STATUTORY RULES OF NORTHERN IRELAND

1997 No. 142

PENSIONS

The Occupational and Personal Pension Schemes (Levy) Regulations (Northern Ireland) 1997

Made - - - -	*10th March 1997*
Coming into operation	*1st April 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 164(1) and (4), 170(1) to (5), (7) and (9) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and Articles 87(2), 122(3) 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Levy) Regulations (Northern Ireland) 1997 and shall come into operation on 1st April 1997.

(2) In these Regulations—

"address of the scheme" means the place in the United Kingdom, or if more than one, the principal place, at which the management of a registrable scheme is conducted;

"the Compensation Board" means the Pensions Compensation Board(**3**);

"employer" means—

(a) in relation to an occupational pension scheme in which there are members in pensionable service, the employer of persons in the description or category of employment to which the scheme relates; and

(b) in relation to an occupational pension scheme which is a frozen scheme, the person who was the employer of persons in the description or category of employment to which the scheme related immediately before the occurrence of the event after which the scheme became a frozen scheme;

"frozen scheme" means a registrable scheme under which benefits continue to be payable to existing members and to which—

(**1**) 1993 c. 49; section 164 was substituted by Article 151(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and section 170 was substituted by Article 161 of that Order

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

(**3**) The Pensions Compensation Board is established under section 78(1) of the Pensions Act 1995 (c. 26)

(a) no new members may be admitted;

(b) no further contributions are payable by, or in respect of, existing members; and

(c) no further benefits accrue to existing members although benefits which have already accrued to them may be increased;

"member" means—

(a) in relation to an occupational pension scheme, any person who—

(i) is in pensionable service under the scheme;

(ii) has rights under the scheme by virtue of his pensionable service under the scheme; or

(iii) has rights under the scheme by virtue of having been allowed transfer credits under the scheme;

(b) in relation to a personal pension scheme, a member of the scheme,

other than a member in respect of whom entitlement under the scheme is only for benefits payable on his death;

"registrable scheme" means an occupational or a personal pension scheme—

(a) which—

(i) is established in the United Kingdom; or

(ii) has a place at which its management is conducted in the United Kingdom and has a representative appointed to carry out the functions of a trustee in the United Kingdom;

(b) which—

(i) is a scheme in respect of which a person has applied for, or received, the approval of the Commissioners of Inland Revenue for the purposes of section 590 or 591 (other than subsection (2)(*g*)) of the Taxes Act 1988 (conditions for approval of retirement benefit schemes and discretionary approval), or for the purposes of Chapter IV of Part XIV of that Act (personal pension schemes); or

(ii) is a scheme which is a public service pension scheme; and

(c) which—

(i) has more than one member; and

(ii) provides benefits which are not solely payable on the death of a member,

and, for the purposes of these Regulations, an occupational pension scheme which is a retirement benefits scheme approved under section 591(2)(*h*) of the Taxes Act 1988 (discretionary approval) shall be treated as a personal pension scheme;

"Registrar" means the Registrar of Occupational and Personal Pension Schemes appointed under regulation 2 of the Register of Occupational and Personal Pension Schemes Regulations 1997(**4**);

"registration year" means a period of 12 months beginning on 1st April;

"the Regulatory Authority" means the Occupational Pensions Regulatory Authority(**5**);

"scheme year" in relation to a registrable scheme means—

(**4**) S.I. 1997/371

(**5**) The Occupational Pensions Regulatory Authority is established under section 1(1) of the Pensions Act 1995

(a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none is so specified, a period of 12 months commencing on 1st April or on such other date as the trustees select; or

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

(i) in connection with the commencement or termination of the scheme; or

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

"the Taxes Act 1988" means the Income and Corporation Taxes Act 1988(**6**);

"total membership" means the number of members—

(a) on the day on which the scheme becomes a registrable scheme; then

(b) at the end of the second scheme year; then

(c) at the end of each subsequent scheme year;

"trustees", in the case of a scheme which is not set up under a trust, means the managers of the scheme, except in relation to a scheme which is established outside the United Kingdom, and in such a case "trustees" means the person treated by the Commissioners of Inland Revenue for the time being as the administrator of the scheme for the purposes of Chapter I or Chapter IV of Part XIV of the Taxes Act 1988 (retirement benefit schemes or personal pension schemes);

"unallocated assets" means any assets of a scheme which have not been specifically allocated for the provision of benefits to or in respect of members (whether generally or individually).

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to a Measure of the Assembly.

(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) In these Regulations any reference—

(a) to a numbered Part or section is a reference to the Part or, as the case may be, section of the Pension Schemes (Northern Ireland) Act 1993 bearing that number; and

(b) to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 1995 bearing that number.

The general levy

2.—(1) For the purpose of meeting expenditure under section 2(**8**), Part X(**9**) and section 169(**10**) and of the Regulatory Authority, the trustees of every registrable occupational pension scheme shall be liable to pay a levy to the Department.

(2) For the purpose of meeting expenditure under section 2, Part X and section 169, the trustees of every registrable personal pension scheme shall be liable to pay a levy to the Department.

