

2000 No. 382

PENSIONS

The Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000

Made 6th December 2000

Coming into operation 31st December 2000

The Department for Social Development, in exercise of the powers conferred by sections 2(2) and (2A), 109(1), 164(1) and (4), and 170(1) to (5), (7) and (9), 176(4), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(a) and Articles 10(3), 17(4)(b), 19(4), 27(5)(b), 35(7), 37(10), 40(1) and (2), 41(1) and (6), 47(5), 49(2), 50(7), 56(2)(b), 68(5), 69(6), 75(9), 76(8), 79(2), 85(1), 87(2), 115(2), 122(3) and (4) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(b), and now vested in it(c), 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 (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000 and shall come into operation on 31st December 2000.

(2) In these Regulations—

“the Order” means the Pensions (Northern Ireland) Order 1995;

“member” in relation to a Republic of Ireland scheme, means—

- (a) a person who is in pensionable service under the scheme (which for the purposes of these Regulations includes a person who is in pensionable service under a secondment);
- (b) a person (other than one who is in pensionable service) who has accrued rights to benefit under the scheme either by virtue of pensionable service under the scheme or by virtue of a transfer credit or a pension credit, or
- (c) a person who is entitled to the present payment of pension or other benefits under the scheme;

(a) 1993 c. 49; section 2(2A) was inserted by paragraph 13 of Schedule 1 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), section 164 was substituted by Article 151 of the Pensions (Northern Ireland) Order 1995 and was modified by Article 42(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), section 170 was substituted by Article 161 of the Pensions (Northern Ireland) Order 1995 and section 178(1) was amended by Parts III and IV of Schedule 5 to that Order

(b) S.I. 1995/3213 (N.I. 22)

(c) See Article 8(b) of S.R. 1999 No. 481

“pension credit” means a credit under Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(a);

“pension credit rights” means such rights within the meaning of Article 121(b);

“Republic of Ireland scheme” means an occupational pension scheme established in the Republic of Ireland under an irrevocable trust which has, or has had, at least one member in pensionable service in Northern Ireland or which has at least one member who has pension credit rights and which has at least one member who is, or has been, in pensionable service in the Republic of Ireland and which is a scheme—

(a) that is wholly or primarily administered in the Republic of Ireland;

(b) to which section 611(3) of the Income and Corporation Taxes Act 1988(c) (split approved schemes) applies and which has been approved by the Commissioners of Inland Revenue under any provisions of that Act relating to the approval of occupational pension schemes for the purposes of tax or which has applied for such approval and whose application has not yet been determined, and

(c) which has been approved under any provisions in force under the law of the Republic of Ireland relating to the approval of occupational pension schemes for the purposes of tax or which has applied for such approval and whose application has not yet been determined.

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Assembly.

(4) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

(5) In these Regulations any reference to a numbered Article is a reference to the Article of the Order bearing that number.

Exemption of Republic of Ireland schemes—general provision

2. A Republic of Ireland scheme shall be—

(a) exempt from the requirements of any provision of the Order which is listed in the Schedule, and

(b) subject to the exemptions from the requirements of any regulations which are provided for by regulations 6 to 12.

(a) S.I. 1999/3147 (N.I. 11)

(b) The definition of “pension credit rights” was inserted by paragraph 50(3) of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(c) 1988 c. 1

(d) 1954 c. 33 (N.I.)

Exemption of Republic of Ireland schemes from Article 27

3. For the purposes of Article 27 (trustees not to be auditor or actuary of the scheme), references in that Article to a trustee of a trust scheme shall not include a trustee of any scheme which is a Republic of Ireland scheme.

Information to be given to members

4.—(1) The trustees or managers of a Republic of Ireland scheme shall—

(a) in relation to any member who is resident in Northern Ireland on the date on which these Regulations come into operation, or who becomes resident in Northern Ireland after that date, notify that person in writing within the period of 12 months commencing on that date, or within the period of 12 months commencing on the date on which the member became resident in Northern Ireland, whichever is the later, and

(b) in relation to any person who is resident in Northern Ireland and who becomes a member of a Republic of Ireland scheme after the date on which these Regulations come into operation, notify that person in writing within the period of 2 months commencing on the date on which that person became a member of the scheme,

that the scheme is a Republic of Ireland scheme and that it is exempt, from requirements of the Order or of any regulations, as provided for by these Regulations.

(2) Any information which the trustees or managers of a Republic of Ireland scheme are required to provide under paragraph (1) to a member who is not employed in any employment to which the scheme relates shall be treated as having been provided by them if it was sent by ordinary post to that member at his last known address.

Penalties

5. Where any person fails, without reasonable cause, to comply with any of the requirements imposed by regulation 4, the Occupational Pensions Regulatory Authority may require that person to pay, within the period ending 28 days after the date of its imposition, a penalty which shall—

(a) in the case of an individual, not exceed £1,000, and

(b) in any other case, not exceed £10,000.

Amendment of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations

6.—(1) The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996^(a) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 4(1) (exceptions from member-nominated trustee requirements), after sub-paragraph (m) there shall be added—

(a) S.R. 1996 No. 431; regulation 4(1) was amended by regulation 29 of S.R. 2000 No. 262; regulation 6(1) was amended by paragraph 4 of the Schedule to S.R. 1997 No. 160 and regulation 29 of S.R. 2000 No. 262

“or

- (n) which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.”.

