STATUTORY RULES OF NORTHERN IRELAND

2000 No. 262

PENSIONS

The Stakeholder Pension Schemes Regulations (Northern Ireland) 2000

Made - - - -	*30th August 2000*
Coming into operation—	
Parts I to III and V.	*1st October 2000*
Part IV	*8th October 2001*

The Department for Social Development, in exercise of the powers conferred by the provisions set out in Schedule 1, and now vested in it(**1**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000.

(2) Parts I to III and V shall come into operation on 1st October 2000 and Part IV shall come into operation on 8th October 2001.

(3) In these Regulations—

"the Act" means the Pension Schemes (Northern Ireland) Act 1993(**2**);

"the 1995 Order" means the Pensions (Northern Ireland) Order 1995(**3**);

"the 1999 Act" means the Welfare Reform and Pensions Act 1999(**4**);

"the Order" means the Welfare Reform and Pensions (Northern Ireland) Order 1999(**5**);

(**1**) *See* Article 8(*b*) of S.R. 1999 No. 481
(**2**) 1993 c. 49
(**3**) S.I. 1995/3213 (N.I. 22)
(**4**) 1999 c. 30
(**5**) S.I. 1999/3147 (N.I. 11)

"the Taxes Act" means the Income and Corporation Taxes Act 1988(**6**);

"the Authority" means the Occupational Pensions Regulatory Authority;

"beneficiary", in relation to a stakeholder pension scheme, means any person who has rights under the scheme which have arisen as a result of the death of a member of the scheme;

"the Inland Revenue" means the Commissioners of Inland Revenue;

"insurance company" means a company which is authorised under section 3 or 4 of the Insurance Companies Act 1982(**7**) (authorisation of insurance business);

"investment trust" means a company that is approved for the purposes of section 842 of the Taxes Act(**8**);

"minimum contributions" means amounts paid by the Inland Revenue in accordance with section 39(**9**) (payment of minimum contributions to personal pension schemes);

"minimum payments" means payments made to an occupational pension scheme in respect of a person's employment by virtue of which (subject to there being in force a contracting-out certificate issued by the Inland Revenue in accordance with Chapter I of Part III of the Act) that employment is contracted-out employment by reference to the scheme under section 4(1)(**10**) (meaning of "contracted-out employment" and "minimum payment");

"pension arrangement" means—

(a) an annuity contract;

(b) an insurance policy, or

(c) a scheme or arrangement which is administered wholly or primarily outside the United Kingdom,

which has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement, to or in respect of earners;

"property" includes land;

"qualifying scheme" shall, in respect of an employer, include any stakeholder pension scheme which has at any time been designated by the employer under Article 5(2) (duty of employers to facilitate access to stakeholder pension schemes);

"reporting accountant" has the meaning given by regulation 11(3);

"securities" means investments falling within paragraphs 1 to 5 of Schedule 1 to the Financial Services Act 1986(**11**) (investments and investment business) but does not include shares in an investment trust;

"tax relief" means amounts which may be deducted from contributions, retained by members and recovered from the Inland Revenue by a scheme administrator under section 639 of the Taxes Act (member's contributions);

(**6**) 1988 c. 1
(**7**) 1982 c. 50
(**8**) Section 842 was amended by section 117(1) and (4) of the Finance Act 1998 (c. 39), section 55 of the Finance Act 1990 (c. 29), paragraphs 14(1) and 55 of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12), paragraph 8 of Schedule 17 to the Finance Act 1994 (c. 9), paragraphs 2 and 3 of Schedule 30 to the Finance Act 1996 (c. 8) and paragraph 7 of Schedule 38 to that Act
(**9**) 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 (S.I. 1999/671)
(**10**) Section 4(1) was amended by Article 133(2) of, and paragraph 14 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995 and paragraph 37 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
(**11**) 1986 c. 60. Investments falling within paragraphs 1 to 5 of Schedule 1 to the Financial Services Act 1986 comprise shares and stock in the share capital of a company, debentures and other instruments creating or acknowledging indebtedness, government and public securities, instruments entitling the holder to subscribe for any of the above and certificates representing securities. These are further defined in those paragraphs

