STATUTORY RULES OF NORTHERN IRELAND

1997 No. 162

PENSIONS

The Occupational Pension Schemes (Reference Scheme and Miscellaneous Amendments) Regulations (Northern Ireland) 1997

Made - - - -	*14th March 1997*
Coming into operation	*6th April 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 3(2A), 8(3), 8B(6), 46(1B), 49(3), 109(1) and (3) and 177(4) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and Articles 1(5)(*a*), 27(3), 40(2), 47(6), 122(3) and 166 of the Pensions (Northern Ireland) Order 1995(**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 Occupational Pension Schemes (Reference Scheme and Miscellaneous Amendments) Regulations (Northern Ireland) 1997 and shall come into operation on 6th April 1997.

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

Amendment of the Pension Schemes Act

2. For paragraph (*b*) of section 8B(4) of the Pension Schemes (Northern Ireland) Act 1993 (reference scheme) there shall substituted the following paragraphs—

"(b) for entitlements to those pensions to commence on the day following the death of the earners, and

(c) except in prescribed circumstances, for the annual rate of those pensions to be—

(**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)); section 8B was inserted by Article 133(5) of that Order; section 46(1B) was inserted by paragraph 37(*b*) of Schedule 3 to that Order and section 49(3) was substituted by paragraph 40(*c*) of Schedule 3 to that Order

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

(**3**) 1954 c. 33 (N.I.)

(i) if the earners die on or after their normal pension age, 50 per cent. of the annual rate which a reference scheme was required to provide to the deceased earners immediately before their death, or

(ii) if the earners die before their normal pension age, 50 per cent. of the annual rate of pension which a reference scheme would have been required to provide to the deceased earners if the date of their death had been their normal pension age, and

(d) if those pensions are payable in respect of earners who die—

(i) otherwise than in pensionable service under the scheme, and

(ii) before their own entitlements to pensions under the scheme have commenced,

for those pensions to be revalued in accordance with section 80 as though they were such benefits as are mentioned in section 79(1)(*a*).".

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

3.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**4**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 39 (circumstances in which schemes may change mode of contracting out)—

(a) before "Subject to any regulations" there shall be inserted "—(1)";

(b) at the end there shall be added the following paragraph—

"(2) Subject to any regulations made under Article 146 of the Order and to regulation 77(**5**), a scheme which has been contracted out by virtue of section 5(2) of the Act(**6**) may become contracted out under section 5(3) of the Act only if its trustees have been discharged of all liability to provide guaranteed minimum pensions and section 5(2B) rights.".

(3) In regulation 45 (approval of arrangements for schemes ceasing to be contracted out)—

(a) in paragraph (3)(*a*) for the words from "a rule which provides" to the end there shall be substituted "a protection rule";

(b) after paragraph (3) there shall be inserted the following paragraphs—

"(3A) For the purposes of paragraph (3)(*a*) a protection rule is a rule which provides that the total amount of the benefits under the scheme for each member at normal pension age and the member's widow or widower at the day following the date of death of the member will not be less than the aggregate of—

(a) any such benefits arising in respect of section 5(2B) rights and guaranteed minimum pensions;

(b) any other such benefits due in respect of rights which have accrued to the member in relation to service in employment which was contracted out before the principal appointed day under section 5(2); and

(c) any such benefits due in respect of rights which have accrued to the member in relation to service in employment which was not contracted out.

(3B) The amount of the benefits mentioned in paragraph (3A)(*a*) and (*b*) and, so far as they relate to service on or before the date on which the scheme ceased to be contracted out, those mentioned in paragraph (3A)(*c*) shall be calculated on an early leaver basis in accordance with Chapter I of Part IV of the Act(**7**) (preservation of

(**4**) S.R. 1996 No. 493, as amended by S.R. 1997 No. 160
(**5**) Regulation 77 was amended by paragraph 5(14) of Schedule 1 to S.R. 1997 No. 160
(**6**) Section 5(2) was substituted by Article 133(3) of the Pensions (Northern Ireland) Order 1995
(**7**) Chapter I of Part IV is amended by paragraphs 14 and 15 of Schedule 1 to the Pensions (Northern Ireland) Order 1995

benefit under occupational pension schemes) and any regulations made under that Chapter, as if the member had ceased to be in pensionable service under the scheme on that date.".

(4) In regulation 46(2) (supervision of schemes that have ceased to contract out) for "regulation 5(4) of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985" there shall be substituted "regulations 3 and, in the case of a pension or accrued benefit under a relevant scheme, 11 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(**8**)".

(5) In regulation 77 (transitional arrangements for schemes contracted out under section 5(2) of the Act to become contracted out under section 5(3) of the Act) after paragraph (6)(**9**) there shall be added the following paragraph—

"(7) Section 51(2) of the Act(**10**) (payment of contributions equivalent premiums) shall be modified so as to have effect in relation to a scheme to which this regulation applies as though it were a salary related scheme, save that an election to pay a contributions equivalent premium shall apply only in respect of the earner's service before the principal appointed day.".

Amendment of the Occupational Pension Schemes (Investment) Regulations

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

(2) After regulation 1 (citation, commencement and interpretation) there shall be inserted the following regulation—

"**Extension of meaning of "employer"**

1A. In these Regulations and for the purposes of Articles 35 and 40, "employer" includes, in relation to a scheme in respect of which there are no active members, the person who was the employer immediately before the occurrence of the event after which the scheme ceased to have any such members.".

(3) For paragraph (8) of regulation 6 (investments to which restrictions do not apply) there shall be substituted the following paragraph—

"(8) This regulation applies to a loan to the employer or a company associated with the employer if—

(a) the scheme provides benefits for directors of a company which is the employer or such directors and others;

(b) there is a policy of insurance taken out under the scheme which is specifically allocated to the provision of benefits under the scheme and directors' interests under which are used as security for the loan;

(c) the policy concerned is effected with an insurance company such as is mentioned in paragraph (2)(*b*);

(d) Inland Revenue requirements concerning the loan have been satisfied; and

(e) the directors agreeing to their interests under the policy concerned being used as security for the loan have so agreed in writing.".

(**8**) S.R. 1997 No. 159
(**9**) Paragraph (6) was substituted by paragraph 5(14)(*b*) of the Schedule to S.R. 1997 No. 160
(**10**) Section 51(2) was substituted by Article 138(1) of the Pensions (Northern Ireland) Order 1995
(**11**) S.R. 1996 No. 584, to which there are amendments not relevant to these regulations