STATUTORY RULES OF NORTHERN IRELAND

2005 No. 149

PENSIONS

The Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005

Made - - - - *22nd March 2005*

Coming into operation *6th April 2005*

The Department for Social Development, in exercise of the powers conferred on it by Articles 2(5)(a) and 287(2) and (3) of, and paragraphs 4(4), 6(4), 9(4), 13(4), 16(3)(b), 18(4), 20(4) and (7), 23, 24(1), (2) and (6), 25(1), 26(9) and (10), 28(6) and (7), 31(2)(a) and (3) and 33 of Schedule 6 to, the Pensions (Northern Ireland) Order 2005(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART 1

PRELIMINARY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

(2) In these Regulations –

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

"early retirement age" means the age specified in the scheme rules as being the date on which a member may, subject to actuarial adjustment, become entitled to payment of a pension prior to attaining normal pension age;

"employment" means any trade, business, profession, office or vocation;

"pensionable service" has the meaning given by section 66(2) of the Pension Schemes Act (interpretation (Part IV));

"qualifying course" means a full-time educational or vocational course at a recognised educational establishment where in pursuit of that course, the time spent receiving instruction or tuition, undertaking supervised study, examination or practical work or taking part in any

(**1**) S.I.2005/255 (N.I. 1); the Pensions (Northern Ireland) Order 2005 is modified in its application to partially guaranteed schemes, hybrid schemes and multi-employer schemes by, respectively, S.R. 2005 Nos. 55, 84 and 91

exercise, experiment or project for which provision is made in the curriculum of the course, exceeds 12 hours per week in normal term time, and shall include any gaps between the ending of one course and the commencement of another, where the person is enrolled on and commences the latter course;

"scheme" in the case of a section or a segregated part of a scheme which for the purposes of Part III of the Order, is an eligible scheme, includes that section or segregated part of a scheme;

"surviving dependant" means –

(a) a child of the family who is financially dependent on the member, and who is aged less than 18, or

(b) a child of the family who is financially dependent on the member, who is aged less than 25 and who is –

(i) either attending a qualifying course, or

(ii) incapable of engaging in full-time paid employment due to a condition that falls within the definition of a disability under the Disability Discrimination Act 1995(**2**);

"transferor" has the meaning given by Article 26(8) of the 1999 Order (creation of pension credits and debits);

"relevant partner" means a person of either sex who was not married to the member and who was living with the member as if that person and the member were husband and wife; and, for the purposes of these Regulations, two adults of the same sex are to be regarded as living together as husband and wife if, but only if, they would be regarded as living together as husband and wife were they instead two adults of opposite sex.

(3) Subject to paragraph (4), in these Regulations, "employer", in relation to an occupational pension scheme which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme relates immediately before the time at which the scheme ceased to have any active members in relation to it.

(4) In these Regulations, "employer", in relation to a multi-employer scheme, or a section of a multi-employer scheme, includes –

(a) in the case of a scheme which has no active members, every person who was the employer of persons in the description of employment to which the scheme, or section, relates immediately before the time at which the scheme, or section, ceased to have any active members in relation to it unless, after that time –

(i) a debt under Article 75 of the 1995 Order(**3**) (deficiencies in the assets) becomes due from that person, to the scheme, or section, and

(ii) either –

(aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section, or

(bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers, and

(b) in any other case, any person who has ceased to be the employer of persons in the description of employment to which the scheme, or section, relates unless –

(**2**) 1995 c. 50
(**3**) Article 75 is amended by Article 248 of the Pensions (Northern Ireland) Order 2005

(i) at the time when he so ceased, the scheme, or section, was not being wound up and continued to have active members in relation to it, and

(ii) a debt under Article 75 of the 1995 Order became due at that time from that person to the scheme, or section, and either –

(aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section, or

(bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers.

(5) In these Regulations, any reference to a numbered Article, or Schedule, is a reference to the Article of, or Schedule to, the Order bearing that number.

PART 2

EARLY PAYMENT OF COMPENSATION

Circumstances where a person shall be entitled to early payment of compensation

2.—(1) The conditions subject to which a person may become entitled to –

(a) periodic compensation under paragraph 11 or 15, or

(b) lump sum compensation under paragraph 14 or 19,

of Schedule 6 before he attains normal pension age are those prescribed in the following paragraphs of this regulation.

(2) Those conditions are –

(a) that the person has given notice to the Board, in accordance with paragraph (3), that he wishes to receive that compensation before he attains normal pension age, and

(b) he has attained the age of 50 on the date on which the compensation is to become payable early.

(3) The notice referred to in paragraph (2)(a) –

(a) must include –

(i) the person's name, address, date of birth and national insurance number;

(ii) the name and address of the employer to which the scheme for which the Board has assumed responsibility relates ("the relevant scheme"); and

(iii) the date on which the person would like the compensation to become payable early ("the requested early payment date");

(b) must not be given before the date on which the Board assumes responsibility for the relevant scheme, and

(c) subject to paragraph (4), must be given at least six months before the requested early payment date.

