upon by the Authority without an application.

(7) Schedule 2, which makes further transitional provision, has effect.

Savings

5. Subject to the transitional provisions in Schedule 2, the statutory provisions that are specified in the table in Schedule 3 shall, so far as is required for the purpose of giving effect to Article 4(3), continue to have effect as they were in operation immediately before their amendment by any of the provisions of Part II of, and Schedule 10 to, the Order.

Sealed with the Official Seal of the Department for Social Development on 24th March 2005.

John O'Neill
A senior officer of the
Department for Social Development

SCHEDULE 1

Article 2(6)

PROVISIONS OF THE ORDER COMING INTO OPERATION ON 6th APRIL 2005

Provisions of the Order	*Subject matter*
Schedule 10, paragraphs 4, 29 to 38, 40(b), 41, 53, 54, 60 in so far as not already brought into operation, 61 and 62, 67, 71(1) and (3) and Article 290(1) in so far as it relates to those paragraphs	Consequential amendments

Schedule 11, in so far as it relates to specified repeals in relation to –
the Pension Schemes (Northern Ireland) Act 1993, sections 2, 95(6), 97J(3), 125, 164A and 176 except the definition of "voluntary contributions requirements" in subsection (1);
the Pensions (Northern Ireland) Order 1995, Articles 5, 7(1) and (4), 10(5)(a), 11(3), 13, 22(1)(b), 25(2), 26A to 26C, 28(4), 29, 30, 30A, 31, 48, 72A(9), 72C(2), and 94 to 112 and paragraph 13 of Schedule 1;
the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, paragraphs 81 and 82 of Schedule 1;
the Welfare Reform and Pensions (Northern Ireland) Order 1999, Articles 4(5), 6, 7 and 35(1), and paragraphs 1(2)(b)(i) and (xi) to (xiii), 2 and 3 of Schedule 1, paragraph 7 of Schedule 2 and paragraphs 44 and 49 of Schedule 9;
the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, section 43 and paragraph 8 of Schedule 5;
and Article 291 in so far as it relates to those provisions.
	Repeals

SCHEDULE 2

Article 4(7)

FURTHER TRANSITIONAL PROVISIONS

Transitional provisions relating to section 170 of the Pension Schemes Act

1. Section 170 of the Pension Schemes Act(**3**) (levies towards certain expenditure) shall be modified so that it shall have effect as if for "be recoverable by the Registrar" in subsection (8) there were substituted "be recoverable by the Regulatory Authority".

(**3**) Section 170 was substituted by Article 161 of the Pensions (Northern Ireland) Order 1995

Transitional provisions relating to Article 94 of the 1995 Order

2. Article 94 of the 1995 Order (review of decisions) shall be modified so that it shall have effect as if –

(a) for "any determination of theirs" in paragraph (2) there were substituted "any determination of the Occupational Pensions Regulatory Authority", and

(b) for "any other such determination of theirs" in paragraph (3)(a) there were substituted "any other such determination of the Occupational Pensions Regulatory Authority".

Transitional provisions relating to Article 95 of the 1995 Order

3. Article 95 of the 1995 Order (references and appeals from the Authority) shall be modified so that it shall have effect as if for "the Authority" in each place where it appears in paragraphs (1) to (4) and (7) there were substituted "the Determinations Panel of the Pensions Regulator".

Transitional provisions relating to Article 101 of the 1995 Order

4. Article 101 of the 1995 Order (publishing reports) shall be modified so that it shall have effect as if for "any investigation under this Part" there were substituted "any investigation by the Occupational Pensions Regulatory Authority under this Part".

SCHEDULE 3

Article 5

PROVISIONS REFERRED TO IN ARTICLE 5 WHICH ARE TO CONTINUE TO HAVE EFFECT AS THEY WERE IN OPERATION IMMEDIATELY BEFORE THEIR AMENDMENT OR REPEAL BY THE ORDER.

Statutory Provisions	*Subject matter*
The Pension Schemes (Northern Ireland) Act 1993	
Section 170	Levies towards certain expenditure
The Pensions (Northern Ireland) Order 1995	
Article 3	Prohibition orders
Article 4	Suspension orders
Article 8	Appointment of trustees: consequences
Article 11	Powers to wind up schemes
Article 72B	Directions by Authority for facilitating wind up
Article 94	Review of decisions
Article 95	References and appeals from the Authority
Article 96	Provision of information: the Authority
Article 97	Inspection of premises: the Authority
Article 98	Warrants
Article 99	Information and inspection: penalties