STATUTORY RULES OF NORTHERN IRELAND

2014 No. 93

PENSIONS

The Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2014

Made - - - - *20th March 2014*

Coming into operation *6th April 2014*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 15(4)(c) and 177(2) and (3) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 47(5)(b), 87(2) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), and Article 235(7) of the Pensions (Northern Ireland) Order 2005(**4**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2014 and shall come into operation on 6th April 2014.

(2) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

2. In regulation 4 of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**6**)(qualifications and experience or approval required for appointment as auditor or actuary)—

(a) in paragraph (2)(d)(**7**) at the beginning insert "subject to paragraph (3),";

(b) after paragraph (2) add—

(**1**) 1993 c. 49; section 15(4) was amended by Article 129(2) of S.I. 2001/3649 and regulation 2(3) of S.R. 2007 No. 457
(**2**) S.I. 1995/3213 (N.I. 22); Article 87(2) was amended by Schedule 11 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
(**3**) *See* Article 8(b) of S.R. 1999 No. 481
(**4**) S.I. 2005/255 (N.I. 1); *see* the definition of "relevant contributions" in Article 235(7)
(**5**) 1954 c. 33 (N.I.)
(**6**) S.R. 1997 No. 94; relevant amending provision is S.I. 2008/948
(**7**) Paragraph (2)(d) was amended by paragraph 22 of Schedule 1 to S.I. 2008/948

"(3) Paragraph (2)(d) does not apply in relation to the accounts and auditor's statement for a relevant scheme for a scheme year—

(a) in which, on the first day of that scheme year, the scheme has at least 500 participating employers; or

(b) which immediately precedes a scheme year in which sub-paragraph (a) is satisfied.

(4) In paragraph (3) "relevant scheme" means a trust scheme which applies to earners in employment under different employers.".

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations

3. In regulation 4 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(**8**) (conditions on which policies of insurance and annuity contracts may be commuted)—

(a) in paragraph (1)(b)(**9**) for "that Act." substitute "that Act, or";

(b) after paragraph (1)(b) add—

"(c) subject to paragraph (2A)—

(i) the benefits secured by the policy of insurance or annuity contract have become payable;

(ii) the earner requests or consents to the amount secured by the policy of insurance or annuity contract being paid as a lump sum, and

(iii) that payment does not exceed the amount for the time being permitted for a lump sum payment by the lump sum rule in section 166 of that Act and qualifies as a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act.";

(c) after paragraph (2) insert—

"(2A) The commutation referred to in paragraph (1)(c) does not apply to that part of the benefits which consist of the earner's and the earner's widow's, widower's or surviving civil partner's guaranteed minimum pensions.".

Amendment of the Transfer of Employment (Pension Protection) Regulations

4.—(1) The Transfer of Employment (Pension Protection) Regulations (Northern Ireland) 2005(**10**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1 (citation, commencement, application and interpretation) for paragraph (3) substitute—

"(3) In these Regulations "remuneration period" means a period in respect of which the employee is paid remuneration.

(4) In calculating the amount of the employee's remuneration for the purposes of these Regulations—

(a) only payments made in respect of basic pay shall be taken into account and bonus, commission, overtime and similar payments shall be disregarded, and

(b) no account shall be taken of any deductions which are made in respect of tax, national insurance or pension contributions.

(**8**) S.R. 1997 No. 159; relevant amending provision is S.I. 2006/744
(**9**) Paragraph (1) was substituted by Article 34(2)(a) of S.I. 2006/744
(**10**) S.R. 2005 No. 94

(5) In calculating the amount of a transferee's pension contributions for the purposes of these Regulations in the case of a scheme which is contracted-out by virtue of section 5(**11**) of the Pension Schemes Act (requirements for certification of schemes: general), minimum payments within the meaning of that Act shall be disregarded.

(6) In these Regulations any reference to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 2005 bearing that number.".

(3) For the heading to regulation 2 (requirements concerning a transferee's pension scheme) substitute "Requirements where the transferee's pension scheme is not a money purchase scheme".

(4) In regulation 2 for paragraph (2) substitute—

"(2) In this regulation—

"pensionable pay" means that part of the remuneration payable to a member of a scheme by reference to which the amount of contributions and benefits are determined under the rules of the scheme;

"relevant contributions" means contributions—

(a) made by the transferee in respect of each remuneration period in respect of which the employee contributes to the scheme, and

(b) the amount of which is—

(i) where the employee's contributions are less than 6 per cent. of the employee's remuneration, not less than the contributions made by the employee, or

(ii) where the employee's contributions equal or exceed 6 per cent. of the employee's remuneration, not less than 6 per cent. of that remuneration.".

(5) For regulation 3 (requirements concerning a transferee's pension contributions) substitute—

"**Requirements where the transferee's pension scheme is a money purchase scheme or stakeholder pension scheme**

3.—(1) In a case where these Regulations apply, the transferee's contributions are relevant contributions for the purposes of paragraphs (2)((money purchase scheme) and (3) to (5) (stakeholder pension scheme) of Article 235, if—

(a) the contributions are made in respect of each remuneration period in respect of which the employee contributes to the scheme, and

(b) paragraph (2) or (3) is satisfied.

(2) This paragraph is satisfied if the amount contributed by the transferee in respect of each remuneration period is—

(a) where the employee's contributions are less than 6 per cent. of the employee's remuneration, an amount not less than the contributions made by the employee;

(b) where the employee's contributions equal or exceed 6 per cent. of the employee's remuneration, an amount not less than 6 per cent. of that remuneration.

(3) This paragraph is satisfied if—

(a) in respect of the remuneration period immediately before the relevant time—

(i) the transferor had been required to make contributions, and

(**11**) Section 5 was amended by Article 133(3) of, and paragraph 14 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, paragraph 38 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), Article 260 of the Pensions (Northern Ireland) Order 2005, section 12(4) of, and Part 6 of Schedule 6 to, the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and Article 8(2) of S.I. 2006/745; *see also* regulation 27 of S.R. 1996 No. 493