STATUTORY RULES OF NORTHERN IRELAND

2000 No. 146

PENSIONS

The Pension Sharing (Pension Credit Benefit) 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 64D, 97C(2), 97D(1)(*b*), (2)(*b*) and (4)(*b*), 97E(1)(*c*) and (2), 97F(2)(*b*) and (*c*), (3)(*b*) and (6)(*b*), 97H(2) and (3), 97I, 97J(2) and (4)(*a*), 97L, 97P(2)(*b*), 97Q, 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 10(2)(*b*) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**) and Articles 37(1) and (3) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**3**), and now vested in it(**4**), 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 Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 and shall come into operation on 1st December 2000.

(2) In these Regulations—

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

"the Taxes Act" means the Income and Corporation Taxes Act 1988(**5**);

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

(**1**) 1993 c. 49; section 64D is inserted by Article 33 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I.1999/3147 (N.I. 11)) and sections 97C, 97D, 97E, 97F, 97H, 97I, 97J, 97L, 97P and 97Q are inserted by Article 34 of that Order. Section 178(1) was amended by paragraph 68 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
(**2**) S.I. 1995/3213 (N.I. 22)
(**3**) S.I. 1999/3147 (N.I. 11)
(**4**) *See* Article 8(*b*) of S.R. 1999 No. 481
(**5**) 1988 c. 1

"the Minimum Funding Requirement Regulations" means the Occupational Pension Schemes (Minimum Funding Requirement) Regulations (Northern Ireland) 1996(**6**);

"the Safeguarded Rights Regulations" means the Pension Sharing (Safeguarded Rights) Regulations (Northern Ireland) 2000(**7**);

"the Transfer and Transfer Payment Regulations" means the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**8**);

"the Valuation Regulations" means the Pension Sharing (Valuation) Regulations (Northern Ireland) 2000(**9**);

"the Winding Up Regulations" means the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**10**);

"active member" in relation to an occupational pension scheme, means a person who is in pensionable service under the scheme;

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

"base rate" means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the base rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;

"the Department" means the Department for Social Development;

"eligible member" has the meaning given by section 97P(1)(**11**);

"employer" has the meaning given by section 176(1);

"incapacity" means physical or mental deterioration which is sufficiently serious to prevent a person from following his normal employment or which seriously impairs his earning capacity;

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

"member" means a member of an occupational pension scheme or a personal pension scheme and includes an eligible member;

"money purchase benefits" has the meaning given by section 176(1);

"money purchase contracted-out scheme" has the meaning given by section 4(1)(*a*)(ii);

"money purchase scheme" has the meaning given by section 176(1)(**12**);

"normal benefit age" has the meaning given by section 97B(**13**);

"occupational pension scheme" has the meaning given by section 1;

"overseas arrangement" has the meaning given by regulation 1(2) of the Transfer and Transfer Payment Regulations;

"overseas scheme" has the meaning given by regulation 1(2) of the Transfer and Transfer Payment Regulations(**14**);

"pension credit benefit" has the meaning given by—

(a) section 97B insofar as that expression is used in Part II, and

(b) section 97P(1) insofar as that expression is used in Part III;

(**6**) S.R. 1996 No. 570; relevant amending regulations are S.R. 1997 Nos. 160 and 544
(**7**) S.R. 2000 No.147
(**8**) S.R. 1996 No. 618; relevant amending regulations are S.R. 1997 No. 160
(**9**) S.R. 2000 No. 144
(**10**) S.R. 1996 No. 621, amended by S.R. 1997 No. 160 and S.R. 1999 No. 486
(**11**) Section 97P is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**12**) The definition of "money purchase scheme" was substituted by paragraph 13(*a*) of Schedule 4 to the Pensions (Northern Ireland) Order 1995
(**13**) Section 97B is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**14**) The definition of "overseas scheme" was amended by paragraph 10(2) of the Schedule to S.R. 1997 No. 160

"pension credit rights" has the meaning given by—

(a) section 97B insofar as that expression is used in Part II, and

(b) section 97P(1) insofar as that expression is used in Part III;

"pensionable service" has the meaning given by Article 121(1);

"personal pension scheme" has the meaning given by section 1(**15**);

"qualifying occupational pension scheme" has the meaning given by Article 37(3) of the 1999 Order;

"qualifying scheme" has the meaning given by section 97P(1);

"reference banks" means the seven largest institutions for the time being which—

(a) are authorised by the Bank of England under the Banking Act 1987(**16**);

(b) are incorporated in, and carrying on within the United Kingdom a deposit-taking business (as defined in section 6, but subject to any order under section 7, of that Act(**17**)), and

(c) quote a base rate in sterling,

and for the purpose of this definition the size of an institution at any time is to be determined by reference to the gross assets denominated in sterling of that institution, together with any subsidiary (as defined in Article 4 of the Companies (Northern Ireland) Order 1986(**18**)), as shown in the audited end of year accounts last published before that time;

"Regulatory Authority" means the Occupational Pensions Regulatory Authority;

"relevant pension" means a pension to which Article 37(2) of the 1999 Order applies;

"safeguarded rights" has the meaning given by section 64A(**19**);

"salary related contracted-out scheme" has the meaning given by section 4(1)(*a*)(i)(**20**);

"scheme" has the meaning given by section 97B;

"statement of entitlement" means the statement of the amount of the cash equivalent of an eligible member's pension credit benefit under a qualifying scheme referred to in section 97H(1)(**21**);

"transfer credits" means rights allowed to a person under the rules of an occupational or personal pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme (including any transfer credits allowed by that scheme);

"transfer notice" has the meaning given by section 97F(7)(**22**);

"trustees or managers" has the meaning given by Article 43(1) of the 1999 Order;

"valuation date" has the meaning given by section 97J(7)(**23**).

