STATUTORY RULES OF NORTHERN IRELAND

2002 No. 410

PENSIONS

The Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations (Northern Ireland) 2002

Made - - - - 31st December 2002

Coming into operation 6th April 2003

The Department for Social Development, in exercise of the powers conferred by sections 109, 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and Article 3(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**2**), and now vested in it(**3**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations (Northern Ireland) 2002 and shall come into operation on 6th April 2003.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(**5**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)–

(a) after the definition of "beneficiary" there shall be inserted the following definition–

> ""contracted-out employment" shall be construed in accordance with section 4 of the Act(**6**);";

(**1**) 1993 c. 49; section 109(1) was amended, and subsection (3A) was inserted, by section 48 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 178(1) was amended by Parts III and IV of Schedule 5 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

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

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

(**4**) 1954 c. 33 (N.I.)

(**5**) S.R. 1987 No. 288; relevant amending regulations are S.R. 1992 No. 304, S.R. 1994 No. 300, S.R. 1996 Nos. 95 and 508 and S.R. 2000 No. 335

(**6**) Definition of "the Act" was inserted into regulation 1(2) by paragraph 13(2)(a) of Schedule 2 to S.R. 1994 No. 300; section 4 was amended by Article 133(2) of, and paragraphs 14(a) and 16 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995,

(b) after the definition of "excluded person"(**7**) there shall be inserted the following definition–

""illustration date" means, in relation to any information provided, or to be provided, under paragraph 2A(1) of Schedule 2, the date specified by the trustees as the date by reference to which amounts are calculated for the purpose of providing the information;";

(c) after the definition of "member"(**8**) there shall be inserted the following definition–

""non-contributing member" means a member in respect of whom no further contributions to the scheme are due or expected after the illustration date;";

(d) after the definition of "pensionable age"(**9**) there shall be inserted the following definitions–

""relevant guidance" means the document entitled "Technical Memorandum TM1: Statutory Money Purchase Illustrations" which–

(a) is published, and from time to time revised, by the Faculty of Actuaries and the Institute of Actuaries)(**10**); and

(b) is for the time being approved by the Department;

"retirement date" means, in relation to a member–

(a) the date which he has specified to the trustees, and which is acceptable under the rules of the scheme, for the purpose of paragraph 2A(1) of Schedule 2; or

(b) where no acceptable date has been specified for that purpose, the date specified by the trustees as being the appropriate date for the purpose of paragraph 2A(1) of Schedule 2;".

(3) In regulation 5 (information to be made available to individuals)–

(a) in paragraph (2)(**11**) after "Schedule 2" there shall be inserted "and, subject to paragraph (2A), the information mentioned in paragraph 2A of Schedule 2";

(b) after paragraph (2) there shall be inserted the following paragraphs–

"(2A) The requirement under paragraph (2) to furnish the information mentioned in paragraph 2A of Schedule 2 shall not apply–

(a) in respect of a person who is in receipt of pension benefits under the scheme;

(b) where the specified date referred to in paragraph 2(1) of Schedule 2 is not more than 2 years before the member's retirement date;

(c) where, in relation to the member–

(i) the value, determined by reference to the relevant guidance, of his accrued rights to money purchase benefits under the scheme was less than £5,000 on the illustration date in respect of which such information was last furnished to him,

paragraph 94 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and paragraph 37 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(**7**) Definition of "excluded person" was inserted by regulation 18(a) of S.R. 1992 No. 304

(**8**) Definition of "member" was amended by regulation 2(2)(a) of S.R. 2000 No. 335

(**9**) Definition of "pensionable age" was inserted by regulation 3(2) of S.R. 1996 No. 95

(**10**) The Faculty of Actuaries is at Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP. The Institute of Actuaries is at Staple Inn Hall, High Holborn, London WC1V 7QJ

(**11**) Paragraph (2) was amended by regulation 20(a) of S.R. 1992 No. 304 and regulation 2(2) of S.R. 1996 No. 508

