STATUTORY RULES OF NORTHERN IRELAND

1997 No. 160

PENSIONS

The Personal and Occupational Pension Schemes (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 4(3)(*a*), 5(2A)(*a*), (2B), (2C), (3) and (6)(*a*), 6(2)(*c*) and (3)(*c*), 7(3) and (5)(*a*) to (*c*), 8C(1) and (3), 16(1) to (3), 17(1), 21(2), 24(2)(*b*), 30, 33(1), 35, 52(2), 69(1)(*b*), (2)(*b*) and (4)(*b*), 89(1A)(*b*), 91(2)(*c*) and (3), 93(1), 109(1) and (3), 142(4), 164(1) and (4), 177(2) to (4) and 178(1) and (3) of, and paragraphs 1(1) to (4), 3, 4(2) and 5(3)(*e*) of Schedule 1 to, the Pension Schemes (Northern Ireland) Act 1993(**1**) and Articles 10(3), 17(1)(*c*) and (4)(*b*), 18(1), 19(1)(*c*) and (4), 20(1)(*b*), 21(3) to (6) and (7)(*b*), 37(10), 40(1) and (2)(*e*), 41(1) and (6), 47(5), 49(8)(*b*), 56(2)(*b*) and (3), 57(1)(*a*), 58(2) and (7), 60(2)(*b*) and (4), 61, 69(3)(*c*), 73(9), 75(10), 76(8), 77(6), 85(1), 115(1)(*a*) and (*b*), 116, 122(2) to (4) 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 Personal and Occupational Pension Schemes (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.

(**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)); section 5(3) was amended by Article 133(4) of that Order; section 8C was inserted by Article 133(5) of that Order; section 21(2) was substituted by paragraph 26(*b*) of Schedule 3 to that Order; section 30 was amended by paragraphs 14 and 30 of Schedule 3 to that Order; section 33 was substituted by paragraph 32 of Schedule 3 to that Order; section 89(1A) was inserted by Article 148(3) of that Order; section 142(1) to (4) was substituted by Article 153(2) of that Order and section 164 was substituted by Article 151(1) of that Order

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

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

Schemes providing salary related death benefits

2. Part II of the Pensions (Northern Ireland) Order 1995 applies to any occupational pension scheme under which all the benefits that may be provided other than death benefits are money purchase benefits as if every reference in that Part to a money purchase scheme included such a scheme.

Miscellaneous amendments

3. The regulations specified in the Schedule shall have effect with the amendments specified in that Schedule.

Revocations and savings

4.—(1) Subject to paragraph (2), the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations (Northern Ireland) 1987(**4**) ("the 1987 Regulations") and paragraph 14 of Schedule 2 to the Occupational and Personal Pension Schemes (Consequential Amendments) Regulations (Northern Ireland) 1994(**5**) are hereby revoked.

(2) Without prejudice to the generality of section 28 of the Interpretation Act (Northern Ireland) 1954, the revocations in paragraph (1) do not affect the operation of the 1987 Regulations as respects any premium paid before 6th April 1997 or payable immediately before that date.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on

14th March 1997.

John O'Neill
Assistant Secretary

(**4**) S.R. 1987 No. 289, amended by S.R. 1994 No. 300
(**5**) S.R. 1994 No. 300

SCHEDULE

Regulation 3

Miscellaneous Amendments

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

1.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(**6**) shall be amended in accordance with sub-paragraphs (2) to (5).

(2) In regulation 1(2)(**7**) in the definition of "scheme year" for paragraph (*b*) there shall be substituted the following paragraph—

"(b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees in connection with—

(i) the commencement or termination of the scheme, or

(ii) a variation of the date on which the year or period referred to in paragraph (*a*) is to commence;".

(3) In regulation 5(9)(**8**)—

(a) for "the Occupational Pensions Board have" there shall be substituted "the Department has"; and

(b) in sub-paragraph (*a*) for "it was communicated to the trustees by the Occupational Pensions Board" there shall be substituted "the date on which the trustees receive notification of that determination".

(4) In Schedule 1 in paragraph 5 for "the Occupational Pensions Board" there shall be substituted "the Department".

(5) In Schedule 2 in paragraph 10 for "the Occupational Pensions Board" there shall be substituted "the Department".

Amendment of the Personal Pension Schemes (Transfer Values) Regulations

2.—(1) In regulation 2(*b*) of the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987(**9**) for "regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987" there shall be substituted "regulation 2 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(**10**)".

(2) Sub-paragraph (1) shall not apply where the cash equivalent is used on or after 6th April 1997 in pursuance of an application made under section 91 of the Pension Schemes (Northern Ireland) Act 1993 before that date.

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations

3.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**11**) shall be amended in accordance with sub-paragraphs (2) and (3).