"transfer payment" means a payment in respect of a person's accrued rights under a pension scheme or pension arrangement made with a view to acquiring rights under another pension scheme or pension arrangement for that person, and

"with-profits fund" means a fund, maintained by an insurance company in respect of a particular part of its long-term business for which—

(a) separate accounting records are maintained by the insurance company in respect of all income and expenditure relating to that part of its business, and

(b) the benefits payable in respect of policies allocated to that fund are determined partly by reference to a discretion exercisable by any person.

(4) Articles 4 and 7 of the Insolvency (Northern Ireland) Order 1989(**12**) (associated and connected persons) apply for the purposes of regulations 4(3) and 11(4) as they apply for the purposes of that Order.

(5) Subject to paragraphs (6) and (7), the Interpretation Act (Northern Ireland) 1954(**13**) shall apply to these Regulations as it applies to an Act of the Assembly.

(6) 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.

(7) Without prejudice to any other method of service authorised under section 24 of the Interpretation Act (Northern Ireland) 1954, the requirement to send any document under these Regulations may be met by sending it by ordinary post.

(8) In these Regulations references to notice in writing include using electronic communications for sending a notice to an address notified by the member for that purpose.

(9) For the purposes of these Regulations and Article 3(8) and (9) (which provide that stakeholder pension schemes must have tax-exemption or tax-approval and must not refuse to accept transfer payments except in so far as necessary to ensure that the scheme has such exemption or approval) "tax-exemption" and "tax-approval" mean tax-exemption and tax-approval under Chapter IV of Part XIV of the Taxes Act.

(10) In these Regulations—

(a) any reference to a numbered section is a reference to the section of the Act bearing that number, and

(b) any reference to a numbered Article is a reference to the Article of the Order bearing that number.

Part II

Conditions Applying to Stakeholder Pension Schemes

Manner of establishment

2.—(1) A stakeholder pension scheme may (where not established under a trust) be established by means of one or more instruments in writing which provide for one or more contracts to be entered into between the manager of the scheme and each member of the scheme, or a person acting on the member's behalf.

(**12**) S.I. 1989/2405 (N.I. 19)
(**13**) 1954 c. 33 (N.I.)

(2) The manager of the scheme must be a person who is mentioned in section 632(1) of the Taxes Act(**14**) (establishment of schemes approved as personal pension schemes under Chapter IV of Part XIV of that Act).

Requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes

3.—(1) Subject to paragraph (2), the instruments establishing a stakeholder pension scheme (the "scheme instruments") must prohibit the acceptance of contributions, transfer payments and pension credits to the scheme before 6th April 2001.

(2) Paragraph (1) shall not apply to a scheme in respect of which an application for registration under Article 4 (registration of stakeholder pension schemes) is first made on or after 6th April 2001.

(3) The scheme instruments must require that no member is required to make any choice as regards the investment under the scheme of any payment made to it by him or on his behalf, any amount credited to the member's account in respect of a credit within the meaning of Article 26 (pension sharing: creation of pension debits and credits), or any income or capital gain arising from the investment of such a payment or credit.

(4) The scheme instruments must, except to the extent permitted under regulations 13 and 14 prohibit the use of—

(a) any payment made to the scheme by or on behalf of a member;

(b) any amount credited to a member's account in respect of a credit within the meaning of Article 26;

(c) any income or capital gain arising from the investment of such a payment or credit, or

(d) the value of his rights under the scheme,

in any way which does not result in the provision of benefits for, or in respect of, the member.

