STATUTORY RULES OF NORTHERN IRELAND

# 2005 No. 110

# PENSIONS

## The Stakeholder Pension Schemes (Amendment) Regulations (Northern Ireland) 2005

*Made - - - -* *15th March 2005*

*Coming into operation* *6th April 2005*

The Department for Social Development, in exercise of the powers conferred by Articles 3(1)(b) and (5) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**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 Stakeholder Pension Schemes (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

### Amendment of the Stakeholder Pension Schemes Regulations

**2.**—(1) The Stakeholder Pension Schemes Regulations (Northern Ireland) 2000(**3**) shall be amended in accordance with paragraphs (2) to (12).

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

(a) in paragraph (3) –

(i) for the definition of "the Authority" there shall be substituted the following definition –

""the Authority" means the Pensions Regulator;";

(ii) for the definition of "dilution levy"(**4**) there shall be substituted the following definitions –

""dilution levy" has the meaning given by the FSA Handbook;

"the FSA Handbook" means the handbook published by the Financial Services Authority under section 153 of the 2000 Act(**5**);";

(**1**) S.I. 1999/3147 (N.I. 11)
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) S.R. 2000 No. 262; relevant amending regulations are S.R. 2001 No. 119, S.R. 2002 Nos. 216 and 268 and S.R. 2003 No. 256
(**4**) The definition of "dilution levy" was inserted by regulation 2(3)(a) of S.R. 2001 No. 119
(**5**) The definition of "the 2000 Act" was inserted by regulation 18(2)(a)(i) of S.R. 2003 No. 256

(iii) after the definition of "insurer"(**6**) there shall be inserted the following definition –

""lifestyling" has the meaning given by regulation 10A(5);";

(iv) the definition of "investment trust" shall be omitted, and

(v) in the definition of "securities"(**7**) the words ", but does not include shares in an investment trust" shall be omitted;

(b) paragraph (7A)(**8**) shall be omitted, and

(c) for paragraph (8) there shall be substituted the following paragraphs –

"(8) Where these Regulations provide for the trustees or manager of a scheme to notify or give notice to a member of the scheme (including notice to be given in writing), or to provide, furnish or make available to a member any statement or declaration, the Regulations shall be taken to include provision for sending the notification, notice, statement or declaration electronically to an electronic address notified by the member for that purpose, and references to sending it by whatever means to a member's last known address shall be taken to include sending it electronically to his last known electronic address.

(8A) In paragraph (8) "member" includes "beneficiary".".

(3) In regulation 3(4) (requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes) for "and 14" there shall be substituted ", 14 and 14B".

(4) In regulation 6 (procedure for discharging rights on winding-up) –

(a) in paragraph (5) –

(i) for "paragraph (4)(a) or (b)" there shall be substituted "paragraph (4)", and

(ii) in sub-paragraph (a) at the beginning there shall be inserted "where paragraph (4)(a) or (b) applies,", and

(b) in paragraph (6) –

(i) sub-paragraph (b) shall be omitted, and

(ii) in sub-paragraph (c) –

(aa) for "paragraph (4)(a) or (b)" there shall be substituted "paragraph (4)", and

(bb) in head (i) for "in the terms set out in" there shall be substituted "in accordance with".

(5) In regulation 8(4) and (5)(**9**) (requirement applying to all stakeholder pension schemes as regards investments) for "have scheme assets that are represented by" there shall be substituted "directly hold, for the purposes of the scheme,".

(6) After regulation 10 (requirement for manager of schemes not established under a trust to have regard to certain matters, and to take advice, relating to investment) there shall be inserted the following regulations –

"**Requirement as regards the investment strategy for members nearing retirement**

**10A.**—(1) Subject to regulation 10B, for the purposes of Article 3(1)(b) it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(**6**) The definition of "insurer" was substituted by regulation 18(2)(a)(ii) of S.R. 2003 No. 256
(**7**) The definition of "securities" was substituted by regulation 18(2)(a)(iii) of S.R. 2003 No. 256
(**8**) Paragraph (7A) was inserted as paragraph (8) by regulation 2(4) of S.R. 2001 No. 119 and was renumbered as paragraph (7A) by regulation 2(2) of S.R. 2002 No. 216
(**9**) Regulation 8(4) and (5) was amended by regulation 18(3) of S.R. 2003 No. 256

(2) Except in so far as paragraph (3) and regulation 10C provide otherwise, the trustees or manager of a scheme shall make the rights of a member under the scheme subject to lifestyling if the member has made no choice as regards any investment made under the scheme on his behalf.

(3) Paragraph (2) does not apply in relation to the rights of a person who became a member of the scheme before 6th April 2005 unless he requests that his rights should be made subject to lifestyling, in response to the notification provided for in regulation 10D(3).

(4) Where the amount representing the value of a member's rights is divided into different tranches, in respect of which different retirement dates are specified, paragraph (2) applies separately in relation to the member's rights regarding each tranche.

(5) In these Regulations, "lifestyling" means the process, applied from the relevant date and continuing until the member's retirement date, by which an investment strategy is adopted by the trustees or manager which aims progressively to reduce the potential for significant variation in the value of the member's rights caused by market conditions from time to time.

(6) In paragraph (5), "the relevant date" means a date chosen by the trustees or manager, which is at least 5 years before the member's retirement date, or which is –

(a) in the case of a member who joins the scheme less than 5 years before his retirement date, as soon as is reasonably practicable after he becomes a member, and

(b) in the case of a member whose retirement date is varied so as to become a date less than 5 years before the date of the variation, as soon as is reasonably practicable after the date of the variation.

**Exclusion of regulation 10A in relation to a scheme**

**10B.**—(1) If, before 6th April 2005, the trustees or manager of a scheme resolved that no new member should be admitted to the scheme on or after that date –

(a) regulation 10A shall not apply to the scheme, and

(b) it shall be a condition of the scheme being a stakeholder pension scheme that no new member is admitted.

