STATUTORY RULES OF NORTHERN IRELAND

1996 No. 509

PENSIONS

The Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996

Made - - - -	*28th October 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 24(2)(b) and 177(2) to (4) of, and paragraph 17(1) of Schedule 5 to, 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 Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1997.

(2) In these Regulations—

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

"the 1987 Regulations" means the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987(**2**);

"appropriate personal pension scheme" shall be construed in accordance with section 3(**3**);

"money purchase contracted-out scheme" means an occupational pension scheme which is contracted-out by virtue of satisfying section 5(3)(**4**);

"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) nor one in respect of which section 49(**5**) applies;

"post-97 protected rights" means—

(**1**) 1993 c. 49
(**2**) S.R. 1987 No. 296, amended by S.R. 1994 Nos. 261 and 300
(**3**) Section 3 is amended by Article 133(1) of, and paragraph 15 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
(**4**) Section 5(3) is amended by Article 133(4) of, and paragraph 17 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

(a) protected rights which are attributable to payments or contributions in respect of employment carried on on or after the principal appointed day, and

(b) protected rights which derive from section 5(2B) rights which have been the subject of a transfer payment;

"pre-97 protected rights" means—

(a) protected rights which are attributable to payments or contributions in respect of employment carried on before the principal appointed day, and

(b) protected rights which derive from guaranteed minimum pensions which have been the subject of a transfer payment;

"the principal appointed day" has the meaning given to that expression by section 3(2B)(**6**);

"protected rights" has the meaning given to that expression by section 6(**7**);

"salary related contracted-out scheme" means an occupational pension scheme which is contracted-out by virtue of satisfying section 5(2)(**8**);

"scheme" means an occupational pension scheme or a personal pension scheme;

"section 5(2B) rights" are—

(a) rights (other than rights attributable to voluntary contributions within the meaning of section 107) which are attributable to an earner's service on or after the principal appointed day in employment which is contracted-out in accordance with section 5(2B), and

(b) where a transfer payment has been made to a salary related contracted-out scheme in respect of rights mentioned in paragraph (a) or of post-97 protected rights, any rights arising under that scheme as a consequence of that payment, or, where only part of it was made in respect of such rights, of that part of it;

"trustees", in relation to a scheme which is not set up or established under a trust, means the managers of the scheme.

(3) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to a Measure of the Assembly.

(4) In these Regulations any reference to a numbered section is a reference to the section of the 1993 Act bearing that number.

General

2. A money purchase contracted-out scheme or an appropriate personal pension scheme (or a scheme which was formerly a money purchase contracted-out scheme or an appropriate personal pension scheme) may give effect to the protected rights of a member by the making of a transfer payment—

(a) to an appropriate personal pension scheme, or

(b) to an occupational pension scheme,

in accordance with regulations 3 to 5, and in these Regulations a "transfer payment" means a transfer payment such as is described in this regulation.

(**6**) Section 3(2B) was inserted by Article 133(1) of the Pensions (Northern Ireland) Order 1995
(**7**) Section 6 is amended by paragraph 18 of Schedule 3 to the Pensions (Northern Ireland) Order 1995
(**8**) Section 5(2) to (2C) was substituted for section 5(2) by Article 133(3) of the Pensions (Northern Ireland) Order 1995
(**9**) 1954 c. 33 (N.I.)

Transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes

3. A transfer payment may be made to a money purchase contracted-out scheme or an appropriate personal pension scheme if—

(a) the member consents in writing;

(b) the transfer payment (or, if it forms part of a larger payment giving effect to both protected and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 93(**10**) (calculation of cash equivalents);

(c) in the case of a transfer payment to a money purchase contracted-out scheme, the member —

(i) is employed by an employer who is a contributor to the receiving scheme, or

(ii) has previously been a member of the receiving scheme, and

(d) the transfer payment is applied so as to provide money purchase benefits under the receiving scheme for, or in respect of, the member.

Transfer payments to salary related contracted-out schemes

4. A transfer payment may be made to a salary related contracted-out scheme if—

(a) the member consents in writing;

(b) the transfer payment (or, if it forms part of a larger payment giving effect to both protected and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 93;

(c) the member—

(i) is employed by an employer who is a contributor to the receiving scheme, or

(ii) has previously been a member of the receiving scheme;

(d) where the transfer payment or any part of it gives effect to pre-97 protected rights, the receiving scheme, in consequence of that payment (or, where only part of it gives effect to such rights, of that part), provides for the member and the member's widow or widower to be entitled, without prejudice to any other rights which the member receives under that scheme, to guaranteed minimum pensions equal to those to which they would have been treated as entitled by virtue of—

(i) section 43(2) or (5) (further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 42), or

(ii) section 44(2)(**11**) (reduced benefits where minimum payments or minimum contributions paid),

had the transfer payment not been made, except that the receiving scheme may make provision that any earnings factor of the member is to be revalued in accordance with section 12(2) (revaluation of earnings factors for purposes of section 10: early leavers, etc.), as modified by regulation 6, and

(e) where the transfer payment or any part of it gives effect to post-97 protected rights, the transfer payment (or, where only part of it gives effect to post-97 protected rights, that

(**10**) Section 93 was amended by paragraph 6 of Schedule 4 to the Pensions (Northern Ireland) Order 1995

(**11**) Section 44(2) was amended by paragraph 56 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and Article 137(2) of the Pensions (Northern Ireland) Order 1995