STATUTORY RULES OF NORTHERN IRELAND

2000 No. 382

PENSIONS

The Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000

Made - - - -	*6th December 2000*
Coming into operation	*31st December 2000*

The Department for Social Development, in exercise of the powers conferred by sections 2(2) and (2A), 109(1), 164(1) and (4), and 170(1) to (5), (7) and (9), 176(4), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and Articles 10(3), 17(4)(*b*), 19(4), 27(5)(*b*), 35(7), 37(10), 40(1) and (2), 41(1) and (6), 47(5), 49(2), 50(7), 56(2)(*b*), 68(5), 69(6), 75(9), 76(8), 79(2), 85(1), 87(2), 115(2), 122(3) and (4) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**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 Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000 and shall come into operation on 31st December 2000.

(2) In these Regulations—

"the Order" means the Pensions (Northern Ireland) Order 1995;

"member" in relation to a Republic of Ireland scheme, means—

(a) a person who is in pensionable service under the scheme (which for the purposes of these Regulations includes a person who is in pensionable service under a secondment);

(b) a person (other than one who is in pensionable service) who has accrued rights to benefit under the scheme either by virtue of pensionable service under the scheme or by virtue of a transfer credit or a pension credit, or

(**1**) 1993 c. 49; section 2(2A) was inserted by paragraph 13 of Schedule 1 to the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22)), section 164 was substituted by Article 151 of the Pensions (Northern Ireland) Order 1995 and was modified by Article 42(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), section 170 was substituted by Article 161 of the Pensions (Northern Ireland) Order 1995 and section 178(1) was amended by Parts III and IV of Schedule 5 to that Order

(**2**) S.I. 1995/3213 (N.I. 22)

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

(c) a person who is entitled to the present payment of pension or other benefits under the scheme;

"pension credit" means a credit under Article 26(1)(*b*) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**4**);

"pension credit rights" means such rights within the meaning of Article 121(**5**);

"Republic of Ireland scheme" means an occupational pension scheme established in the Republic of Ireland under an irrevocable trust which has, or has had, at least one member in pensionable service in Northern Ireland or which has at least one member who has pension credit rights and which has at least one member who is, or has been, in pensionable service in the Republic of Ireland and which is a scheme—

(a) that is wholly or primarily administered in the Republic of Ireland;

(b) to which section 611(3) of the Income and Corporation Taxes Act 1988(**6**) (split approved schemes) applies and which has been approved by the Commissioners of Inland Revenue under any provisions of that Act relating to the approval of occupational pension schemes for the purposes of tax or which has applied for such approval and whose application has not yet been determined, and

(c) which has been approved under any provisions in force under the law of the Republic of Ireland relating to the approval of occupational pension schemes for the purposes of tax or which has applied for such approval and whose application has not yet been determined.

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Assembly.

(4) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

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

Exemption of Republic of Ireland schemes—general provision

2. A Republic of Ireland scheme shall be—

(a) exempt from the requirements of any provision of the Order which is listed in the Schedule, and

(b) subject to the exemptions from the requirements of any regulations which are provided for by regulations 6 to 12.

Exemption of Republic of Ireland schemes from Article 27

3. For the purposes of Article 27 (trustees not to be auditor or actuary of the scheme), references in that Article to a trustee of a trust scheme shall not include a trustee of any scheme which is a Republic of Ireland scheme.

Information to be given to members

4.—(1) The trustees or managers of a Republic of Ireland scheme shall—

(**4**) S.I. 1999/3147 (N.I. 11)
(**5**) The definition of "pension credit rights" was inserted by paragraph 50(3) of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**6**) 1988 c. 1
(**7**) 1954 c. 33 (N.I.)

(a) in relation to any member who is resident in Northern Ireland on the date on which these Regulations come into operation, or who becomes resident in Northern Ireland after that date, notify that person in writing within the period of 12 months commencing on that date, or within the period of 12 months commencing on the date on which the member became resident in Northern Ireland, whichever is the later, and

(b) in relation to any person who is resident in Northern Ireland and who becomes a member of a Republic of Ireland scheme after the date on which these Regulations come into operation, notify that person in writing within the period of 2 months commencing on the date on which that person became a member of the scheme,

that the scheme is a Republic of Ireland scheme and that it is exempt, from requirements of the Order or of any regulations, as provided for by these Regulations.

(2) Any information which the trustees or managers of a Republic of Ireland scheme are required to provide under paragraph (1) to a member who is not employed in any employment to which the scheme relates shall be treated as having been provided by them if it was sent by ordinary post to that member at his last known address.

Penalties

5. Where any person fails, without reasonable cause, to comply with any of the requirements imposed by regulation 4, the Occupational Pensions Regulatory Authority may require that person to pay, within the period ending 28 days after the date of its imposition, a penalty which shall—

(a) in the case of an individual, not exceed £1,000, and

(b) in any other case, not exceed £10,000.

Amendment of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations

6.—(1) The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996(**8**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 4(1) (exceptions from member-nominated trustee requirements), after sub-paragraph (*m*) there shall be added—

"or

(n) which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.".

(3) In regulation 6(1) (exceptions from member-nominated director requirements), after sub-paragraph (*n*) there shall be added—

"or

(o) which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.".

(**8**) S.R. 1996 No. 431; regulation 4(1) was amended by regulation 29 of S.R. 2000 No. 262; regulation 6(1) was amended by paragraph 4 of the Schedule to S.R. 1997 No. 160 and regulation 29 of S.R. 2000 No. 262