STATUTORY RULES OF NORTHERN IRELAND

1997 No. 544

PENSIONS

The Personal and Occupational Pension Schemes (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1997

Made - - - -	*19th December 1997*
Coming into operation	*12th January 1998*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 2(2), 3(2A), 38A(3), 109, 142(6)(*b*), 176(4) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and Articles 23(3)(*c*), 41(6), 47(6), 56(2)(*b*), 61, 75(5) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal and Occupational Pension Schemes (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1997 and shall come into operation on 12th January 1998.

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

2. In regulation 77(4) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**3**) (transitional arrangements for schemes contracted out under section 5(2) of the Act to become contracted out under section 5(3) of the Act) the words "or 31st January 1998 if it is earlier" shall be omitted.

(**1**) 1993 c. 49; section 3(2A) was inserted by Article 133(1) of the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22)) and section 38A was inserted by Article 134(4) of that Order
(**2**) S.I. 1995/3213 (N.I. 22)
(**3**) S.R. 1996 No. 493; regulation 77(4) was substituted by S.R. 1997 No. 160

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

3.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996(**4**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 28(3)(**5**) (exemptions) the words "at an applicable time (as defined in Article 75(3))" shall be omitted.

(3) After regulation 28(3) there shall be inserted—

"(3A) Paragraph (3) shall apply in the case of a debt which has arisen under section 140 of the Pension Schemes (Northern Ireland) Act 1993(**6**) (deficiencies in the assets of a scheme on winding up) as if it were a debt arising under Article 75.".

(4) In regulation 29 (modifications) at the end there shall be added—

"(e) schemes which are exempt from the requirement to appoint an actuary.".

(5) In Schedule 5 (modifications) after paragraph 6 there shall be added—

"**Schemes which are not required to appoint an actuary**

7. Where a scheme is exempt from the application of Article 47(1)(*b*) (requirement to appoint a scheme actuary) by virtue of regulations made under paragraph (5) of that Article(**7**), Articles 56 to 60 and these Regulations shall apply as if references to the actuary were to an actuary authorised by the trustees or managers to provide such valuations or certifications as may be required under those Articles and these Regulations.".

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

4. In regulation 2(2) of the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996(**8**) (interpretation) before the definition of "the applicable time" there shall be inserted—

""the actuary" means the actuary appointed for the scheme in pursuance of Article 47(1)(*b*) or, in the case of a scheme to which that provision does not apply by virtue of regulations made under paragraph (5) of that Article, an actuary otherwise authorised by the trustees or managers to provide such valuations or certifications as may be required under these Regulations;".

Amendment of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations

5.—(1) The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1997(**9**) shall be amended in accordance with paragraphs (2) and (3).

(2) After regulation 1 there shall be inserted the following regulation—

(**4**) S.R. 1996 No. 570; relevant amending regulations are S.R. 1997 No. 160
(**5**) Regulation 28(3) was amended by S.R. 1997 No. 160
(**6**) Section 140 was repealed by Part I of Schedule 5 to the Pensions (Northern Ireland) Order 1995 subject to savings in S.R. 1997 No. 192 (C. 10)
(**7**) *See* regulation 3(2) of S.R. 1997 No. 94
(**8**) S.R. 1996 No. 585, to which there are amendments not relevant to these regulations
(**9**) S.R. 1997 No. 39, to which there are amendments not relevant to these regulations

"**Persons entitled to benefits to be regarded as members for the purposes of section 142(7) of the Act**

1A. For the purposes of section 142(7) of the Act(**10**) (persons who are actual or potential beneficiaries) a person shall be regarded as a member of a scheme if he is, or has been, entitled to the payment of benefits under it.".

(3) In regulation 4(1)(*a*) for "1968" there shall be substituted "1986".

Amendment of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations

6. For paragraph 5 of the Schedule to the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997(**11**) (contents of accounts) there shall be substituted—

"**5.** Where the scheme has employer-related investments, within the meaning of Article 40(2) of the Order, a statement—

(a) as to the percentage of the scheme's resources invested in such investments at the end of the scheme year; and

(b) if that percentage exceeds 5 per cent., as to the percentage of the scheme's resources which are investments to which regulation 6 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996(**12**) (investments to which restrictions on employer-related investments do not apply) applies.".

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

7. In regulation 5(2)(*b*)(i) of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**13**) (manner and terms of appointment and removal of professional advisers)—

(a) after "who—" there shall be inserted—

"is subject to rules made under section 48 of the Financial Services Act 1986(**14**), which impose requirements in relation to conflicts of interest; or"; and

(b) the words "Chapter III of" shall be omitted.

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations

8. In regulation 4(2) of the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(**15**) (requirement to disclose basic information about the scheme) for the words following "has not previously been given" there shall be substituted—

"to an active member or a pensioner member who was a member of the scheme on 5th April 1997, such information shall be given to that person—

(a) in the case of a pensioner member who was a deferred member on that date, within 2 months of his becoming a pensioner member or by 5th April 1998, whichever is later;

(b) in any other case, by 5th April 1998.".

(**10**) Section 142(7) was amended by Article 153(3) of the Pensions (Northern Ireland) Order 1995
(**11**) S.R. 1997 No. 40, to which there are amendments not relevant to these regulations
(**12**) S.R. 1996 No. 584; regulation 6 was amended by S.R. 1997 No. 162
(**13**) S.R. 1997 No. 94; regulation 5(2)(*b*) was substituted by S.R. 1997 No. 162
(**14**) 1986 c. 60. *See* also section 50 of that Act
(**15**) S.R. 1997 No. 98; regulation 4(2) was amended by S.R. 1997 No. 162