STATUTORY RULES OF NORTHERN IRELAND

1997 No. 98

PENSIONS

The Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997

Made - - - - 24th February 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 109, 164(1) and (4) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and Articles 10(3), 41(1) and (6) 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 Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997 and shall come into operation on 6th April 1997.

(2) In these Regulations—

"accrued rights" has the meaning given by Article 121(2);

"the Act" means the Pension Schemes (Northern Ireland) Act 1993;

"active member" has the meaning given by Article 121(1);

"the actuary" has the meaning given by Article 47(1)(*b*);

"the auditor" has the meaning given by Article 47(1)(*a*);

"beneficiary", in relation to a scheme, means a person, other than a member of the scheme, who is entitled to the payment of benefits under the scheme;

"deferred member" has the meaning given by Article 121(1);

"employer", in relation to a member or prospective member of a scheme, means—

(a) in the case of an employed earner, the secondary contributor (within the meaning of section 7 of the Social Security Contributions and Benefits (Northern Ireland) Act

(**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))

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

1992(**3**)) in relation to any payment of earnings in respect of the employment concerned; and

(b) in the case of a self-employed earner, any other person, government department or public authority who has made, or is to make, payments to the scheme in respect of the earner;

"enactment" has the meaning given by Article 2(2);

"excluded person" means a deferred member whose present address is not known to the trustees and in respect of whom correspondence sent by the trustees to his last address known to the trustees has been returned;

"funded", in relation to benefits under a scheme, means provided by setting aside resources (other than assets at the disposal of the employer of any person who is employed in relevant employment) in advance which are related to the intended rate or amount of the benefits;

"independent person" has the meaning given by Article 23(3);

"independent trade union" has the meaning given by Article 2(3) of the Employment Rights (Northern Ireland) Order 1996(**4**);

"managers" has the meaning given by Article 121(1);

"member" has the meaning given by Article 121(1);

"money purchase benefits" means benefits the rate or amount of which are calculated by reference to a payment or payments made by the member, or by any other person in respect of the member, and which are not average salary benefits;

"money purchase scheme" means a pension scheme under which all the benefits that may be provided are money purchase benefits;

"multi-employer scheme" means a scheme in relation to which there is more than one employer, which is divided into 2 or more sections and the provisions of which are such that—

(a) different sections of the scheme apply to different employers or groups of employers (whether or not more than one section applies to any particular employer or groups including any particular employer);

(b) contributions payable to the scheme by an employer, or by a member in employment under that employer, are allocated to that employer's section (or, if more than one section applies to the employer, to the section which is appropriate in respect of the employment in question); and

(c) a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section;

"the Order" means the Pensions (Northern Ireland) Order 1995;

"pensionable service" has the meaning given by Article 121(1);

"pensioner member" has the meaning given by Article 121(1);

"professional advisers" has the meaning given by Article 47;

"prospective member" means any person who, under the terms of his contract of service and the scheme rules—

(a) is able, at his own option, to become a member of the scheme;

(b) will become so able if he continues in the same employment for a sufficiently long period;

(c) will be admitted to it automatically unless he makes an election not to become a member; or

(**3**) 1992 c. 7
(**4**) S.I. 1996/1919 (N.I. 16)

(d) may be admitted to it subject to the consent of his employer;

"Regulatory Authority" means the Occupational Pensions Regulatory Authority;

"relevant employment" means any employment to which the scheme relates;

"request" means a request in writing;

"scheme" means an occupational pension scheme;

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

(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;

"simplified defined contribution scheme" means a scheme approved by the Commissioners of Inland Revenue under section 591 of the Income and Corporation Taxes Act 1988(**5**) and which provides benefits which are limited by reference to—

(a) the aggregate amount of the contributions which can be paid by a member and his employer; and

(b) the maximum lump sum retirement benefit which can be provided under the scheme;

"tax-approved scheme" means a scheme which is—

(a) approved by the Commissioners of Inland Revenue for the purposes of section 590 or 591 of the Income and Corporation Taxes Act 1988; or

(b) a relevant statutory scheme as defined in section 611A of that Act(**6**);

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

"wholly insured scheme" means a scheme under which all the benefits provided are secured by a policy or policies of insurance or an annuity contract or contracts,

and other expressions have the same meaning as in the Act.

(3) In these Regulations any reference—

(a) to a numbered Article is a reference to the Article of the Order bearing that number; and

(b) to a numbered section is a reference to the section of the Act bearing that number.

(4) Subject to paragraph (5), the Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to a Measure of the Assembly.

(5) 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**) 1988 c. 1
(**6**) Section 611A was inserted by paragraph 15 of Schedule 6 to the Finance Act 1989 (c. 26)
(**7**) 1954 c. 33 (N.I.)