(ii) no contributions, including transfers of pension rights or pension credits(**12**), have been made to the scheme by him or on his behalf in respect of money purchase benefits since that date, and

(iii) the trustees previously gave notice to the member that no further such information would be furnished to him unless further contributions to the scheme in respect of money purchase benefits had first been made by him or on his behalf;

(d) where, in relation to the member–

(i) the value, determined by reference to the relevant guidance, of his accrued rights to money purchase benefits under the scheme is less than £5,000 on the first illustration date falling after 5th April 2003,

(ii) no contributions, including transfers of pension rights or pension credits, have been made to the scheme by him or on his behalf after 5th April 2003, and

(iii) no further contributions are, in the opinion of the trustees, likely to be made to the scheme by him or on his behalf after that illustration date; or

(e) where the specified date referred to in paragraph 2(1) of Schedule 2 is before 6th April 2003.

(2B) Where paragraph (2A) applies but the trustees of the scheme nevertheless choose to furnish the information described in paragraph 2A(1) of Schedule 2 and the amount comprising that information is calculated in accordance with sub-paragraphs (2) to (5) of that paragraph, that information shall be accompanied by the additional information specified in sub-paragraph (6)(a) and (c) to (k) of that paragraph as if the information had been provided under sub-paragraph (1) of that paragraph.".

(4) In Schedule 2 (information to be made available to individuals) after paragraph 2 there shall be inserted the following paragraph–

"**2A.**—(1) An illustration of the amount, calculated in accordance with sub-paragraphs (2) to (5), of the pension an entitlement to which would be likely to accrue to the member, or be capable of being secured by him, at his retirement date in respect of rights that may arise under the scheme.

(2) The amount referred to in sub-paragraph (1) shall be determined by reference to–

(a) the relevant guidance; and

(b) the assumptions about contributions specified in sub-paragraph (3) and about annuities specified in sub-paragraphs (4) and (5), and such other assumptions as may be specified for the purpose in the relevant guidance,

having regard to the value of the member's accrued rights to money purchase benefits under the scheme on the illustration date.

(3) The assumptions about contributions referred to in sub-paragraph (2)(b) are–

(a) where the calculation relates to the rights of a non-contributing member, that no contributions will be made to the scheme by him or on his behalf after the illustration date; and

(b) in any other case, that, until the member's retirement date–

(i) contributions to the scheme will be made by him or on his behalf,

(**12**) Definition of "pension credit" was inserted into regulation 1(2) by regulation 2(2)(b) of S.R. 2000 No. 335

(ii) the treatment of the scheme under sections 639 to 646A of the Income and Corporation Taxes Act 1988(**13**) (tax reliefs) as for the time being in force will continue, and

(iii) where a member is in contracted-out employment, sums will continue to be paid by the Commissioners of Inland Revenue in respect of him under section 39 of the Act(**14**) (payment of minimum contributions to personal pension schemes) in the amounts to be determined by reference to the relevant guidance.

(4) The assumptions about annuities referred to in sub-paragraph (2)(b) are–

(a) that the rate of pension is to be increased annually by the relevant percentage specified in the relevant guidance; and

(b) that, subject to sub-paragraph (5), irrespective of whether or not the member is married at the time when the information referred to in sub-paragraph (1) is furnished, the annuity will include provision for the payment, to a surviving spouse of the member, of a pension of an amount equal to one half of the pension which was payable to him immediately before his death.

(5) Sub-paragraph (4)(b) does not apply where–

(a) the trustees decide to use a different assumption in substitution for that specified in sub-paragraph (4)(b) on the basis that the scheme records indicate that the member is not married; or

(b) the trustees and the member agree to use a different assumption.

