STATUTORY RULES OF NORTHERN IRELAND

1999 No. 486

PENSIONS

The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1999

Made - - - -	*10th December 1999*
Coming into operation	*30th December 1999*

The Department for Social Development, in exercise of the powers conferred by sections 3(2), 5(2B), (2C), (3) and (6)(*a*), 6(2), 7(5), 8C(1)(*a*) and (*b*), 15(4), 24(2), 109, 164(4) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and Articles 17(4), 19(4), 21(5), 47(9), 49(1), 50(3), 58(2), 59(1), 67(5), 73(7), 75(10), 85(3), 86(1) 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 Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1999 and shall come into operation on 30th December 1999.

(2) In these Regulations "the Disclosure Regulations" means the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(**4**).

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

(**1**) 1993 c. 49; section 5(2) to (2C) was substituted for section 5(2) by Article 133(3) of the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22)) and section 5(2B) was amended by paragraph 38 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671); section 5(3) was amended by Article 133(4) of the Pensions (Northern Ireland) Order 1995 and paragraph 38 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; section 6(2) 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; section 7(5) was amended by paragraph 14 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 40 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995, and section 164 was substituted by Article 151(1) of that Order

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

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

(**4**) 1997 No. 98; relevant amending regulations are S.R. 1997 No. 544

(**5**) 1954 c. 33 (N.I.)

Amendment of the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations

2.—(1) The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations (Northern Ireland) 1996(**6**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 5(2) (notice of a decision)—

(a) after sub-paragraph (*c*) "and" shall be omitted;

(b) after sub-paragraph (*d*) there shall be inserted—

"and

(e) a statement that OPAS (the Pensions Advisory Service) is available to assist members and beneficiaries of the scheme in connection with any difficulty with the scheme which remains unresolved and the address at which OPAS may be contacted(**7**).".

(3) In regulation 7(2)(*d*) (notice of decision from trustees or managers)—

(a) for "the Occupational Pensions Advisory Service" there shall be substituted "OPAS (the Pensions Advisory Service)";

(b) for the words from "difficulties" to "scheme" there shall be substituted "any difficulty with the scheme which remains unresolved";

(c) for "it" there shall be substituted "OPAS".

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

3.—(1) The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996(**8**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation) in the definition of "relevant self-administered scheme"—

(a) in paragraph (*b*)—

(i) for "satisfies paragraph (*b*)" there shall be substituted "satisfies paragraphs (*b*) and (*c*)";

(ii) after "Taxes Act" there shall be inserted ", or";

(b) after paragraph (*b*) there shall be inserted the following paragraph—

"(c) a scheme which satisfies paragraphs (*b*) and (*c*) of that definition(**9**) and, if it satisfied paragraph (*a*) of that definition, would be a scheme which the Commissioners of Inland Revenue would not have been prohibited from approving under section 591 of the Taxes Act before 7th April 1998(**10**);".

(3) In regulation 10(2)(*a*) (time limits for making alternative arrangements under Article 17) for "the alternative arrangements are approved" there shall be substituted "the employer gives notice to the trustees under regulation 9(1)(*b*)(ii) in respect of the approval of the arrangements".

(4) In regulation 16(2)(*a*) (time limits for making alternative arrangements under Article 19) for "the alternative arrangements are approved" there shall be substituted "the employer gives notice to the company under regulation 15(1)(*b*)(ii) in respect of the approval of the arrangements".

(**6**) S.R. 1996 No. 203
(**7**) OPAS's address for correspondence is 11 Belgrave Road, London SW1V 1RB
(**8**) S.R. 1996 No. 431; amended by S.R. 1997 No. 160
(**9**) The definition of "small self-administered scheme", in regulation 2(1) of S.I. 1991/1614, was substituted by regulation 3(*b*) of S.I. 1998/728
(**10**) 7th April is the date of commencement of S.I. 1998/728, which amended S.I. 1991/1614, and of S.I. 1998/729

(5) In Schedule 3 (Modifications of the Pensions (Northern Ireland) Order 1995 and these Regulations)—

(a) in paragraph 2(4) for "regulation 10(2)(*b*)(i)" there shall be substituted "regulation 10(2)(*a*) and (*b*)(i)";

(b) in paragraph 3(4) for "regulation 16(2)(*b*)(i)" there shall be substituted "regulation 16(2)(*a*) and (*b*)(i)".

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**11**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)—

(a) in the definition of "overseas scheme" after "the United Kingdom" there shall be inserted "; but does not include a scheme which is contracted-out in the Isle of Man by virtue of satisfying section 9(2) or (3) of the Pension Schemes Act 1993 as it has effect in the Isle of Man(**12**)";

(b) in the definition of "section 5(2B) rights"(**13**), in paragraph (*b*)(ii) "contracted-out" shall be omitted.

(3) In regulation 12(2)(*c*) (special provision for holding companies and subsidiaries), in the definition of "subsidiary" for "an employer in the scheme who is" there shall be substituted "a body corporate which is an employer in the scheme and is".

(4) In regulation 48(7) (special provision for overseas schemes) for "any members who are resident in Northern Ireland" there shall be substituted "rights which have accrued as a result of contracted-out employment in the scheme in Northern Ireland".

Amendment of the Protected Rights (Transfer Payment) Regulations

5. In regulation 1(2) of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(**14**) (interpretation), in the definition of "section 5(2B) rights", in paragraph (*b*)(ii) "contracted-out" shall be omitted.

Amendment of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations

6.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996(**15**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 16(2) (periods covered by schedules of contributions) after "effective date" there shall be inserted ", or the date on which the rates of contributions shown in the schedule are certified,".

