STATUTORY RULES OF NORTHERN IRELAND

1996 No. 620

PENSIONS

The Personal and Occupational Pension Schemes (Preservation of Benefit and Perpetuities) (Amendment) Regulations (Northern Ireland) 1996

Made - - - - 31st December 1996

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 67(6), 69(2) and (4), 70(8), 73(5)(*c*) and (6), 78(1), 109(1), 149(2)(*c*), 159(6), 161(5), 164(1) and (4) and 177(2) to (4) 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 and Occupational Pension Schemes (Preservation of Benefit and Perpetuities) (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1997.

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

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

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**3**) shall be amended in accordance with paragraphs (2) to (18).

(2) For regulation 1(2)(**4**) (interpretation) there shall be substituted—

"(2) In these regulations—

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

"scheme" means an occupational pension scheme.".

(**1**) 1993 c. 49; section 159(6) was amended by paragraph 14 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22)) and section 164 was substituted by Article 151(1) of that Order

(**2**) 1954 c. 33 (N.I.)

(**3**) S.R.1991 No. 37; relevant amending regulations are S.R. 1992 No. 304, S.R. 1993 No. 324, S.R. 1994 No. 300 and S.R. 1995 No. 441

(**4**) Regulation 1(2) was amended by paragraph 26(2) of Schedule 2 to S.R. 1994 No. 300

(3) In regulation 5(1)(**5**) (short service benefit in lump sum form) the words from "or any other circumstances" to the end shall be omitted.

(4) Regulation 7(3) and (4)(**6**) (alternatives to short service benefit) shall be omitted.

(5) In regulation 9(5)(*c*)(**7**) (bought out benefits) for "the Board" there shall be substituted "the trustees or managers of the scheme".

(6) After regulation 11 (value of alternatives to short service benefit) there shall be inserted—

"**Further alternative to short service benefit — transfer to an overseas arrangement**

11A.—(1) For the purposes of section 69(2) of the Act (alternatives to short service benefit) a scheme may, instead of providing short service benefit, provide for the member's accrued rights to be transferred, if the member consents, to an overseas arrangement.

(2) For the purposes of paragraph (1) "overseas arrangement" means a scheme or arrangement, other than an occupational pension scheme, which—

(a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;

(b) is not an appropriate scheme; and

(c) is administered wholly or primarily outside the United Kingdom.".

(7) In regulation 12(**8**) (transfer of member's accrued rights without consent)—

(a) in paragraph (2)(*b*)(ii) for the words from "any of" to the end there shall be substituted "regulation 64(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**9**) (meaning of "connected employer")", and

(b) after paragraph (4A) there shall be inserted—

"(4B) Where it is proposed that a member's accrued rights are to be transferred in accordance with this regulation, information about the proposed transfer and details of the value of the rights to be transferred (including rights in respect of death in service benefits and survivors' benefits) shall be furnished to the member not less than one month before the proposed transfer is due to take place."

(8) In regulation 13(**10**) (benefits attributable to waiting periods)—

(a) in paragraphs (1)(*b*) and (2)(*c*) ", in the Board's opinion," shall be omitted;

(b) in paragraph (3) for the words from "the Board" to the end there shall be substituted "the waiting period does not exceed 2 years.".

(9) Regulation 14(4)(**11**) (computation of benefit — money purchase benefits) shall be omitted.

(10) After regulation 14 there shall be inserted—

"**Circumstances in which uniform accrual does not apply — money purchase benefits**

14A.—(1) In the case of a scheme providing money purchase benefits, section 70 of the Act (computation of short service benefit) applies with the following modifications.

(**5**) Regulation 5(1) was amended by paragraph 26(6) of Schedule 2 to S.R. 1994 No. 300
(**6**) Regulation 7(3) was amended by paragraph 26(10) of Schedule 2 to S.R. 1994 No. 300
(**7**) Regulation 9(5) was amended by paragraph 26(13) of Schedule 2 to S.R. 1994 No. 300
(**8**) Regulation 12 was amended by regulation 35 of S.R. 1992 No. 304, regulation 2 of S.R. 1993 No. 324, paragraph 26(16) of Schedule 2 to S.R. 1994 No. 300 and regulation 3(4) of S.R. 1995 No. 441
(**9**) S.R. 1996 No. 493
(**10**) Regulation 13(3) was amended by paragraph 26(7) of Schedule 2 to S.R. 1994 No. 300
(**11**) Regulation 14(4) was amended by paragraph 26(17) of Schedule 2 to S.R. 1994 No. 300

(2) In subsection (6) after "it must" there shall be inserted ", subject to subsection (6A)," and after subsection (6) there shall be inserted—

"(6A) If the requirement set out in subsection (6B) is satisfied in relation to a scheme, so much of any money purchase benefits provided by the scheme as would otherwise be required to be computed in accordance with subsection (6) must be computed in accordance with subsection (1).

(6B) The requirement is that, when calculated in relation to a hypothetical member who, at any given age and when in receipt of any given salary from the relevant employment equal to any of the indicative salaries specified in subsection (6C)(*b*), begins to accrue money purchase benefits in the scheme and continues to do so for a period ending before he attains normal pension age and comprising any given number of years (but not less than 2)—

(a) in the case of at least 90 per cent. of such hypothetical members the amount of the fund ("F") which the member could have been expected to accumulate at the end of the period is equal to or more than an amount ("G^1") calculated in accordance with subsection (6C)(*d*) and corresponding to a proportion of the fund ("G") which he could have been expected to accumulate had he continued to accrue money purchase benefits until normal pension age, and

(b) in the case of all such hypothetical members, F is not less than 90 per cent. of G^1.

(6C) For the purposes of determining whether the requirement set out in subsection (6B) is satisfied—

(a) F and G shall be calculated in accordance with the contribution structure provided for in the scheme rules, applying the following actuarial assumptions—

(i) a rate of gross investment return of 8 per cent. per annum;

(ii) a rate of salary escalation of 5¾ per cent. per annum up to normal pension age;

(iii) where it is necessary to predict the rate of future price inflation (for example where the contributions structure of the scheme is related to the lower or upper earnings limits) a rate of future price inflation of 3¾ per cent. per annum;

(b) indicative salaries are—

(i) ¾ of the upper earnings limit in force for the date on which the calculation is made;

(ii) 1½ times that limit, and

(iii) except in cases where more than 90 per cent. of members accruing money purchase benefits in the scheme earn below 3 times that limit, 3 times that limit;

(c) in calculating F and G there may be disregarded—

(i) so much of any benefit as derives from the payment of minimum payments or payments under section 38A(3) of the Act(**12**) (age-related rebates), and

(ii) where a scheme provides for members to have the option to increase their contributions after attaining a specified age or completing a specified period of service, so much of any benefit as would accrue at a higher rate if a member exercised that option;

(d) G^1 shall be calculated in accordance with the following formula—

$$G^1 = G \times (N/NS) \times (1/1.08)^{(NS-N)} \times (1.0375/1.0575)^{(NS-N)}$$

(**12**) Section 38A was inserted by Article 134(4) of the Pensions (Northern Ireland) Order 1995