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954(**24**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**15**) The definition of "personal pension scheme" is amended by paragraph 2(1)(*a*) of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**16**) 1987 c. 22

(**17**) Section 7 was amended by section 23(1) of, and paragraphs (1) and (4) of Schedule 5 to, the Bank of England Act 1998 (c. 11)

(**18**) S.I. 1986/1032 (N.I. 6); Articles 4 and 4A were substituted for Article 4 by Article 62(1) of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))

(**19**) Section 64A is inserted by Article 33 of the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**20**) Section 4(1)(*a*)(i) was substituted by Article 133(2) of the Pensions (Northern Ireland) Order 1995

(**21**) Section 97H is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**22**) Section 97F is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**23**) Section 97J is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**24**) 1954 c. 33 (N.I.)

(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) 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.

(6) 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 Pensions (Northern Ireland) Order 1995 bearing that number.

Salary related schemes

2. For the purposes of Chapter II of Part IVA of the Act(**25**) (requirements relating to pension credit benefit—transfer values) and these Regulations, an occupational pension scheme is salary related if it is not a money purchase scheme and it is not a scheme—

(a) the only benefits provided by which (other than money purchase benefits) are death benefits, and

(b) under the provisions of which no member has accrued rights (other than rights to money purchase benefits).

Part II

Pension Credit Benefit Under Occupational Pension Schemes

Commutation of the whole of pension credit benefit

3.—(1) Subject to paragraphs (3) and (4) and regulation 9 of the Safeguarded Rights Regulations (ways of giving effect to safeguarded rights—salary related schemes), the circumstances in which the whole of the pension credit benefit may be commuted for the purposes of section 97C(2)(**26**) (payment of pension credit benefit in the form of a lump sum before normal benefit age) are those described in paragraph (2).

(2) The circumstances described in this paragraph are that—

(a) the person entitled to the pension credit benefit is suffering from serious ill health prior to normal benefit age, or

(b) the aggregate of total benefits payable to the person under an occupational pension scheme, including any pension credit benefit, does not exceed £260 per annum.

(3) This regulation does not apply to an occupational pension scheme which is approved under section 590 of the Taxes Act (mandatory approval).

(4) In this regulation, "serious ill health" means ill health which is such as to give rise to a life expectancy of less than one year from the date on which commutation of the pension credit benefit is applied for.

(**25**) Part IVA is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**26**) Section 97C is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999

Commutation of part of pension credit benefit

4.—(1) Subject to paragraphs (2) and (3) and regulation 9 of the Safeguarded Rights Regulations, the circumstances in which part of the pension credit benefit may be commuted for the purposes of section 97C(2) are—

(a) that the person entitled to pension credit benefit—

(i) subject to paragraph (2), is suffering from an incapacity prior to normal benefit age, or

(ii) has reached the age of 50, and

(b) that the commutation would not prevent approval or continuing approval of the scheme under section 591 of the Taxes Act (discretionary approval).

(2) Paragraph (1)(*a*)(i) applies where the person entitled to the pension credit benefit—

(a) is an active member of the occupational pension scheme in which his pension credit rights are held, and

(b) has become entitled to the early payment of benefits derived from his accrued rights, other than his pension credit rights, in that scheme as a result of his incapacity prior to normal benefit age.

(3) Safeguarded rights which are held in a money purchase contracted-out scheme shall not be commuted where the circumstances specified in paragraph (1)(*a*) apply.

(4) This regulation does not apply to an occupational pension scheme which is approved under section 590 of the Taxes Act.

Means of assuring pension credit benefit

5.—(1) The prescribed means by which a person's pension credit benefit under a scheme must be assured for the purposes of section 97D(1)(*b*)(**27**) (form of pension credit benefit and its alternatives) is by means of a transaction to which section 15 (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts) applies.

(2) A transaction referred to in paragraph (1) must satisfy the requirements of regulation 12, 13 or 14 (discharge of liability where pension credit benefit or alternative benefits are secured by insurance policies or annuity contracts, conditions on which pension credit benefit secured by insurance policies and annuity contracts may be commuted, or other requirements applying to insurance policies and annuity contracts).

(3) Where a transaction referred to in paragraph (1) applies, the insurance policy must be taken out, or the annuity contract must be entered into, with an insurance company which is—

(a) authorised under section 3 or 4 of the Insurance Companies Act 1982(**28**) (authorisation of insurance business) to carry on long term business (within the meaning of section 1 of that Act(**29**) (classification));

(b) in the case of a friendly society, authorised under section 32 of the Friendly Societies Act 1992(**30**) (grant of authorisation by Commission: general) to carry out long term business under any of the Classes specified in Head A of Schedule 2 to that Act (activities of a friendly society: long term business), or

(c) an EC company as defined in section 2(6) of the Insurance Companies Act 1982(**31**) (restriction on carrying on insurance business), and which falls within paragraph (4).

(**27**) Section 97D is inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**28**) 1982 c. 50
(**29**) Section 1 was amended by S.I. 1990/1159
(**30**) 1992 c. 40; section 32(4) was substituted by regulation 4 of S.I. 1994/1984
(**31**) Section 2(6) was inserted by regulation 4(2) of S.I. 1994/1696