Application of these Regulations

2.—(1) Subject to paragraphs (2) and (3), and regulations 6(2), 7(2) and 8, these Regulations apply in relation to a scheme which—

(a) is, or was formerly, a tax-approved scheme (or in respect of which an application for tax approval has been made which has not been determined); or

(b) is a public service pension scheme.

(2) These Regulations do not apply to a scheme—

(a) whose members are fewer than 2;

(b) which provides benefits only in the event of the death of a person who is, immediately before his death, employed in relevant employment; or

(c) unless—

(i) it is established in the United Kingdom; or

(ii) it has one or more trustees resident in the United Kingdom.

(3) Regulations 3 to 7 shall not apply to a scheme established by the Salvation Army Act 1963(**8**).

(4) These Regulations do not impose on the trustees of a scheme any duty in relation to—

(a) any member or prospective member if no person who employs him in relevant employment has informed the trustees that he is a member or prospective member;

(b) an independent trade union recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of the scheme if no person who employs any such member or prospective member in relevant employment has informed the trustees that the trade union is so recognised; or

(c) any member where all members are trustees.

Constitution of scheme

3.—(1) Subject to paragraph (5), the trustees of a scheme shall make provision, in the manner specified in paragraph (2), for the disclosure, to persons and trade unions in the categories specified in paragraph (3), of—

(a) the contents—

(i) of the trust deed constituting the scheme, if it is constituted by such a deed; or

(ii) of any document constituting the scheme, if it is not constituted by a trust deed,

and, if the rules of the scheme are not set out in a trust deed or other document the contents of which fall to be disclosed under head (i) or (ii), the contents of the rules;

(b) the contents of any document which amends or supplements or wholly or partly supersedes a document the contents of which fall to be disclosed under sub-paragraph (*a*) or this sub-paragraph; and

(c) if the name and address of every person who employs any member of the scheme in relevant employment is not set out in any trust deed or other document the contents of which fall to be disclosed under sub-paragraph (*a*) or (*b*), the contents of a document setting out the name and address of every such person.

(2) A copy of any such document as is mentioned in paragraph (1), shall, within 2 months of a request being made by a person or a trade union in the categories specified in paragraph (3)—

(**8**) 1963 c. xxxii

(a) be made available free of charge for inspection at a place which is reasonable having regard to the circumstances of the request and of the person who or trade union which made it; or, at their option,

(b) be furnished to such person or trade union, and where a charge is levied it shall not exceed the expense incurred in copying, posting and packing such copy, so however that in the case of a document copies of which are publicly available, the trustees may, instead of furnishing a copy, advise the person who or trade union which has requested it where copies may be obtained.

(3) The categories of persons and trade unions mentioned in paragraphs (1) and (2) are—

(a) members and prospective members of the scheme;

(b) spouses of members and of prospective members of the scheme;

(c) beneficiaries under the scheme;

(d) independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of the scheme.

(4) Any document of which disclosure is required by paragraph (1) which is not in the English language shall be accompanied by a translation in that language.

(5) Nothing in this regulation shall require the disclosure of any matter in relation to a member, beneficiary or prospective member that is not relevant to that person's rights or prospective rights under the scheme, or, where disclosure is made to a trade union, of any matter which is not relevant to the rights or prospective rights of members or prospective members who are of a class of employee in relation to which the trade union is a recognised trade union for the purposes of collective bargaining.

(6) Where any provision of an enactment has been set out in a document which is required to be disclosed by paragraph (1), or has been incorporated in such a document by reference, that provision shall be disclosed either—

(a) by giving a reference to it and the enactment in which it is contained; or

(b) by setting out its text.

Basic information about the scheme

4.—(1) Subject to paragraph (4), the trustees of a scheme shall furnish in writing the information specified in Schedule 1 to persons and trade unions in the categories specified in paragraphs (2) and (3).

(2) The information specified in Schedule 1 shall be given as of course, where practicable, to every prospective member and where it has not been practicable so to do, such information shall be given to a person within 2 months of his becoming a member of the scheme, and to the extent that any information so specified has not previously been given to a person who was a member of the scheme on 5th April 1997, such information shall be given to that person by 5th April 1998.

(3) The information specified in Schedule 1 shall be given to—

(a) any member or prospective member of, or beneficiary under, the scheme;

(b) the spouse of any member or prospective member; or

(c) any independent trade union recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of the scheme,

on request (except where the same information was furnished to that person or trade union in the 12 months prior to the request being made), as soon as practicable and in any event within 2 months of the request being made.

(4) Where different information is applicable to different members, prospective members and beneficiaries, nothing in this regulation shall be construed as requiring the trustees to disclose