STATUTORY RULES OF NORTHERN IRELAND

2000 No. 147

PENSIONS

The Pension Sharing (Safeguarded Rights) Regulations (Northern Ireland) 2000

Made - - - -	*26th April 2000*
Coming into operation	*1st December 2000*

The Department for Social Development, in exercise of the powers conferred by sections 64A(5), 64B, 64D, 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), and now vested in it(**2**), 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 Pension Sharing (Safeguarded Rights) Regulations (Northern Ireland) 2000 and shall come into operation on 1st December 2000.

(2) In these Regulations—

"the Pension Credit Benefit Regulations" means the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**3**);

"the Protected Rights Regulations" means the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**4**);

"appropriate scheme" and "appropriate personal pension scheme" shall be construed in accordance with section 5(5);

"interim arrangement" means an interim arrangement which complies with section 24A(**5**), and satisfies the conditions specified in regulation 6 of the Protected Rights Regulations;

"member" means member of an occupational pension scheme or personal pension scheme;

"normal benefit age" has the meaning given by section 97B(**6**);

"pension credit" means a credit under Article 26(1)(*b*);

(**1**) 1993 c. 49; sections 64A, 64B and 64D were inserted by Article 33 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I.1999/3147(N.I. 11)). Section 178(1) was amended by paragraph 68 of Schedule 3 to, and Parts III and IV of Schedule 5 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
(**2**) See Article 8(*b*) of S.R. 1999 No. 481
(**3**) S.R. 2000 No. 146
(**4**) S.R. 1997 No. 56, to which there are amendments not relevant to these Regulations
(**5**) Section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995
(**6**) Section 97B is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999

"pension credit benefit" has the meaning given by section 97P(1)(**7**);

"salary related contracted-out scheme" has the meaning given by section 4(1)(*a*)(i)(**8**);

"section 5(2B) rights" has the meaning given by regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**9**);

"trustees or managers" has the meaning given by Article 43(1).

(3) Subject to paragraph (5), the Interpretation Act (Northern Ireland) 1954(**10**) shall apply to these Regulations as it applies to an Act of the Assembly.

(4) In these Regulations—

(a) any reference to a numbered section is a reference to the section of the Pension Schemes (Northern Ireland) Act 1993 bearing that number, and

(b) any reference to a numbered Article is a reference to the Article of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**11**) bearing that number.

(5) 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.

Definition of contracted-out rights

2. For the purposes of section 64A(5) (safeguarded rights) "contracted-out rights" are such rights, under or derived from an occupational pension scheme, or an appropriate personal pension scheme, as fall within the following categories—

(a) entitlement to payment of, or accrued rights to, guaranteed minimum pensions;

(b) protected rights;

(c) section 5(2B) rights, or

(d) any of the rights in paragraph (*a*), (*b*) or (*c*) which themselves derive from any of those rights which have been the subject of a transfer payment.

Requirements for schemes holding safeguarded rights

3.—(1) The trustees or managers of a money purchase contracted-out scheme, a salary related contracted-out scheme, or an appropriate scheme may hold safeguarded rights under the scheme, if the scheme has satisfied the requirements—

(a) in these Regulations for the preservation of safeguarded rights under the scheme; or

(b) in regulations 16 to 19 of the Pension Credit Benefit Regulations (transfers of safeguarded rights), for the transfer of safeguarded rights under the scheme.

(2) The trustees or managers of an occupational pension scheme which has ceased to contract out or a personal pension scheme which has ceased to be an appropriate scheme may hold safeguarded rights under the scheme if the Inland Revenue have approved the arrangements made, or to be made, in relation to the scheme, or for the scheme's purposes, for the preservation or transfer of safeguarded rights under the scheme.

(**7**) Section 97P is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**8**) Section 4(1)(*a*)(i) was substituted by Article 133(2) of the Pensions (Northern Ireland) Order 1995
(**9**) S.R. 1996 No. 493; the definition of "section 5(2B) rights" was substituted by paragraph 5(2) of the Schedule to S.R. 1997 No. 160 and amended by regulation 4(2)(*b*) of S.R. 1999 No. 486
(**10**) 1954 c. 33 (N.I.)
(**11**) S.I. 1999/3147 (N.I. 11)

(3) The arrangements referred to in paragraph (2) in respect of an occupational pension scheme shall not be approved by the Inland Revenue unless the conditions specified in paragraph (4) or (5) are satisfied.

