1995 No. 65

PENSIONS

The Occupational and Personal Pension Schemes (Levy) Regulations (Northern Ireland) 1995

Made . . . . . *3rd March 1995*

Coming into operation . . . *1st April 1995*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 170(1), (2) and (4) of the Pension Schemes (Northern Ireland) Act 1993(**a**) 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 and Personal Pension Schemes (Levy) Regulations (Northern Ireland) 1995 and shall come into operation on 1st April 1995.

(2) In these regulations—

"active member" means—

(*a*) in the case of a registrable scheme which is an occupational pension scheme other than one which is treated as a personal pension scheme—

(i) a member of the scheme who is in employment in the United Kingdom by or in respect of whom contributions are payable (whether or not those contributions are being paid), other than a deferred pensioner, a pensioner or a member who is only entitled under the scheme to benefits payable on death while in that employment;

(ii) a member of the scheme who is in employment in the United Kingdom which qualifies him for benefits under the scheme, other than a deferred pensioner, a pensioner or a member who is only entitled under the scheme to benefits payable on death while in that employment;

(*b*) in the case of a registrable scheme which is, or is treated as, a personal pension scheme, any member of the scheme other than—

(i) a member who has received a lump sum or is currently in receipt of annuity payments representing all of the benefits to which he is entitled under the scheme, or

(a) 1993 c. 49

(ii) a member in respect of whom entitlement under the scheme is only for benefits payable on his death;

"address of the scheme" means the place in the United Kingdom, or if more than one, the principal place, at which the management of the registrable scheme is conducted;

"deferred pensioner" means any member of an occupational pension scheme whose pensionable service terminates before normal pension age and, on the date on which it so terminates, has accrued rights to benefits under the scheme;

"employment in the United Kingdom" means—

(*a*) the employment of members in the United Kingdom; or

(*b*) the employment of members elsewhere in circumstances where—

(i) they are liable to make primary Class 1 contributions within the meaning of section 1(2) of the Social Security Contributions and Benefits Act 1992(**a**) or section 1(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**) (outline of contributory system), or

(ii) would be so liable but for the fact that their income falls below the lower earnings limit within the meaning of section 5 of the Social Security Contributions and Benefits Act 1992 or, as the case may be, section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (earnings limits for Class 1 contributions);

"member" means—

(*a*) in relation to an occupational pension scheme, any person who—

(i) is in pensionable service under the scheme;

(ii) has rights under the scheme by virtue of such pensionable service, or

(iii) has rights under the scheme by virtue of having been allowed transfer credits under the scheme;

(*b*) in relation to a personal pension scheme or a scheme treated as such, a member of the scheme;

"number of active members" means—

(*a*) in the case of a scheme which has been a registrable scheme for not less than one scheme year, the number of active members at the end of the scheme year immediately preceding the period in respect of which the trustees of the scheme are responsible for providing information to the Registrar in accordance with regulation 2(1) of the Register Regulations (information required in respect of a registrable scheme); and

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(**a**) 1992 c. 4
(**b**) 1992 c. 7

(*b*) in any other case, the number of active members at the date at which the scheme became a registrable scheme;

"paid-up or frozen scheme" means a registrable scheme under which benefits continue to be payable to existing members and to which—

(*a*) no new members may be admitted;

(*b*) no further contributions are payable by or in respect of existing members; and

(*c*) no further benefits accrue to existing members although benefits which have already accrued to them may be increased;

"the Register Regulations" means the Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 1990(**a**);

"registrable scheme" means an occupational or personal pension scheme—

(*a*) which either—

(i) is established in the United Kingdom, or

(ii) has a place at which its management is conducted in the United Kingdom and has a representative appointed to carry out the functions of a trustee or manager in the United Kingdom;

(*b*) which either—

(i) is a scheme in respect of which a person has applied for, or received, the approval of the Board of Inland Revenue for the purposes of section 590 or section 591 (other than subsection (2)(*g*)) of the Taxes Act (conditions for approval of retirement benefit schemes and discretionary approval), or for the purposes of Chapter IV of Part XIV of that Act (personal pensions schemes), or

(ii) is a scheme which is a public service pension scheme; and

(*c*) is not a scheme which—

(i) has fewer than 2 members, or

(ii) only provides benefits on the death of a member while in employment,

and for the purposes of these regulations an occupational pension scheme which is a retirement benefits scheme approved under section 591(2)(*h*) of the Taxes Act (discretionary approval) shall be treated as a personal pension scheme;

"registration year" means a period of 12 months beginning on and including 1st April;

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

(*a*) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, the registration year or a period of 12 months commencing on such date as the trustees select; or

(**a**) S.R. 1990 No. 422, amended by S.R. 1992 No. 304

(*b*) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees—

(i) in respect of the scheme year in which the scheme commences or terminates, or

(ii) in connection with a variation of the date on which the scheme year is to commence;

"the Taxes Act" means the Income and Corporation Taxes Act 1988(**a**);

"trustees", in the case of a public service pension scheme, means the administrator of that scheme and, in the case of a registrable scheme which is not set up under a trust or which is established outside the United Kingdom, means the person who is treated as the administrator of the scheme for the purposes of Chapter I or Chapter IV of Part XIV of the Taxes Act.

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

The levy on registrable schemes

2.—(1) For the purpose of meeting some or all of the expenditure under sections 2 and 169 and Part X of the Pension Schemes (Northern Ireland) Act 1993, the trustees of every registrable scheme with at least 2 active members, other than a paid-up or frozen scheme, shall be liable to pay a levy to the Department.

(2) The levy shall be payable in respect of each registration year.

(3) Any person who is responsible for the funding or management of a registrable scheme may discharge any liability which is imposed on the trustees of that scheme under paragraph (1) by paying, in the manner and at the time required by these regulations, the amount for which those trustees are liable.

(4) Where, during a registration year, a scheme—

(*a*) becomes a registrable scheme;

(*b*) ceases to be a registrable scheme;

(*c*) becomes a paid-up or frozen scheme; or

(*d*) is wound up,

the levy shall nevertheless be payable in full for that year.

Amount of the levy

3. The levy shall be of the following amounts in respect of each registration year—

(*a*) where the number of active members of a registrable scheme is at least 2 but not greater than 6, £5;

(*b*) where the number of active members of a registrable scheme is at least 7 but not greater than 99, £12;

(**a**) 1988 c. 1
(**b**) 1954 c. 33 (N.I.)