STATUTORY RULES OF NORTHERN IRELAND

2005 No. 48 (C. 5)

PENSIONS

The Pensions (2005 Order) (Commencement No. 1 and Consequential and Transitional Provisions) Order (Northern Ireland) 2005

Made - - - - 24th February 2005

The Department for Social Development, in exercise of the powers conferred on it by Articles 1(2) and (6)(a) 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, interpretation and appointed days

Citation and interpretation

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

(2) In this Order –

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

"the Deficiency on Winding Up Regulations" means the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996(**2**);

"the Winding Up Regulations" means the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**3**).

Appointed days

2.—(1) The day appointed for the coming into operation of the provisions of the Order specified in Part 1 of the Schedule is 25th February 2005.

(2) The day appointed for the coming into operation of the provisions of the Order specified in Part 2 of the Schedule –

(a) for the purpose only of authorising the making of regulations or orders, as the case may be, is 25th February 2005, and

(**1**) S.I.2005/255 (N.I. 1)
(**2**) S.R. 1996 No. 585; relevant amending regulations are S.R. 1997 Nos. 160 and 544
(**3**) S.R. 1996 No. 621; relevant amending regulations are S.R. 1997 No. 160

(b) for all other purposes, is 8th March 2005.

(3) The day appointed for the coming into operation of the provisions of the Order specified in Part 3 of the Schedule –

(a) for the purpose only of authorising the making of regulations, is 25th February 2005, and

(b) for all other purposes, is 1st April 2005.

(4) Subject to paragraphs (8) and (10), the day appointed for the coming into operation of the provisions of the Order specified in Part 4 of the Schedule –

(a) for the purpose only of authorising the making of regulations, orders or rules, as the case may be, is 25th February 2005, and

(b) for all other purposes, is 6th April 2005.

(5) The day appointed for the coming into operation of the provisions of the Order specified in Part 5 of the Schedule is 8th March 2005.

(6) The day appointed for the coming into operation of the provisions of the Order specified in Part 6 of the Schedule is 1st April 2005.

(7) Subject to paragraph (12), the day appointed for the coming into operation of the provisions of the Order specified in Part 7 of the Schedule is 6th April 2005.

(8) Paragraph (4) does not apply as respects Article 247 of the Order, so far as it affects Articles 73 and 74 of the 1995 Order as they apply immediately before 6th April 2005 to any scheme which –

(a) was regarded at that time by virtue of regulation 2 of the Winding Up Regulations as having begun to be wound up for the purposes of those Regulations, or

(b) in accordance with Article 121(4) to (8)(**4**) of the 1995 Order began to wind up before that date.

(9) In paragraph (8) the reference to a scheme includes a reference to any section of a scheme to which Articles 73 and 74 of the 1995 Order apply as if it were a scheme by virtue of regulation 12(**5**) of the Winding Up Regulations.

(10) Paragraph (4) does not apply as respects Article 248 of the Order, so far as it affects Article 75 of the 1995 Order as it applies immediately before 6th April 2005 to –

(a) any scheme other than a money purchase scheme in the case of which a debt to the trustees or managers of the scheme has been treated as arising under Article 75(1) of the 1995 Order before that date;

(b) any scheme regarded at that time by virtue of regulation 2(**6**) of the Deficiency on Winding Up Regulations as having begun to be wound up for the purposes of those Regulations, or

(c) any scheme which in accordance with Article 121(4) to (8) of the 1995 Order began to wind up before that date.

(11) In paragraph (10) the reference to a scheme includes a reference to any section of a scheme to which Article 75 of the 1995 Order applies as if it were a scheme by virtue of regulation 4(**7**) or 8 of the Deficiency on Winding Up Regulations.

(12) Paragraph (7) does not apply as respects Article 242 of the Order, so far as it affects any period of paternity leave or adoption leave which began before 6th April 2005.

(**4**) Article 121(4) to (8) was inserted by section 45(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)
(**5**) Regulation 12 was amended by paragraph 12 of the Schedule to S.R. 1997 No. 160
(**6**) Regulation 2 was amended by paragraph 9(2) of the Schedule to S.R. 1997 No. 160 and regulation 4 of S.R. 1997 No. 544
(**7**) Regulation 4 was amended by paragraph 9(3) of the Schedule to S.R. 1997 No. 160

Consequential amendments, transitional modifications and adaptations

Consequential amendment of the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations

3.—(1) The Occupational Pension Schemes (Pensions Compensation Provisions) Regulations (Northern Ireland) 1997(**8**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 5(**9**) (amount of compensation) –

(a) in paragraph (2) for the words from "The amount" to "Article 81(3)(a) and (b)" there shall be substituted "The amount or, as the case may be, the aggregate, shall not exceed the aggregate specified in Article 81(3)(**10**)";

(b) paragraph (5) shall be omitted;

(c) in paragraph (6) for "Article 81(3)(a)" there shall be substituted "Article 81(3)(b)".

(3) Regulations 3A(**11**) (protected liabilities – prescribed class of members), 6(5)(d)(**12**) (payments made in anticipation not to exceed the amount of the protected liabilities), 7(**13**) (mixed benefit schemes) and 10 (modifications for money purchase schemes) shall be omitted.