(3) In these Regulations, the levy payable to the Department by a registrable scheme under paragraph (1) or (2) shall be referred to as "the general levy".

(4) The general levy shall be payable in respect of each registration year.

(**6**) 1988 c. 1
(**7**) 1954 c. 33 (N.I.)
(**8**) Section 2 was amended by paragraph 13 of Schedule 1 to the Pensions (Northern Ireland) Order 1995
(**9**) Part X is amended by Articles 152 to 156 of the Pensions (Northern Ireland) Order 1995
(**10**) Section 169 is amended by paragraph 63 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(5) Subject to regulation 8, where, during a registration year, a scheme—

(a) becomes a registrable scheme;

(b) ceases to be a registrable scheme; or

(c) is wound up,

the general levy shall nevertheless be payable in full for that year.

Amount of the general levy

3.—(1) The amount of the general levy payable in respect of each registration year shall be determined by reference to the total membership of a scheme.

(2) For the purposes of paragraph (1), the general levy shall—

(a) in the case of a registrable occupational pension scheme, be calculated in accordance with Part I of the Schedule; and

(b) in the case of a registrable personal pension scheme, be calculated in accordance with Part II of the Schedule.

Payment of the general levy

4.—(1) The general levy shall be remitted to the Registrar who shall collect the same on behalf of the Department.

(2) The general levy shall, subject to paragraph (3), be payable in advance at the beginning of each registration year and no additional levy or refund shall be payable in respect of any change taking place during that year.

(3) In the case of a scheme to which regulation 2(5)(*a*) applies, the general levy shall be payable on the day on which the scheme becomes a registrable scheme.

The compensation levy

5.—(1) Subject to paragraph (3), for the purpose of meeting the expenditure of the Compensation Board, the trustees of every registrable occupational pension scheme established by trust shall be liable to pay a levy to the Compensation Board.

(2) In these Regulations, the levy payable to the Compensation Board shall be referred to as "the compensation levy".

(3) Paragraph (1) shall not apply in the case of—

(a) any occupational pension scheme referred to in sub-paragraphs (*d*) to (*g*) of regulation 2(1) of the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations (Northern Ireland) 1997(**11**) (schemes to which the compensation provisions in Articles 79 to 83 do not apply); and

(b) any occupational pension scheme in respect of which the employer cannot become insolvent within the meaning given by section 119 (interpretation of Chapter II of Part VII).

(4) Subject to paragraph (3) and regulation 8, where, during a registration year, a scheme to which paragraph (1) applies—

(a) becomes a registrable scheme;

(b) ceases to be a registrable scheme; or

(c) is wound up,

(**11**) S.R. 1997 No. 141

the compensation levy shall nevertheless be payable in full for that year.

Amount of the compensation levy

6.—(1) The amount of the compensation levy payable in respect of each registration year shall be determined by reference to the total membership of a scheme.

(2) The amount of the compensation levy payable per member in respect of each registration year shall not exceed the amount specified in Part III of the Schedule.

(3) The Compensation Board shall secure that arrangements are made and implemented for giving notice in writing to the trustees of schemes to which regulation 5(1) applies of the amount of the compensation levy payable per member and that reasonable steps are taken to ascertain the address to which such notice should be sent.

Payment of the compensation levy

7.—(1) The compensation levy shall, subject to paragraph (2), be payable in advance at the beginning of each registration year and no additional levy or refund shall be payable in respect of any change taking place during that year.

(2) In the case of a scheme to which regulation 5(4)(*a*) applies, the compensation levy shall be payable on the day on which the scheme becomes a registrable scheme.

Waiver of the general levy and the compensation levy

8.—(1) In the case of schemes to which regulations 2(1) and 5(1) apply, payment of the general levy or the compensation levy shall be waived where the trustees confirm in writing to the Registrar that—

(a) there is no employer or the employer is insolvent; and

(b) in the case of a scheme under which all the benefits that may be provided (other than death benefits) are money purchase benefits, there are insufficient unallocated assets in the scheme to meet its levy liabilities in full; or

(c) in the case of a scheme to which Articles 56 to 60 (the minimum funding requirement) apply and in respect of which there has been an actuarial valuation of the scheme's assets in accordance with Article 57 (valuation and certification of assets and liabilities), the value of the scheme's assets is less than 100 per cent. of its liabilities; or

(d) in the case of a scheme to which Articles 56 to 60 apply and in respect of which there has been no actuarial valuation of the scheme's assets in accordance with Article 57, the amount by which the scheme's assets exceed its liabilities, in accordance with the last actuarial valuation of the scheme's assets under regulation 8 of the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986(**12**), is less than the total amount of its levy liabilities.

(2) In this regulation, "insolvent" has the meaning given by section 119 (interpretation of Chapter II of Part VII).

Multi-employer schemes

9.—(1) Where a registrable occupational pension scheme in relation to which there is more than one employer is divided into 2 or more sections and the provisions of the scheme are such that—

(**12**) S.R. 1986 No. 225, revoked by Schedule 4 to S.R. 1997 No. 98. The requirement for occupational pension schemes to provide ongoing valuations of their assets is now contained in regulation 30 of S.R. 1996 No. 570