(4) The Board may waive the requirement in paragraph (3)(c) if, in its opinion, compliance with that requirement would cause hardship to the person who would like to receive the payment of compensation early.

(5) This regulation does not apply to any case where the compensation is payable under paragraph 15 or 19 of Schedule 6 by virtue of paragraph 21 (pension credit members who have not attained normal benefit age at assessment date) of that Schedule.

PART 3

BENEFITS FOR SURVIVORS

Circumstances where a widow or widower is not entitled to periodic compensation

3. A widow or widower shall not be entitled to periodic compensation under paragraph 4 (pensions in payment at assessment date), 6 (pension benefits postponed at assessment date), 9 (active members over normal pension age at assessment date), 13 (active members who have not attained normal pension age at assessment date) or 18 (deferred members who have not attained normal pension age at assessment date) of Schedule 6 where there is no provision to pay a survivor's pension under the admissible rules of the scheme.

Compensation for surviving dependants

4.—(1) A person shall be entitled to periodic compensation under paragraph 23 of Schedule 6 (compensation in form of dependants' benefits) in the circumstances prescribed in this regulation.

(2) In the case of a relevant partner, the circumstances are where there is provision to pay a survivor's pension to an unmarried partner of the member under the admissible rules of the scheme (whether discretionary or otherwise), and –

(a) the member –

(i) has provided the Board with a signed written notice informing the Board that the person is a relevant partner, and

(ii) the relevant partner has demonstrated to the satisfaction of the Board that he was co-habiting with the member at the date of the member's death, or

(b) where the member has not provided the Board with a signed notice in accordance with paragraph (2)(a)(i), the relevant partner provides evidence to the satisfaction of the Board that –

(i) he was financially dependent on, or interdependent on the member, and

(ii) he was co-habiting with the member,

at the date of the member's death.

(3) In the case of a surviving dependant the circumstances are where the surviving dependant provides –

(a) in the case of a natural child or unborn child of the member, a birth certificate demonstrating that he was the natural child of the member,

(b) in the case of an adopted child of the member, the adoption certificate demonstrating that he was the adopted child of the member, or

(c) in the case of any other child who is a dependant of the member at the date of the member's death, evidence demonstrating to the satisfaction of the Board that he was a dependent child of the member at the date of the member's death,

to the Board or, where evidence is provided during the assessment period, to the trustees or managers of the eligible scheme.

Amount and duration of periodic compensation in the case of relevant partners

5. Subject to regulation 8, where periodic compensation is payable to a relevant partner the amount and duration of periodic compensation shall be –

(a) where a pension was in payment to the member on the assessment date, an amount calculated in accordance with paragraph 4(2) and (3) of Schedule 6 (pensions in payment at assessment date);

(b) where a pension was not in payment to the member at the assessment date because the member had postponed payment of the pension, an amount calculated in accordance with paragraph 6(2) and (3) of Schedule 6 (pension benefits postponed at assessment date);

(c) where a pension was not in payment to the member at the assessment date because the member was an active member and over the normal pension age, an amount calculated in accordance with paragraph 9(2) and (3) of Schedule 6 (active members over normal pension age at assessment date);

(d) where a pension was not in payment to the member at the assessment date because the member was an active member and under the normal pension age, an amount calculated in accordance with paragraph 13(2) and (3) of Schedule 6 (active members who have not attained normal pension age at assessment date);

(e) where a pension was not in payment to the member at the assessment date because the member was a deferred member and under the normal pension age, an amount calculated in accordance with paragraph 18(2) and (3) of Schedule 6 (deferred members who have not attained normal pension age at assessment date).

Amount of periodic compensation that can be paid in the case of surviving dependants

6.—(1) Subject to regulation 8, and to paragraphs (2) and (3), where periodic compensation is payable to a surviving dependant the amount of periodic compensation shall be –

(a) where a pension was in payment to the member on the assessment date, an amount calculated in accordance with paragraph 3 of Schedule 6 (pensions in payment at assessment date);

(b) where a pension was not in payment to the member at the assessment date because the member had postponed payment of the pension, an amount calculated in accordance with paragraph 5 of Schedule 6 (pension benefits postponed at assessment date);

(c) where a pension was not in payment to the member at the assessment date because the member was an active member, and over the normal pension age, an amount calculated in accordance with paragraph 8 of Schedule 6 (active members over normal pension age at assessment date);

(d) where a pension was not in payment to the member at the assessment date because the member was an active member and under the normal pension age, but died after attaining the normal pension age, an amount calculated in accordance with paragraphs 11 and 13(3)(a) of Schedule 6 (active members who have not attained normal pension age at assessment date);

(e) where a pension was not in payment to the member at the assessment date because the member was an active member and under the normal pension age, but died before attaining the normal pension age, an amount calculated in accordance with paragraphs 11 and 13(3)(b) of Schedule 6 (active members who have not attained normal pension age at assessment date);

(f) where a pension was not in payment to the member at the assessment date because the member was a deferred member, and under the normal pension age, an amount calculated