(3) In regulation 23 (failure to pay contributions due under schedule of contributions)—

(**11**) S.R. 1996 No. 493; relevant amending regulations are S.R. 1997 No. 160. *See also* Article 3(2) of, and Schedule 2 to, S.I. 1999/671 which relates to the transfer of functions of the Department to the Commissioners of Inland Revenue

(**12**) *See* Article 3 of, and the Schedule to, the Pension Schemes Act 1993 (Application) Order 1995, Statutory Document No. 531/95, which applies (with modifications) section 9 of the Pension Schemes Act 1993 (c. 48) to the Isle of Man; and *see* Article 3(1)(*b*) of, and Schedule 1 to, the Pensions Act 1995 (Application) Order 1997, Statutory Document No. 501/97, which applies to the Isle of Man the amendments to that section 9 in section 136 of the Pensions Act 1995 (c. 26)

(**13**) The definition of "section 5(2B) rights" was substituted by paragraph 5(2) of the Schedule to S.R. 1997 No. 160

(**14**) S.R. 1996 No. 509, the definition of "section 5(2B) rights" was substituted by paragraph 6(2) of the Schedule to S.R. 1997 No. 160

(**15**) S.R. 1996 No. 570, to which there are amendments not relevant to these regulations

(a) in paragraph (1)(*a*) before "shall be given to the Authority" there shall be inserted "subject to paragraph (1A),";

(b) after paragraph (1) there shall be inserted the following paragraph—

"(1A) No notice need be given under paragraph (1)(*a*) if—

(a) payment has been made before the end of the period of 10 days beginning with the due date, and

(b) the default is only the first or second such default in the period of 12 months ending on the due date.";

(c) in paragraph (3) for "for the purposes of paragraphs (1) and (2)" there shall be substituted "for the purposes of paragraphs (1) to (2)".

Amendment of the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations

7.—(1) The Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations (Northern Ireland) 1996(**16**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 5(3)(*b*) (former employers) for "and has been paid before the applicable time" there shall be substituted—

"and—

(i) has been paid before the applicable time, or

(ii) if not so paid, was not so paid solely because he was not notified of the debt, and of the amount of it, sufficiently in advance of the applicable time for it to be paid before the applicable time".

(3) In regulation 6(2)(*b*) (ceasing to participate: transitional provision) for "and has been paid before the applicable time" there shall be substituted—

"and—

(i) has been paid before the applicable time, or

(ii) if not so paid, was not so paid solely because he was not notified of the debt, and of the amount of it, sufficiently in advance of the applicable time for it to be paid before the applicable time".

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations

8. In regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**17**) (interpretation), in the definition of "section 5(2B) rights", in paragraph (*b*)(ii) "contracted-out" shall be omitted.

Amendment of the Occupational Pension Schemes (Winding Up) Regulations 1996

9. In regulation 3 of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**18**) (modification of Article 73)—

(a) in paragraph (1)(*c*) for "modification" there shall be substituted "modifications";

(b) for paragraph (7) there shall be substituted the following paragraph—

"(7) In—

(a) Article 73(3)(*d*) after "sub-paragraphs" there shall be inserted "(*aa*),", and

(**16**) S.R. 1996 No. 585, to which there are amendments not relevant to these regulations
(**17**) S.R. 1996 No. 618; the definition of "section 5(2B) rights" was substituted by paragraph 10(2) of the Schedule to S.R. 1997 No. 160
(**18**) S.R. 1996 No. 621; to which there are amendments not relevant to these regulations

(b) the words following sub-paragraph (*d*) of Article 73(3) for "sub-paragraphs (*b*) to (*d*)" there shall be substituted "sub-paragraphs (*aa*) to (*d*)".".

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations

10. In regulation 1(2) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**19**) (interpretation), in the definition of "section 5(2B) rights", in paragraph (*b*)(ii) "contracted-out" shall be omitted.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

11.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**20**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 5 (manner and terms of appointment and removal of professional advisers) for paragraph (10) there shall be substituted the following paragraph—

"(10) Where a statement or declaration is made in accordance with paragraph (4) or (7), the trustees or managers shall—

(a) furnish the remaining auditor or actuary to the scheme with a copy of the statement or declaration no later than 14 days after the trustees or managers receive it; and

(b) furnish the succeeding auditor or actuary with a copy of the statement or declaration—

(i) no later than 14 days after the date on which the trustees or managers receive it; or

(ii) no later than the date of the succeeding auditor's or actuary's appointment,

whichever is the later.".

(3) In regulation 11 (requirement for money to be kept by trustees: exception)—

(a) in paragraph (1)(*a*) for "a separate account held by that person" there shall be substituted "an account held by that person and separate from one held by or on behalf of the employer as employer";

(b) in paragraph (1)(*b*) for the words from "a separate account" to the end there shall be substituted—

"an account—

(i) kept by them at any of the institutions specified in paragraphs 1 to 6 of Schedule 2 to the Banking Act 1987(**21**);

(ii) separate from one held by or on behalf of the employer as employer; and

(iii) in which the money received by them is to be held.".

(4) In regulation 19(1)(*a*) (requirements which a payment schedule must satisfy) for the words from "amounts payable" to the end there shall be substituted "amounts prescribed in regulation 18 payable in the scheme year; and".

(5) In regulation 21 (circumstances where notice of non-payment of any amount payable to a scheme need not be given) after paragraph (2) there shall be inserted the following paragraph—

(**19**) S.R. 1997 No. 56; the definition of "section 5(2B) rights" was substituted by paragraph 15(2) of the Schedule to S.R. 1997 No. 160. *See also* Article 3(2) of, and Schedule 2 to, S.I. 1999/671 which relates to the transfer of functions of the Department to the Commissioners of Inland Revenue

(**20**) S.R. 1997 No. 94; to which there are amendments not relevant to these regulations

(**21**) 1987 c. 22