(2) Sub-paragraphs (a) and (b) of paragraph (1) shall cease to apply to a scheme if a resolution of the kind specified in that paragraph is revoked by a further resolution of the trustees or manager of the scheme on or after 6th April 2005.

**Transitional provisions relating to regulation 10A**

**10C.** If, before 6th April 2005, the Occupational Pensions Regulatory Authority received a letter from the trustees or manager of a scheme stating the intention –

(a) to establish, by 6th April 2006, arrangements to make the rights of any person who –

(i) becomes a member of the scheme on or after 6th April 2005 and before 6th April 2006, and

(ii) has made no choice as regards any investment made under the scheme on his behalf,

subject to lifestyling, and

(b) to establish, by 6th October 2007, arrangements to make the rights of any person who –

(i) became a member of the scheme before 6th April 2005, and

(ii) has requested that his rights should be made subject to lifestyling, in response to the notification provided for in regulation 10D(3),

subject to lifestyling,

regulation 10A(2) does not apply in relation to the rights of a person of the kind described in paragraph (a) until 6th April 2006, or in relation to the rights of a person of the kind described in paragraph (b) until 6th October 2007.

**Notification requirements connected with regulations 10A and 10B**

**10D.**—(1) For the purposes of Article 3(1)(b) it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) The trustees or manager of the scheme shall notify the Authority of any resolution of the kind specified in regulation 10B(1) by 4th July 2005, and of any resolution of the kind specified in regulation 10B(2) within 3 months after the date of the resolution.

(3) If regulation 10A applies to the scheme, the trustees or manager shall notify every member of the scheme –

(a) who became a member before 6th April 2005;

(b) who has made no choice as regards any investment made under the scheme on his behalf, and

(c) whose rights are not already subject to lifestyling,

in accordance with paragraph (4).

(4) The notification provided for in paragraph (3) must –

(a) inform the member –

(i) of the purpose of lifestyling, and the manner in which it is provided for under the scheme;

(ii) of the potential advantages and disadvantages to the member of applying lifestyling to his rights, and

(iii) that his rights will be made subject to lifestyling if he so requests, and

(b) be given before 6th April 2007, or, in a case where regulation 10A applies to the scheme by virtue of a resolution under regulation 10B(2), within 2 years of the date of that resolution.

(5) If, by virtue of a resolution of the kind specified in regulation 10B(1), regulation 10A does not apply to the scheme, the trustees or manager shall notify every member of the scheme who has made no choice as regards any investment made under the scheme on his behalf in accordance with paragraph (6).

(6) The notification provided for in paragraph (5) must –

(a) inform the member –

(i) of the purpose of lifestyling, and the fact that it is not provided for under the scheme, and

(ii) that, if he so requests, his rights under the scheme can be transferred to another stakeholder pension scheme of his choice under which lifestyling is provided for, and

(b) be given before 6th April 2007.

(7) At least 4 months, but no more than 2 years, before applying lifestyling to the rights of a member whose rights are subject to lifestyling (or, where this is not reasonably practicable, as soon before applying lifestyling as is reasonably practicable) the trustees or manager shall notify the member of the fact that his rights are subject to lifestyling and of the date from which lifestyling will be applied.

**Changes notified by members**

**10E.**—(1) Where –

(a) the rights of a member of a scheme have been made subject to lifestyling;

(b) the application of lifestyling to those rights has not begun, and

(c) the member either –

(i) makes a choice as regards any investment made under the scheme on his behalf, or

(ii) notifies the trustees or manager of the scheme that he does not wish his rights to be subject to lifestyling,

the rights of the member shall cease to be subject to lifestyling.

(2) Where –

(a) the application of lifestyling to the rights of a member of a scheme has begun, and

(b) the member notifies the trustees or manager of the scheme that he wishes to specify a different retirement date,

the trustees or manager may opt to continue the application of lifestyling as if the member's retirement date were unchanged.".

(7) In regulation 12(5)(a)(i) and (d)(i)(**10**) (requirement for declaration by trustees or manager) for "and 14" there shall be substituted ", 14 and 14B".

(8) In regulation 13 (expenses, commission etc. – principles) –

(a) in paragraph (1) after "regulation 14" there shall be inserted "or 14B";

(b) in paragraph (2)(b) for the words from "their obligations under" to the end there shall be substituted "an order of the court", and

(c) in paragraph (3) for "regulation 14" there shall be substituted "regulations 14 and 14B".

(9) For regulation 14 (charges, etc. – permitted reductions in members' rights) there shall be substituted the following regulations –

"**Charges etc. – permitted reductions in members' rights**

**14.**—(1) The value of a member's rights under the scheme may be reduced in the circumstances, and to the extent, set out in paragraphs (2) to (5).

(2) To the extent that a member's rights are represented by a fund allocated to him to the exclusion of other members, the value of those rights may be reduced by the making of deductions from that fund which, when added to the amount of any indirect charges attributable to the member's rights, are no greater than, at the choice of the trustees or manager –

(a) the relevant percentage of its value for each day on which it is held for the purposes of the scheme, or

(b) the proportion attributable to that fund of the relevant percentage of the value of all members' funds held for the purposes of the scheme for each day on which the fund is so held.

(3) To the extent that a member's rights are represented by a share of funds held for the purposes of the scheme, the amount of that share not being determined by reference to a discretion exercisable by any person, the value of those rights may be reduced by the making of deductions from that share which, when added to the amount of any indirect charges attributable to the member's share, are no greater than, at the choice of the trustees or manager –

(**10**) Regulation 12 was substituted by regulation 4 of S.R. 2002 No. 268