(2) In regulations 6(2)(*b*) and 9(4)(*a*) for "regulation 2 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985" there shall be substituted "regulation 3

(**6**) S.R. 1987 No. 288; relevant amending regulations are S.R. 1992 No. 304
(**7**) The definition of "scheme year" was substituted by regulation 18(*b*) of S.R. 1992 No. 304
(**8**) Paragraph (9) was amended by regulation 20(*c*) of S.R. 1992 No. 304
(**9**) S.R. 1987 No. 290; regulation 2(*b*) was amended by paragraph 15(4)(*b*) of Schedule 2 to S.R. 1994 No. 300
(**10**) S.R. 1996 No. 509
(**11**) S.R. 1991 No. 37; relevant amending regulations are S.R. 1993 No. 324

of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(**12**)".

(3) In regulation 12(3)(**13**)—

(a) in sub-paragraph (*a*) after "favourable" there shall be inserted "and, if that scheme were wound up immediately after the transfer, would not be likely to be materially less secure than they would be if the transferring scheme were wound up immediately before the transfer"; and

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

"(aa) no beneficiary or contingent beneficiary under the transferring scheme will receive materially inferior benefits in the receiving scheme; and".

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

4.—(1) The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996(**14**) shall be amended in accordance with sub-paragraphs (2) to (14).

(2) In regulation 2(1)—

(a) in the definition of "eligible members" the words "or in regulation 5(2)" shall be omitted;

(b) in the definition of "member" before ", in relation to a scheme" there shall be inserted "shall be construed in accordance with regulation 3 and";

(c) for the definition of "relevant self-administered scheme" there shall be substituted the following definition—

""relevant self-administered scheme" means an approved scheme which is—

(a) a small self-administered scheme, as defined in regulation 2(1) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991(**15**), or

(b) a scheme which satisfies paragraph (*b*) of that definition and, if it satisfied paragraph (*a*) of that definition, would be a scheme which the Commissioners of Inland Revenue would not be prohibited by those Regulations from approving under section 591 of the Taxes Act;"; and

(d) after the definition of "relevant statutory scheme" there shall be inserted the following definition—

""relevant wholly insured scheme" means a scheme under which all the benefits are secured by contracts of insurance or annuity contracts, some or all of which are with an insurance company (as defined in section 96(1) of the Insurance Companies Act 1982(**16**)) which—

(a) is or is connected with the sole trustee of the scheme, but

(b) is not and is not connected with the employer;".

(3) For regulation 3 there shall be substituted the following regulation—

(**12**) S.R. 1997 No. 159
(**13**) Regulation 12(3) was substituted by regulation 2(*a*) of S.R. 1993 No. 324
(**14**) S.R. 1996 No. 431
(**15**) S.I. 1991/1614
(**16**) 1982 c. 50

"**Scheme membership**

3.—(1) Subject to paragraphs (2) to (7), in determining at any time after the first scheme year of the scheme for the purposes of Articles 16 to 21 and these Regulations (so far as those Articles and these Regulations relate to the number of members which a scheme comprises or to the statutory consultation procedure) whether or not a person is a member or whether he is a member of a specified description, a person shall be treated as becoming or ceasing to be a member or, as the case may be, a member of that description at the beginning of the scheme year following that in which he actually becomes or ceases to be a member or, as the case may be, a member of that description.

(2) If a member ceases to be a member before the statutory consultation procedure begins, he shall not be treated as a member by virtue of paragraph (1) for the purposes of that procedure (but this paragraph does not affect the application of paragraph (1) to persons who cease to be members of a specified description whilst remaining members).

(3) Where paragraph (1) applies and the statutory consultation procedure begins in one scheme year and ends in another, for the purposes of that procedure the question whether a person is a member or a member of a specified description at any time during that procedure shall be determined in accordance with that paragraph immediately before the start of that procedure.

(4) The trustees of a scheme may determine—

(a) that paragraph (1) shall not apply in relation to the scheme at any time on or after the date of the determination, or

(b) that, for the purposes of any statutory consultation procedure beginning on or after that date—

(i) the question whether a person is a member at any time during that procedure;

(ii) the question whether a member is a member of a specified description at any such time, or

(iii) both those questions,

shall be determined at a time no more than 2 months before the start of that procedure.

(5) A determination under paragraph (4) may apply as respects all the provisions to which paragraph (1) refers or only to provisions specified in the determination, and may be revoked or amended by a further determination.

(6) Paragraphs (1) to (5) are without prejudice to paragraph 8(3) of Schedule 1.

(7) For the purposes of Articles 16 to 21 and these Regulations, "member", in relation to a scheme, does not include any person whose service is only pensionable service by virtue of qualifying him for death benefits (unless by virtue of any of the previous provisions of this regulation he is at any time treated as a member by virtue of previous membership).".

(4) Regulation 4(2) shall be omitted.

(5) Regulation 5(2) and (3) shall be omitted.

(6) In regulation 6—

(a) in paragraph (1) after sub-paragraph (*j*) there shall be inserted the following sub-paragraph —

"(ja) which is a relevant wholly insured scheme;"; and

(b) paragraph (2) shall be omitted.

(7) In regulation 9(2)—