(3) In regulation 6(1) (exceptions from member-nominated director requirements), after sub-paragraph (n) there shall be added—

“or

- (o) which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.”.

Amendment of the Occupational Pension Schemes (Investment) Regulations

7.—(1) The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996(a) shall be amended in accordance with paragraphs (2) and (3).

(2) After regulation 2(2)(b) (schemes to which restrictions on employer-related investments do not apply) there shall be added—

- “(c) which are Republic of Ireland schemes within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.”.

(3) After regulation 10(3)(c) (exemptions from Article 35) there shall be inserted—

- “(cc) a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000;”.

Amendment of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations

8. After regulation 2(2) of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997(b) (requirement of trustees or managers to obtain documents) there shall be inserted—

- “(2A) The requirement to obtain accounts in accordance with paragraph (1)(a) or an auditor’s statement in accordance with paragraph (1)(b) shall not apply to any scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.”.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

9. In regulation 12(2) of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(c) (requirement for

(a) S.R. 1996 No. 584; regulation 1A was inserted by regulation 4 of S.R. 1997 No. 162; regulation 10(3) was amended by regulation 30 of S.R. 2000 No. 262

(b) S.R. 1997 No. 40; relevant amending regulations are S.R. 1997 No. 160

(c) S.R. 1997 No. 94; relevant amending regulations are S.R. 1997 No. 160

trustees to keep books and records) at the end there shall be added “or to a scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.”.

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations

10. In regulation 2(2) of the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(a) (application of the Regulations) after sub-paragraph (a) there shall be inserted—

“(aa) which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000;”.

Amendment of the Register of Occupational and Personal Pension Schemes Regulations

11. In regulation 1 of the Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 1997(b) (interpretation), after paragraph (1) there shall be inserted—

“(1A) Regulations 2 to 4 and 6 do not apply to any scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.”.

Amendment of the Occupational and Personal Pension Schemes (Levy) Regulations

12. After regulation 1(2) of the Occupational and Personal Pension Schemes (Levy) Regulations (Northern Ireland) 1997(c) (interpretation) there shall be inserted—

“(2A) These Regulations do not apply to any scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000.”.

Sealed with the Official Seal of the Department for Social Development on 6th December 2000.

(L.S.)

John O'Neill
Senior Officer of the Department
for Social Development

(a) S.R. 1997 No. 98; amended by S.R. 1997 Nos. 160 and 544, S.R. 1999 No. 486 and S.R. 2000 Nos. 262 and 335
(b) S.R. 1997 No. 102; relevant amending regulations are S.R. 1997 No. 271, S.R. 1998 No. 85 and S.R. 2000 No. 335
(c) S.R. 1997 No. 142; amended by S.R. 1998 No. 85, S.R. 1999 No. 106 and S.R. 2000 Nos. 60 and 335

Legislation from which Republic of Ireland Schemes are exempt

<i>Provision</i>	<i>Purpose of the provision</i>
Article 16(a)	Member-nominated trustees
Article 18(b)	Member-nominated directors
Articles 22-26	Independent Trustees
Article 37	Payment of surplus to employer
Article 47	Professional advisers
Article 50	Resolution of disputes
Article 56	Minimum funding requirement
Article 68(c)	Power of trustees to modify schemes by resolution
Article 69	Grounds for applying for modifications
Article 75	Deficiencies in assets
Article 76	Excess assets on winding up
Article 79	Cases where compensation provisions apply
Article 85	Schedules of payments to money purchase schemes

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- (a) Article 16 was amended by paragraph 34 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (b) Article 18 was amended by paragraph 36 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (c) Article 68 was amended by paragraph 43 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision in respect of certain occupational pension schemes which are established in the Republic of Ireland but which have, or have had, at least one member in pensionable service in Northern Ireland or which hold pension credit rights in respect of a member (“Republic of Ireland schemes”). In particular, they exempt such schemes from certain requirements imposed by the Pensions (Northern Ireland) Order 1995 (“the Order”) and by certain regulations made under the Pension Schemes (Northern Ireland) Act 1993 (“the Act”) and the Order in relation to occupational pension schemes.

Regulation 1 provides for the citation, commencement and interpretation of the Regulations.

Regulation 2 provides for the exemption of Republic of Ireland schemes from the requirements imposed by the legislative provisions listed in the Schedule and to requirements under those regulations amended by regulations 6 to 12.

Regulation 3 exempts trustees of any scheme which is a Republic of Ireland scheme from the provisions of Article 27 of the Order.

Regulation 4 requires the trustees or managers of Republic of Ireland schemes to give certain information to scheme members.

Regulation 5 prescribes penalties for any failure to comply, without reasonable cause, with the requirement imposed by regulation 4.

Regulations 6 to 12 amend, respectively, the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996, the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996, the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997, the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997, the Occupational Pensions (Disclosure of Information) Regulations (Northern Ireland) 1997, the Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 1997 and the Occupational and Personal Pension Schemes (Levy) Regulations (Northern Ireland) 1997, so as to exempt Republic of Ireland schemes from the application of some or all of the provisions of those Regulations.

As these Regulations, in so far as they are made under Part II of the Order, make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Social Security in relation to Great Britain, the requirement for consultation under Article 117(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.

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