STATUTORY RULES OF NORTHERN IRELAND

1997 No. 139

PENSIONS

The Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997

Made - - - -	*10th 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(1)(*b*), (6) and (7), 5(5) and (6), 22, 30(1) and (8), 39(1) and (3), 40(1) and (2), 41(3), 41B, 151, 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**) 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 Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997 and shall come into operation on 6th April 1997.

(2) In these Regulations—

"administrators", in relation to a personal pension scheme, means—

(a) the trustees; or

(b) the managers (if there are no trustees); and

(c) any person or company authorised to act on behalf of the trustees or managers (if there are no trustees),

but does not include any person who is resident outside the United Kingdom nor any company which has its registered office outside the United Kingdom;

"building society" has the same meaning as in the Building Societies Act 1986(**2**);

"Friendly Society" has the same meaning as in the Friendly Societies Act 1992(**3**) (including any society which by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act);

(**1**) 1993 c. 49; section 3(1) was amended by paragraph 15(*a*) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); section 30(1) was amended by paragraph 30(*a*) of Schedule 3 to that Order; section 41B was inserted by Article 136 of that Order and section 151 was amended by paragraph 55 of Schedule 3 to that Order

(**2**) 1986 c. 53

(**3**) 1992 c. 40

"overseas scheme" means an occupational pension scheme which is administered wholly or primarily outside the United Kingdom but does not include one which is contracted-out within the meaning of section 3(3)(**4**) nor one to which section 49(**5**) applies;

"pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995(**6**).

(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 to a numbered section is a reference to the section of the Pension Schemes (Northern Ireland) Act 1993 bearing that number.

Forms of schemes which may be appropriate schemes

2.—(1) A personal pension scheme can be an appropriate scheme only if it is approved by the Commissioners of Inland Revenue under either—

(a) Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(**8**); or

(b) Chapter I of Part XIV of that Act by reference to section 591(2)(*h*) of that Act,

and in either case it takes one of the forms (but not more than one) specified in paragraph (2).

(2) The forms referred to in paragraph (1) are—

(a) an arrangement for the issue of policies of insurance or annuity contracts;

(b) a unit trust scheme of a kind mentioned in Part I of Schedule 1 which has been authorised under section 78(1) of, or by virtue of paragraph 9 of Schedule 15 to, the Financial Services Act 1986(**9**);

(c) subject to paragraph (3), an arrangement for the investment of contributions in an interest-bearing account which expression includes shares in or deposits with a building society.

(3) For the purposes of paragraph (2)(*c*) the rules of the personal pension scheme shall provide that, at the minimum, there shall be invested in the interest-bearing account any payments which, under section 6(3) or under regulation 3 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**10**), are those from which are derived protected rights.

Persons who and bodies which may establish schemes

3.—(1) An arrangement such as is described in—

(a) regulation 2(2)(*a*) which is established by a Friendly Society can be an appropriate scheme only if paragraph (2) applies to that Friendly Society; and

(b) regulation 2(2)(*c*) can be an appropriate scheme only if it is established by a person to whom or a body to which paragraph (3) applies.

(**4**) Section 3 is amended by Article 133(1) of, and paragraph 15 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995
(**5**) Section 49 applies to occupational pension schemes by virtue of section 48(1) of the Pension Schemes (Northern Ireland) Act 1993. Section 49 is amended by paragraph 40 of Schedule 3 to the Pensions (Northern Ireland) Order 1995
(**6**) S.I. 1995/3213 (N.I. 22)
(**7**) 1954 c. 33 (N.I.)
(**8**) 1988 c. 1
(**9**) 1986 c. 60
(**10**) S.R. 1997 No. 56

(2) This paragraph applies to a Friendly Society which is authorised under section 32(**11**) of the Friendly Societies Act 1992 to carry on long term business under any of the Classes specified in Head A of Schedule 2 to that Act.

(3) This paragraph applies to—

(a) a building society;

(b) a pension vehicle as defined in item 14 of Part I of the Schedule to the Building Societies (Designation of Qualifying Bodies) Order 1988(**12**) which is associated with a building society as described in section 18(17) of the Building Societies Act 1986;

(c) an institution authorised under Part I of the Banking Act 1987(**13**);

(d) subject to paragraph (4), a body corporate which is a subsidiary or holding company of an institution such as is mentioned in sub-paragraph (*c*) or a subsidiary of the holding company of such an institution ("holding company" and "subsidiary" being construed in accordance with section 736 of the Companies Act 1985(**14**) or Article 4 of the Companies (Northern Ireland) Order 1986(**15**)).

(4) Paragraph (3)(*d*) applies subject to the conditions that the rules of any appropriate scheme established by such a body require that the resources of the scheme be invested with an institution such as is mentioned in paragraph (3)(*c*), and further provide that the rights arising from such investments, in so far as they are attributable to the contributions made by or on behalf of a member, shall be held by that body on trust for that member.

Requirements in respect of an application for an appropriate scheme certificate

4.—(1) Every application for an appropriate scheme certificate ("the certificate") shall be made in writing to the Department and shall include—

(a) the name of the scheme and the address where it is administered;

(b) the names and addresses of the administrators of the scheme;

(c) the name, address and position (in relation to the scheme) of the person making the application for the certificate;

(d) the name and address of the person who or body which has established the scheme (the address in the case of a company being that of its registered office);

(e) such evidence as the Department may reasonably require that the scheme satisfies such of the requirements of regulation 3 as apply to it;

(f) which of the forms specified in regulation 2(2) the scheme is to take;

(g) the name and address of a bank or building society which accepts payments made by automated credit transfer together with the name and account number at that bank or building society into which it is desired that minimum contributions should be paid; and

(h) the date from which the desired certificate shall have effect.

