

2003 No. 256

SOCIAL SECURITY

PENSIONS

**The Social Security and Pensions (Financial Services and
Markets Act 2000) (Consequential Amendments)
Regulations (Northern Ireland) 2003**

Made - - - - - *25th April 2003*

Coming into operation *2nd June 2003*

The Department for Social Development, in exercise of the powers conferred by the provisions set out in the Schedule, and now vested in it(a), and of all other powers enabling it in that behalf, and after agreement by the Social Security Advisory Committee that proposals to make regulation 3 should not be referred to it(b) and after consultation with such persons as it considers appropriate(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security and Pensions (Financial Services and Markets Act 2000) (Consequential Amendments) Regulations (Northern Ireland) 2003 and shall come into operation on 2nd June 2003.

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

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

2.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(e) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) after the definition of “the Act”(f) there shall be inserted the following definition –

“ “the 2000 Act” means the Financial Services and Markets Act 2000(g);”.

(3) In regulation 6(5)(h) (availability of other information) for the words from “Part 10 (reports)” to the end there shall be substituted “Chapter 10 (reports and accounts) of the Collective Investment Schemes Sourcebook(i) made by the Financial Services Authority under Part X of the 2000 Act (rules and guidance).”.

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

(b) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

(c) See Article 117(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

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

(e) S.R. 1987 No. 288; relevant amending regulations are S.R. 1992 No. 304 and S.R. 1994 No. 300

(f) Definition of “the Act” was inserted by paragraph 13(2)(a) of Schedule 2 to S.R. 1994 No. 300

(g) 2000 c. 8

(h) Paragraph (5) was added by regulation 21(d) of S.R. 1992 No. 304

(i) Copies may be purchased from The Stationery Office, FSA Customer Services, PO Box 3004, Norwich NR3 1WT

(4) In Schedule 1 (basic information about the scheme) –

(a) for paragraph 9(a) there shall be substituted the following paragraph –

“9. Illustrative estimates of the cash equivalents which would be paid on the transfer of protected rights to another scheme at the end of the first 5 years of membership, which –

(a) are clearly labelled as illustrative estimates, and state the period for which they will be honoured by the scheme, the assumptions made, and whether the same basis of calculation has been used for all members of the scheme; or

(b) are prepared in accordance with rules made under Part X of the 2000 Act, if the scheme is established by an authorised person within the meaning of section 31(2) of that Act.”;

(b) in paragraph 10 for the words from “so however that,” to the end there shall be substituted “so however that, where a scheme is established by an authorised person within the meaning of section 31(2) of the 2000 Act the information required by this paragraph may be specified in accordance with rules made under Part X of that Act.”.

(5) In Schedule 3 (other information) in paragraph 4(b) for the words from “regulation 2(1)(b)” to “Securities and Investments Board” there shall be substituted “regulation 2(2)(b) of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997(c) (forms of schemes which may be appropriate schemes) the information required to be specified in the annual and half-yearly reports by section 10.3 of the Collective Investment Schemes Sourcebook made by the Financial Services Authority under Part X of the 2000 Act (rules and guidance)”.

Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations

3. In regulation 10 of the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(d) (conversion of payments made in a foreign currency) –

(a) the words from “Where a payment” to “has been deducted.” shall be numbered as paragraph (1) of that regulation;

(b) in that paragraph for “any institution which is authorised under the Banking Act 1987” there shall be substituted “any authorised deposit-taker”;

(c) after that paragraph there shall be added the following paragraphs –

“(2) In this regulation “authorised deposit-taker” means –

(a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits; or

(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.

(3) Paragraph (2) shall be read with –

(a) section 22 of the Financial Services and Markets Act 2000 (regulated activities);

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

Amendment of the Personal Pension Schemes (Compensation) Regulations

4.—(1) The Personal Pension Schemes (Compensation) Regulations (Northern Ireland) 1988(e) shall be amended in accordance with paragraphs (2) to (4).

(a) Paragraph 9 was amended by regulation 22(a) of S.R. 1992 No. 304

(b) Paragraph 4 was added by regulation 24 of S.R. 1992 No. 304

(c) S.R. 1997 No. 139; regulation 2(2) is amended by regulation 12(3) of these regulations

(d) S.R. 1988 No. 142, to which there are amendments not relevant to these regulations

(e) S.R. 1988 No. 449, amended by S.R. 1994 No. 300

(2) In regulation 1 (interpretation) for paragraph (2)(a) there shall be substituted the following paragraphs –

“(2) In these Regulations –

“the Act” means the Pension Schemes (Northern Ireland) Act 1993(b);

“the 2000 Act” means the Financial Services and Markets Act 2000;

“the Appropriate Schemes Regulations” means the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997;

“authorised deposit-taker” means –

- (a) a person who has permission under Part IV of the 2000 Act to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;

“authorised insurer” means –

- (a) a person who has permission under Part IV of the 2000 Act to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance in the United Kingdom;

“the Financial Services Compensation Scheme” has the same meaning as in section 213(2) of the 2000 Act;

“liable scheme” has the meaning assigned by regulation 2;

“scheme” means a personal pension scheme.