(4) To the extent that the arrangements concern the transfer or discharge of safeguarded rights, the Inland Revenue must be satisfied that such arrangements will be completed within 2 years of the date of cessation or such later date as the Inland Revenue may specify in relation to a particular case or class of case.

(5) To the extent that the arrangements concern the preservation of safeguarded rights within the scheme, the scheme must comply with the requirements of sub-paragraph (*a*) or (*b*), as the case may be—

(a) in the case of a salary related contracted-out scheme, the scheme must continue to satisfy the requirements of section 5(2) and any regulations which would apply to that scheme by reason of its being a scheme to which section 5(2), other than section 5(2B)(*a*) (requirement to comply with section 8A) and any regulations which relate to compliance with that section, and the scheme must contain a protection rule within the meaning given to that expression in regulation 45(3A) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**12**) (approval of arrangements for schemes ceasing to be contracted-out);

(b) in the case of a money purchase contracted-out scheme, the scheme must continue to satisfy the requirements of section 5(3) and any regulations which apply to the scheme by reason of its being a scheme to which section 5(3) relates.

Identification of safeguarded rights

4. Where the rules of an occupational pension scheme or appropriate scheme make such provision as is mentioned in section 64A(2) (safeguarded rights), the rules must require the trustees or managers to make provision for the identification of safeguarded rights.

Valuation of safeguarded rights in money purchase schemes

5. Where the rules of a money purchase contracted-out scheme, an appropriate scheme or a scheme which has ceased to be a contracted-out scheme or an appropriate scheme make such provision as is mentioned in section 64A(2), the value of the safeguarded rights must be calculated in a manner no less favourable than that in which the value of—

(a) any other rights which the member with safeguarded rights has under that scheme, or, as the case may be, has accrued under that scheme up to the date that the scheme ceased to be a contracted-out scheme or an appropriate scheme; and

(b) any protected rights under the scheme from which the member's safeguarded rights are derived.

Ways of giving effect to safeguarded rights — money purchase schemes

6.—(1) The rules of a scheme must provide for effect to be given to the safeguarded rights of a member either by—

(a) the provision of a pension or the purchase of an annuity which satisfies the requirements specified in—

(i) paragraph (4) or (5), as the case may be, and

(ii) regulation 7 (the pension and annuity requirements — money purchase schemes), or

(**12**) S.R. 1996 No. 493; regulation 45 was amended by, and paragraph (3A) inserted by, regulation 3(3)(*b*) of S.R. 1997 No. 162

(b) in any other case, in such of the ways provided for by the following paragraphs as the rules may specify.

(2) Where the scheme provides for the member to elect to receive payments in accordance with this paragraph, and the member so elects, effect shall be given to his safeguarded rights during the interim period by the making of payments under an interim arrangement which—

(a) complies with the requirements of sections 24A(1), (3), (4) and (5) and 24B(**13**) (requirements for interim arrangements and information about interim arrangements), except insofar as those provisions concern payments to be made to the member's widow or widower, and

(b) satisfies the conditions prescribed in regulations 6 and 7 of the Protected Rights Regulations (interim arrangements and payments made under interim arrangements), except insofar as those provisions concern payments to be made to the member's widow, widower, a person in accordance with directions given by the member, or to the member's estate, in the event of the death of the member,

as if references in those provisions to protected rights were to safeguarded rights.

(3) Where paragraph (2) applies, paragraphs (4) to (7) and regulations 7 and 8 (the pension and annuity requirements—money purchase schemes, and insurance companies that may provide safeguarded rights by way of annuities) apply in order to give effect to the member's safeguarded rights from the end of the period referred to in paragraph (2).