(5) The scheme instruments must require that—

(a) if the scheme ceases to be registered under Article 4 the winding up of the scheme be commenced on the date on which it is notified in writing by the Authority that it is no longer so registered;

(b) if the trustees or manager fix a time for winding up a scheme for any reason other than because the scheme ceases to be registered under Article 4, the winding up of the scheme be commenced at the earliest time fixed by the trustees or manager as the time from which steps for the purposes of winding up are to be taken;

(c) within 2 weeks of the date of commencement of any winding up, the trustees or manager notify in writing any employers whom they know to have designated the scheme for the purposes of Article 5 (duty of employers to facilitate access to stakeholder pension schemes) of the fact of, and the reason for, the winding up including, where the scheme has ceased to be registered under Article 4, the reason for the cessation of registration;

(d) any contributions made to a scheme after the date of commencement of any winding up must be repaid—

(i) to the member, to the extent of his contributions, and

(ii) as to the remainder, to his employer;

(e) subject to paragraphs (8) and (9), on any winding up all rights under the scheme be discharged by the trustees or manager of the scheme within 12 months of the commencement of winding up or, as soon thereafter as is practicable, by the making of transfer payments—

(**14**) Relevant amending instruments are S.I. 1988/993 and S.I. 1997/2388

(i) to other stakeholder pension schemes, or schemes registered under section 2 of the 1999 Act, or

(ii) in accordance with requests by one or more members or beneficiaries in respect of their rights, to the trustees or managers of pension schemes or pension arrangements which are not schemes mentioned in head (i),

in accordance with paragraphs (6) and (7) and regulation 6 or, where regulation 7 applies, with regulation 7, and

(f) if the scheme fails to complete winding up within 12 months of commencing winding up proceedings, the trustees or manager notify the Authority of that fact within one month of so failing to complete the winding up.

(6) A transfer payment referred to in paragraph (5)(*e*) must be of an amount not less than the cash equivalent of the member's rights under the scheme, as calculated and verified in a manner consistent with regulations made under section 93(**15**) (calculation of cash equivalents) on the date on which the payment is made.

(7) Where the member's rights include any protected rights within the meaning of section 6(**16**) (protected rights and money purchase benefits), the scheme must provide for any transfer payments to be made subject to the requirements of section 24(**17**) (ways of giving effect to protected rights).

(8) Paragraph (5)(*e*) does not apply to rights to which effect is given under the scheme by the payment of an annuity (not being a deferred annuity) or a lump sum either to the member or, on or after his death, to another person.

(9) For the purposes of paragraph (8) a deferred annuity is an annuity under the terms of which payment does not commence immediately but at a time in the future.

Additional requirements as regards instruments establishing a stakeholder pension scheme established under a trust

4.—(1) Subject to paragraph (2) and to regulation 17(1), except in so far as is necessary to ensure that the scheme has tax-exemption or tax-approval, the instruments establishing a stakeholder pension scheme established under a trust (the "trust instruments") must preclude any restriction on membership of the scheme by reference to financial status, the amount of contributions to be made to the scheme or the manner in which contributions may be made to the scheme.

(2) Paragraph (1) shall not preclude any restrictions on—

(a) membership by reference to employment with a particular employer or in a particular trade or profession or by reference to membership of a particular organisation, or

(b) the payment of contributions by means of cash or a credit card.

(3) The trust instruments must require that—

(a) unless sub-paragraph (*b*) applies, at least one trustee and at least one-third of the total number of trustees is neither connected with nor an associate of any person providing services to or otherwise managing the scheme (other than as a trustee);

(b) where a company is trustee of the scheme and there is no trustee of the scheme who is not a company, at least one of the directors of the company and at least one-third of the total number of its directors is neither connected with nor an associate of any person providing services to or otherwise managing the scheme (other than as a trustee).

(**15**) Section 93 was amended by paragraph 6 of Schedule 4 to the Pensions (Northern Ireland) Order 1995

(**16**) Section 6 was amended by paragraph 18 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 39 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and is amended by Article 29(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**17**) Section 24 was amended by Articles 139 and 143(2) of, and paragraph 27 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995