STATUTORY RULES OF NORTHERN IRELAND

1996 No. 94

PENSIONS

The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996

Made - - - -	*14th March 1996*
Coming into operation	*6th April 1996*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 28A 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 Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1996.

(2) In these Regulations—

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

"administrative charges" means any charges or costs incurred as a result of taking out or entering into an appropriate policy of insurance but excluding any new commission costs.

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

Conditions subject to which effect may be given to protected rights of a member of a scheme on winding up by insurance policies

2.—(1) For the purposes of section 28A(1) of the Act (effect may be given to protected rights where a scheme is being wound up and such conditions as may be prescribed are satisfied) the prescribed conditions are that the trustees or managers give written notice to the member in accordance with paragraph (3), of the proposal to give effect to his protected rights by means of an appropriate policy of insurance under section 28A(1)(*a*) or (*b*) of the Act and either—

(a) the member agrees in writing within 3 months from and including the date of the written notice, or

(**1**) 1993 c. 49; section 28A was inserted by Article 143(1) of the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22))
(**2**) 1954 c. 33 (N.I.)

(b) where the condition in sub-paragraph (*a*) is not satisfied—

(i) no application for a cash equivalent under section 91 of the Act (ways of taking right to cash equivalent) is received by the trustees or managers within 3 months from and including the date of the written notice, or

(ii) an application for a cash equivalent under section 91 of the Act is received by the trustees or managers within 3 months from and including the date of the written notice and any of the conditions referred to in paragraph (2) is satisfied.

(2) The conditions referred to in paragraph (1)(*b*)(ii) are—

(a) the member withdraws his application for a cash equivalent in accordance with section 96 of the Act;

(b) the member loses his right to the cash equivalent under section 94(7) of the Act (variation and loss of rights), or

(c) it is not possible for the trustees or managers within the period specified in section 95(2) of the Act (trustees' duties after exercise of option) to do what is needed to carry out what the member requires.

(3) The written notice referred to in paragraph (1) shall—

(a) be sent by ordinary post to the member's last known address; and

(b) include the information specified in the Schedule.

Requirements applying to insurance companies

3. The requirements referred to in section 28A(2)(*a*)(ii) of the Act (policy of insurance appropriate if the insurance company satisfies prescribed requirements) are that the insurance company—

(a) is authorised under section 3 or 4 (authorisation of insurance business) of the Insurance Companies Act 1982(**3**);

(b) in the case of an EC company as defined in section 2(6)(**4**) of the Insurance Companies Act 1982 which either carries on or provides long-term insurance business in the United Kingdom, complies with such requirements of Part I of Schedule 2F(**5**) to the Insurance Companies Act 1982 (EC companies carrying on business, etc., in the United Kingdom) as are applicable, or

(c) in the case of a friendly society, is authorised under section 32 of the Friendly Societies 1992(**6**) (activities of friendly societies: long-term business) to carry on long-term business under any of the Classes specified in Head A of Schedule 2 to that Act.

Conditions on which policies of insurance may be surrendered

4. The conditions referred to in section 28A(2)(*b*) of the Act (policy of insurance appropriate for the purposes if it may not be surrendered except on conditions which satisfy such requirements as may be prescribed) are—

(a) that the consent of the beneficiary to the surrender is given in writing to the insurance company, and

(b) that, in consideration of the surrender, the benefits previously secured by the policy of insurance are replaced by benefits which are secured by means of one of the following—

(**3**) 1982 c. 50
(**4**) Section 2(6) was inserted by regulation 4(2) of S.I. 1994/1696
(**5**) Schedule 2F was inserted by regulation 45 of S.I. 1994/1696
(**6**) 1992 c. 40

(i) another policy of insurance which is appropriate within the meaning of section 28A(2) of the Act;

(ii) the acquisition of transfer credits under the rules of a contracted-out occupational pension scheme, or

(iii) the acquisition of rights under the rules of an appropriate personal pension scheme.

Conditions on which appropriate policies of insurance may be commuted

5. The conditions referred to in section 28A(2)(*c*) of the Act (policy of insurance appropriate where commutation conditional on satisfying prescribed requirements) are—

(a) that the benefits secured by the policy of insurance have become payable, and the aggregate of those benefits payable to the beneficiary or, as the case may be, to his widow or her widower does not exceed £260 per annum, and

(b) all of the beneficiary's interest under the policy of insurance is discharged upon payment of the lump sum.

Other requirements applying to policies of insurance

6.—(1) For the purposes of section 28A(2)(*d*) of the Act (policy of insurance appropriate if it satisfies such other requirements as may be prescribed) the prescribed requirements are—

(a) where the appropriate policy of insurance is to be taken out or entered into with the same insurance company which issued the original insurance policy, no new costs except adminsitrative charges in respect of the proposed policy of insurance are to be attributed to the beneficiary;

(b) that the age at which the beneficiary is to be entitled to receive benefits ("the normal retirement age") is to be the same age as the normal pension age under the scheme being wound up or such other age ("the agreed retirement age"), not being earlier than the age of 60, as agreed by the beneficiary;

(c) that the policy contains provision to the effect that, or is endorsed so as to provide that—

(i) any rights under the insurance policy ("the insured rights") which derive from the protected rights of the member of the scheme which is being wound up, are to be treated as if they were protected rights under an occupational pension scheme and, subject to paragraph (2), as if sections 23, 24, 25 and 28 and Chapter IV of Part IV of the Act and regulations made under those sections and under Article 142 of the Pensions (Northern Ireland) Order 1995 (extension of interim arrangements to occupational pension schemes) were applicable to them;

(ii) an annual statement is to be sent to the beneficiary stating the value of the beneficiary's insured rights under the policy, and

(iii) information is to be sent to the beneficiary in respect of the rights and options (if any) available to him not less than 4 months and not more than 6 months before the agreed retirement age or, if there is no such agreed retirement age, the normal retirement age.

(2) For the purposes of head (i) of paragraph (1)(*c*) the provisions of the Act referred to in that head shall be construed as if—

(a) the policy of insurance were an occupational pension scheme;

(b) the insurance company were the trustee or manager of the scheme;

(c) the beneficiary were the member of the scheme, and

(d) the terms of the policy were the scheme rules.