(2) Every application shall be accompanied by a copy of—

(a) the documents constituting the scheme; and

(b) the rules of the scheme, if they are not set out in those documents or any of them,

except where the Department in its discretion dispenses wholly or partly with this requirement.

(**11**) Subsection (4) was substituted by regulation 4 of S.I. 1994/1984
(**12**) S.I. 1988/1196
(**13**) 1987 c. 22
(**14**) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40)
(**15**) S.I. 1986/1032 (N.I. 6); Article 4 was substituted by Article 62(1) of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))

(3) Every person who has made an application shall supply such other documents and information as the Department may reasonably require.

Issue of appropriate scheme certificates

5. When the Department has determined that a personal pension scheme is, or at any time was, an appropriate scheme, it shall issue an appropriate scheme certificate so stating to the person who applied for that certificate.

Requirement to give the Department information

6. The administrators of the scheme shall furnish the Department—

(a) with such reports, accounts and other documents and information relating to the scheme to which the certificate relates, in such manner and at such times as may be reasonably required by the Department;

(b) with particulars in writing of—

(i) any change in the identity, names and addresses of the administrators of the scheme;

(ii) any change in the name or address of the person who has established the scheme;

(iii) any change affecting the information given under regulation 4(1)(*e*) and (*f*); and

(iv) any change of circumstances affecting the scheme as the Department may have required them to notify,

as soon as practical after its occurrence.

Cancellation, variation and surrender of an appropriate scheme certificate

7. An appropriate scheme certificate may be cancelled, varied or surrendered where there is any change in respect of the information which was provided by virtue of regulations 4 and 6.

Applications for the variation of, and to surrender, appropriate scheme certificates

8.—(1) Every application for the variation of, or to surrender, an appropriate scheme certificate—

(a) shall be made in writing to the Department by the administrators of the scheme;

(b) shall be made only after notices of intention to make that application have been given by the administrators in accordance with paragraph (2) except where (in the case of an application for the variation of an appropriate scheme certificate) the Department dispenses with this requirement; and

(c) shall include a statement that all notices required by paragraph (2) to be given in relation to that application have been duly given.

(2) Notices of intention to make an application such as is mentioned in paragraph (1) shall be given in writing to—

(a) any member of the scheme who has protected rights under it; and

(b) any earner who, jointly with the trustees or managers of the scheme, has given in relation to the scheme a notice under section 40(1)(**16**) which has not been cancelled,

by sending it to his last known address.

(3) Notices given under this regulation shall specify—

(a) the name of the scheme and the address where it is administered;

(**16**) Section 40 is amended by Article 160 of the Pensions (Northern Ireland) Order 1995

(b) the date from which it is desired that the variation or surrender shall have effect; and

(c) where the application is to surrender an appropriate scheme certificate, any arrangements made or proposed for the preservation or transfer of protected rights under the scheme.

(4) Every person who makes an application under this regulation shall supply such other documents and information as the Department may reasonably require.

Cancellation of an appropriate scheme certificate

9. For the purpose of section 30(8) (no cancellation of an appropriate scheme certificate shall have effect from a date earlier than that on which the cancellation is made except in prescribed circumstances) the prescribed circumstance is where the Department considers that the scheme has failed to satisfy the requirements for continuing to be an appropriate scheme before the date cancellation is made and in such a case the date of effect of the cancellation—

(a) shall not be a date other than 6th April in any year; and

(b) shall not be earlier than 6th April in the tax year in which the Department considers that the scheme first failed to satisfy those requirements.

Notice under section 40(1)

10.—(1) A notice under section 40(1) (notice of earner's chosen scheme) shall be given in writing in such form as the Department may in its discretion accept.

(2) Subject to paragraphs (3) and (4), the date specified in a notice under section 40(1) as the date from which the scheme is to be the earner's chosen scheme shall, subject to paragraph (3), be 6th April in the tax year notice is given or 6th April in the next tax year.

(3) Where notice is given by 17th May in a tax year it may specify 6th April in the preceding tax year.

(4) In a case where a scheme ("the first scheme") was an earner's chosen scheme on the date with effect from which the first scheme ceased to be an appropriate scheme, the date specified in a notice under section 40(1) as the date from which another scheme ("the second scheme") is to be the earner's chosen scheme may be the date with effect from which the first scheme ceased to be an appropriate scheme (whether or not that date is 6th April), if that date is not earlier than whichever is the earlier of—

(a) the date 6 months earlier than that on which the Department receives the notice; and

(b) 6th April in the tax year in which the Department receives the notice.

Notice under section 40(2)

11.—(1) A notice under section 40(2) (cancellation of a notice given under section 40(1)) shall be given in writing and in such form as the Department may in its discretion accept.

(2) The date specified in a notice under section 40(2) shall, subject to paragraph (3), be 6th April in the tax year in which the Department receives the notice or 6th April in the next tax year.

(3) Where notice under section 40(2) is given by the earner and not by the trustees or managers of the scheme the date shall be at least a year later than the date specified in the notice given under section 40(1).

Circumstances in which minimum contributions are not to be paid

12.—(1) Minimum contributions shall not be paid in respect of an earner for the tax year or any part of the tax year in which that earner—