(3) In paragraph (2) the definitions of “authorised deposit-taker” and “authorised insurer” shall be read with –

- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

(3) In regulation 2 (application of regulations) –

(a) for paragraph (a) there shall be substituted the following paragraph –

“(a) mentioned in regulation 2(2)(a) of the Appropriate Schemes Regulations (insurance policies and annuity contracts), being a scheme established by an authorised insurer who is subject to the provisions of, or participates in, the Financial Services Compensation Scheme;”;

(b) paragraph (b) shall be omitted;

(c) for paragraphs (c) and (d) there shall be substituted the following paragraphs –

“(c) mentioned in regulation 2(2)(b) of the Appropriate Schemes Regulations (unit trust schemes), being a scheme of which the trustee and operator are both subject to the provisions of the Financial Services Compensation Scheme, and

(d) mentioned in regulation 2(2)(c) of the Appropriate Schemes Regulations (interest-bearing accounts etc. with banks and building societies), being a scheme which is established by an authorised deposit-taker who is subject to the provisions of, or participates in, the Financial Services Compensation Scheme.”.

(4) In regulation 3 (requirements to be complied with by liable schemes in the event of insolvency) –

(a) for paragraph (1)(c) there shall be substituted the following paragraph –

(a) Paragraph (2) was amended by paragraph 20(2) of Schedule 2 to S.R. 1994 No. 300
(b) 1993 c. 49
(c) Paragraph (1) was amended by paragraph 20(3) of Schedule 2 to S.R. 1994 No. 300

“(1) For the purposes of section 26(1)(b) of the Act(a) (securing of liability for protected rights) the prescribed circumstances are that if the scheme is a liable scheme which takes the form mentioned in any of sub-paragraphs (a), (b) and (c) of regulation 2(2) of the Appropriate Schemes Regulations, and if the provisions of the Financial Services Compensation Scheme applied, those provisions would become operative.”;

(b) for paragraph (3) there shall be substituted the following paragraph –

“(3) The extent to which the liability specified in paragraph (2) must be met from some other source is, if the scheme takes the form mentioned in any of sub-paragraphs (a), (b) and (c) of regulation 2(2) of the Appropriate Schemes Regulations, the extent to which it would be met under the Financial Services Compensation Scheme if the rules of that Scheme applied.”.

Amendment of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations

5. For regulation 3 of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996(b) (requirements applying to insurance companies) there shall be substituted the following regulation –

“Requirements applying to insurers

3.—(1) The requirements referred to in section 28A(2)(a)(ii) of the Act(c) (policy of insurance appropriate if the insurer satisfies prescribed requirements) are that the insurer is –

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance in the United Kingdom.

(2) In paragraph (1) the expression “contracts of long-term insurance” shall be read with –

- (a) section 22 of the Financial Services and Markets Act 2000 (regulated activities);
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

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

6. In regulation 2 of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996(d) (interpretation) –

(a) in paragraph (1) –

(i) after the definition of “independently selected” there shall be inserted the following definition –

“ “insurer” means –

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”;

(a) Section 26(1) was amended by paragraph 14(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 45 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(b) S.R. 1996 No. 94

(c) Section 28A was inserted by Article 143(1) of the Pensions (Northern Ireland) Order 1995 and subsection (2) was amended by article 19(2) of S.I. 2002/1555

(d) S.R. 1996 No. 431; relevant amending regulations are S.R. 1997 No. 160

- (ii) in the definition of “relevant wholly insured scheme”(a) for “an insurance company (as defined in section 96(1) of the Insurance Companies Act 1982)” there shall be substituted “an insurer”;
- (b) after paragraph (1) there shall be inserted the following paragraph –
 - “(1A) In paragraph (1) the definition of “insurer” shall be read with –
 - (a) section 22 of the Financial Services and Markets Act 2000 (regulated activities);
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act.”.

Amendment of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations

7.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996(b) shall be amended in accordance with paragraphs (2) and (3).

- (2) In regulation 2 (interpretation) –
 - (a) in paragraph (1) –
 - (i) before the definition of “commencement date” there shall be inserted the following definition –
 - “ “the 2000 Act” means the Financial Services and Markets Act 2000;”;
 - (ii) for the definitions of “equities” and “gilt-edged securities” there shall be substituted the following definitions –
 - “ “equities” means investments of the following kinds –
 - (a) shares;
 - (b) instruments creating or acknowledging indebtedness;
 - (c) instruments giving entitlements to investments of the kind mentioned in paragraph (a) or (b);
 - (d) certificates representing such investments;
 - “gilt-edged securities” means investments of the following kinds –
 - (a) government and public securities;
 - (b) contracts of long-term insurance;”;
 - (b) after paragraph (1) there shall be inserted the following paragraph –
 - “(1A) In paragraph (1) the definitions of “equities” and “gilt-edged securities” shall be read with –
 - (a) section 22 of the 2000 Act (regulated activities);
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act.”.
- (3) In paragraph 1 of Schedule 4 (methods of securing shortfall in cases of serious underprovision) –
 - (a) in sub-paragraph (1) for the definition of “relevant institution” there shall be substituted the following definition –
 - “ “relevant institution” means –
 - (a) a person who has permission under Part IV of the 2000 Act to accept deposits, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”;