(4) Effect may be given to safeguarded rights by the provision by the scheme of a pension, or, subject to paragraph (5), an annuity, which complies with the requirements of regulation 7 and 8 of these Regulations and regulations 32 and 33 of the Pension Credit Benefit Regulations (increase of relevant pension and annual increase in rate of pension: qualifying occupational and personal pension schemes), provided that—

(a) the pension or annuity gives effect to all the safeguarded rights of the member, and the terms on which the pension is provided, or the terms of the purchase of the annuity—

(i) satisfy the requirements of sub-paragraphs (*b*) to (*d*);

(ii) make no provision other than such as is necessary to establish what the initial rate and the method of payment of the pension or annuity are to be, and that it shall continue to be paid throughout the lifetime of the member, and

(iii) make no provision other than such as is necessary to satisfy the requirements of sub-paragraphs (*b*) to (*d*);

(b) the rate of the pension or annuity is determined without regard to the sex of the member;

(c) except with the consent of the member, the pension or annuity, if paid in arrears, is paid no less frequently than by monthly installments, and

(d) the pension or annuity is paid no less frequently than by annual installments.

(5) Where paragraph (4) applies, an annuity may be provided if—

(a) the rules of the scheme do not provide a pension, or

(b) the member so elects.

(6) Effect may be given to safeguarded rights by the making of a transfer payment in such circumstances and subject to such conditions as are prescribed in regulations 16 to 19 and regulation 24 of the Pension Credit Benefit Regulations (manner of calculation and verification of cash equivalents) in the case of a money purchase contracted-out scheme, an appropriate scheme, or a scheme which has ceased to be a contracted-out scheme or an appropriate scheme—

(**13**) Sections 24A and 24B were inserted by Article 140 of the Pensions (Northern Ireland) Order 1995. Section 24B was amended by paragraph 44 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(a) to another money purchase contracted-out scheme or to a salary related contracted-out scheme, if the person with safeguarded rights is an active member of such a scheme, or

(b) to an appropriate scheme,

where the scheme to which the payment is made satisfies the requirements prescribed in regulation 22 of the Pension Credit Benefit Regulations (requirements to be met by an eligible scheme).

(7) Effect may be given to safeguarded rights by the provision of a lump sum in accordance with the provisions of regulation 3 or 4 of the Pension Credit Benefit Regulations (commutation of the whole or part of pension credit benefit).

(8) If the member has died—

(a) after having elected to receive payments in accordance with paragraph (2), or

(b) without effect being given to safeguarded rights under paragraph (3), (4), (5), (6) or (7),

effect may be given to those rights by the payment, as soon as practicable, of the value of the member's safeguarded rights, or the balance of the value of those rights, as the case may be, to or for the benefit of any person in accordance with directions given by the member in writing, or to the member's estate.

(9) The rules of a scheme may provide for effect to be given to the safeguarded rights of a member by making payments to—

(a) the widow or widower of the member;

(b) another person in accordance with a direction given by the member, or

(c) in any other case, to the member's estate,

if the member dies after he has become entitled to the payment of benefit derived from his safeguarded rights.

(10) In this regulation—

"the interim period" means the period beginning with the starting date in relation to the member in question and ending with the termination date;

"scheme" means a money purchase contracted-out scheme or an appropriate scheme;

"the starting date" means the date, which must not be earlier than the member's 60th birthday, by reference to which the member elects to begin to receive payments under the interim arrangement;

"the termination date" means the date by reference to which the member elects to terminate the interim arrangement, and that date must not be later than the member's 75th birthday.

The pension and annuity requirements — money purchase schemes

7.—(1) For the purposes of regulation 6(4) (ways of giving effect to safeguarded rights—money purchase schemes) the pension requirements are those specified in paragraph (2), and the annuity requirements are those specified in paragraphs (3) and (5).

(2) A pension complies with the pension requirements if in the case of a money purchase contracted-out scheme or an appropriate scheme it commences on a date not earlier than the member's 60th birthday, and not later than his 65th birthday, or on such later date as has been agreed by him, and continues until the date of his death.

(3) An annuity complies with the annuity requirements if—

(a) it commences on a date not earlier than the member's 60th birthday, and not later than his 65th birthday, or on such later date as has been agreed by him, and continues until the date of his death, and

(b) it is provided by an insurance company which—