(6) The additional information which is to accompany the information provided under sub-paragraph (1) is–

(a) a statement to the effect that the information provided under sub-paragraph (1)–

(i) is provided only for the purposes of illustration,

(ii) does not represent any promise or guarantee as to the amount of benefit which may be receivable by the member or a beneficiary under the scheme, and

(iii) should not be regarded as the only consideration by reference to which the member should make decisions as to his pension arrangements;

(b) a statement to the effect that the provision of the information mentioned in sub-paragraph (1) is required by law;

(c) a statement specifying the means by which the person to whom the information relates may obtain from the trustees further information about the information provided under sub-paragraph (1);

(d) a statement to the effect that the information has been prepared by reference to the assumptions required by this paragraph or specified in the relevant guidance;

(e) a statement to the effect that certain general assumptions have been made about the nature of the investments made for the purposes of that person's money purchase benefits and

(**13**) 1988 c. 1; sections 639 to 646A were amended by Part VIII of Schedule 14 to the Finance Act 1988 (c. 39) (*see also* note 6 of that Part), paragraphs 3 to 8 of Schedule 7 to the Finance Act 1989 (c. 26), paragraph 8(29) of Schedule 1 to the Capital Allowances Act 1990 (c. 1) (*see also* section 164(3) of that Act), section 107(6) of the Finance Act 1993 (c. 34) (*see also* subsection (8) of that section), paragraphs 10 and 11 of Schedule 11 to the Finance Act 1995 (c. 4) (*see also* section 58 of that Act), paragraph 15 of Schedule 10 to the Finance Act 1999 (c. 16), paragraphs 15, 16, 18, 20 and 21 of Schedule 13 and Part II(4) of Schedule 40 to the Finance Act 2000 (c. 17) (*see also* notes 3 and 4 of that Part), paragraph 54 of Schedule 2 to the Capital Allowances Act 2001 (c. 2) and paragraph 14 of Schedule 2 to the Finance Act 2001 (c. 9) (*see also* section 57(3) and (4) of that Act)

(**14**) Section 39 was amended by paragraph 34 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 54 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;

(f) a statement to the effect that the amount referred to in sub-paragraph (1) is expressed in today's prices;

(g) a statement to the effect that the actual amount of any pension payable to that person or beneficiary under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purpose of providing the information under sub-paragraph (1);

(h) a statement specifying any assumptions made in relation to future contributions to the scheme;

(i) a statement of the assumptions made in accordance with sub-paragraphs (3)(b)(iii) and (4), or as mentioned in sub-paragraph (5);

(j) a statement of the member's retirement date for the purpose of sub-paragraph (1); and

(k) a statement of the illustration date used for the purpose of calculating the amount referred to in sub-paragraph (1).".

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations

3.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(**15**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)–

(a) after the definition of "beneficiary" there shall be inserted the following definition–

""contracted-out employment" shall be construed in accordance with section 4;";

(b) after the definition of "funded" there shall be inserted the following definition–

""illustration date" means, in relation to any information provided, or to be provided, under paragraph 6ZA(1) of Schedule 2, the date specified by the trustees as the date by reference to which amounts are calculated for the purpose of providing the information;";

(c) after the definition of "relevant employment" there shall be inserted the following definition–

""relevant guidance" means the document entitled "Technical Memorandum TM1: Statutory Money Purchase Illustrations" which–

(a) is published, and from time to time revised, by the Faculty of Actuaries and the Institute of Actuaries; and

(b) is for the time being approved by the Department;";

(d) after the definition of "request" there shall be inserted the following definition –

""retirement date" means, in relation to a member(**16**)–

(a) the date which he has specified to the trustees, and which is acceptable under the rules of the scheme, for the purpose of paragraph 6ZA(1) of Schedule 2; or

(**15**) S.R. 1997 No. 98; relevant amending regulations are S.R. 1999 No. 486 and S.R. 2000 Nos. 262 and 335

(**16**) Definition of "member" in Article 121(1) of the Pensions (Northern Ireland) Order 1995 was amended by paragraph 50(2) of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (*see also* paragraph 50(3) of that Schedule and paragraph 5(3) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000)