Transitional modification

4. Where –

(a) an application for compensation is made before 25th February 2005 under Article 80 of the 1995 Order (applications for payments), and

(b) the Pensions Compensation Board has not made a payment by that date under Article 81 of the 1995 Order (amount of compensation),

Article 81 of the 1995 Order shall have effect for the purposes of making that payment as if the amendments made by Article 254(4) of the Order and the amendments made by Article 3(2) were in operation at the time of the application.

Transitional provisions in relation to the Pensions Compensation Board

5.—(1) For the purposes of the provision of information by the Pensions Ombudsman to the Pensions Compensation Board, section 145(6)(**14**) of the Pension Schemes Act shall have effect until 1st September 2005 as if there were inserted after the end of paragraph (ba) (as substituted by paragraph 21 of Schedule 10 to the Order) –

"(bb) the Pensions Compensation Board,".

(2) The Table in section 154A(1)(**15**) of the Pension Schemes Act shall have effect until 1st September 2005 as if the entry relating to the Pensions Compensation Board (prior to its substitution by paragraph 21 of Schedule 10 to the Order) remained in place.

(**8**) S.R. 1997 No. 141, as amended by S.R. 1998 No. 233, S.R. 2001 No. 138 and S.R. 2003 No. 256

(**9**) Regulation 5 was amended by regulation 2(3) of S.R. 2001 No. 138

(**10**) Article 81 was amended by Article 16(3) to (6) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and is amended by Article 254(4) of the Pensions (Northern Ireland) Order 2005

(**11**) Regulation 3A was inserted by regulation 2(2) of S.R. 2001 No. 138

(**12**) Regulation 6(5)(d) was substituted by regulation 2(4) of S.R. 2001 No. 138

(**13**) Regulation 10 was amended by regulation 2(5) of S.R. 2001 No. 138

(**14**) Section 149(6) was inserted by Article 155(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 70(2) of Schedule 5 to the Bank of England Act 1998 (c. 11) and Article 135 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649)

(**15**) Section 154A was inserted by paragraph 9 of Schedule 4 to the Pensions (Northern Ireland) Order 1995 and amended by paragraph 70(3) of Schedule 5 to the Bank of England Act 1998 and paragraph 8 of Schedule 5 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and Article 136 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001

Transitional provision and saving in relation to section 170 of the Pension Schemes Act

6. Notwithstanding anything in this Order, section 170(8)(**16**) of the Pension Schemes Act (levies towards certain expenditure) continues to apply to a levy for which any person was liable by virtue of section 170 of that Act immediately before 1st April 2005, but which has not been paid in full before that date, as it had effect immediately before that date, except that the reference to "the Registrar" shall be read as if it were a reference to "the Regulatory Authority".

Consequential amendment of the Paternity and Adoption Leave Regulations

7.—(1) The Paternity and Adoption Leave Regulations (Northern Ireland) 2002(**17**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 14(2) (incidents of the right to return after paternity leave) for the words from "paragraphs 5" to the end there shall be substituted "paragraphs 5, 5B and 6 of Schedule 5 to the Social Security (Northern Ireland) Order 1989(**18**) (equal treatment under pension schemes: maternity absence, adoption leave and family leave)".

(3) In regulation 27(2) (incidents of the right to return from adoption leave) for the words from "paragraphs 5" to the end there shall be substituted "paragraphs 5, 5B and 6 of Schedule 5 to the Social Security (Northern Ireland) Order 1989 (equal treatment under pension schemes: maternity absence, adoption leave and family leave)".

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

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

(**16**) Section 170 was substituted by Article 161 of the Pensions (Northern Ireland) Order 1995
(**17**) S.R. 2002 No. 377; relevant amending regulations are S.R. 2004 No. 116
(**18**) S.I. 1989/1342 (N.I. 13); paragraphs 5A and 5B are inserted by Article 242 of the Pensions (Northern Ireland) Order 2005

SCHEDULE Article 2

PART 1

PROVISIONS OF THE ORDER COMING INTO OPERATION ON 25TH FEBRUARY 2005

Provisions of the Order	*Subject matter*
Article 3(1)(b)	Regulator's functions
Article 4(3)	Definitions of "stakeholder pension scheme" and "work-based pension scheme"
Article 5	Supplementary powers
Article 7(9)(b) in so far as it relates to paragraph 18(2) of Schedule 1 to the Pensions Act 2004(**19**)	Functions exercisable by the Determinations Panel
Article 8 except paragraph (2)(c)	Provision of information, education and assistance
Article 86(1) to (8)	Procedure for issue and publication of codes of practice
Article 101(2)	Board's functions and supplementary powers etc.
Article 103(4)	Administration levy
Article 173	Notices requiring provision of information
Article 175(1), and (4) to (7) in so far as those paragraphs relate to Article 173	Penalties relating to Article 173
Article 254	Amendments relating to the Pensions Compensation Board
Schedule 4, paragraph 1 and Article 101(3) in so far as it relates to that paragraph	The Board of the Pension Protection Fund
Schedule 10, paragraph 64 and Article 290(1) in so far as it relates to that paragraph	Amendment of the Deregulation and Contracting out Order

PART 2

PROVISIONS OF THE ORDER COMING INTO OPERATION ON 25TH FEBRUARY 2005 FOR THE PURPOSE ONLY OF AUTHORISING THE MAKING OF REGULATIONS OR ORDERS, AS THE CASE MAY BE, AND ON 8TH MARCH 2005 FOR ALL OTHER PURPOSES

Provisions of the Order	*Subject matter*
Article 110(2)	Eligible schemes

(**19**) 2004 c. 35