(a) Definition of “relevant wholly insured scheme” was inserted by paragraph 4(2)(d) of the Schedule to S.R. 1997 No. 160

(b) S.R. 1996 No. 570, to which there are amendments not relevant to these regulations

- (b) after sub-paragraph (1) there shall be inserted the following sub-paragraph –
- “(1A) In sub-paragraph (1) the definition of “relevant institution” shall be read with –
- (a) section 22 of the 2000 Act (regulated activities);
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act.”.

Amendment of the Occupational Pension Schemes (Investment) Regulations

8.—(1) The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996^(a) shall be amended in accordance with paragraphs (2) to (6).

- (2) In regulation 1 (interpretation) –
- (a) in paragraph (2) –
- (i) for the definition of “collective investment scheme” there shall be substituted the following definitions –
 - “ “the 2000 Act” means the Financial Services and Markets Act 2000;
 - “collective investment scheme” has the same meaning as in Part XVII of the 2000 Act, but includes arrangements of the type described in paragraphs 4 and 9 of the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001^(b) (schemes not operated by way of business and schemes entered into for commercial purposes related to existing business);”;
 - (ii) for the definitions of “insurance company” and “policy of insurance” there shall be substituted the following definitions –
 - “ “insurance company” means a person carrying on the business of effecting or carrying out contracts of insurance;
 - “policy of insurance” means a contract of long-term insurance the effecting or carrying out of which, by way of business, constitutes the carrying on of a regulated activity within the meaning of the 2000 Act;”;
- (b) for paragraph (3) there shall be substituted the following paragraph –
- “(3) The definitions of “insurance company” and “policy of insurance” in paragraph (2), and regulations 5(3)(b), 6(2) and (4) and 8(1), shall be read with –
- (a) section 22 of the 2000 Act (regulated activities);
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.
- (3) In regulation 5(3) (restrictions on employer-related investments) for sub-paragraph (b) there shall be substituted the following sub-paragraph –
- “(b) a security mentioned in paragraph (a) of the definition of “employer-related investments” in Article 40(2) which is an instrument creating or acknowledging indebtedness, except any such security which is listed on a recognised stock exchange; and”.
- (4) In regulation 6 (investments to which restrictions do not apply) –
- (a) in paragraph (2) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs –
- “(a) the policy is a contract of insurance on human life or a contract to pay an annuity on a human life, and is treated as a contract of long-term insurance for the purposes of any relevant order under section 22 of the 2000 Act (but excluding a contract which is so treated solely by virtue of being a contract to manage the investments of pension funds); and
 - (b) the policy of insurance is issued by an insurance company which is the employer and is –

^(a) S.R. 1996 No. 584, to which there are amendments not relevant to these regulations

^(b) S.I. 2001/1062

- (i) a person who has permission under Part IV of the 2000 Act to effect or carry out contracts of long-term insurance; or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”;
- (b) paragraph (3) shall be omitted;
- (c) in paragraph (4) for the words from “with a building society” to the end there shall be substituted –
- “with –
- (a) a person who has permission under Part IV of the 2000 Act to accept deposits; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.”.

(5) In regulation 8(1) (loans that become employer-related) for “a security falling within paragraph 2 of Schedule 1 to the Financial Services Act 1986” there shall be substituted “a security which is an instrument creating or acknowledging indebtedness”.

(6) In regulation 10(1) (exemptions from Article 35) for the words from “the effecting of which” to the end there shall be substituted “of a kind mentioned in regulation 6(2)(a).”.

Amendment of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations

9.—(1) The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1997^(a) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) after the definition of “the Act” there shall be inserted the following definition –

“ “the 2000 Act” means the Financial Services and Markets Act 2000;”.

(3) In regulation 4 (exclusions from jurisdiction) for paragraph (1)(b) there shall be substituted the following paragraph –

“(1) The Pensions Ombudsman shall not investigate or determine any complaint or dispute which can be (and is in fact) dealt with under the compulsory jurisdiction of the ombudsman scheme provided for by Part XVI of the 2000 Act, other than a complaint or dispute relating to the management of a personal pension scheme.”.

(4) In regulation 6 (payment of interest on late paid benefit) –

(a) in paragraph (2) for sub-paragraph (b) there shall be substituted the following sub-paragraph –

“(b) “reference banks” means the 4 largest persons for the time being who –

- (i) have permission under Part IV of the 2000 Act to accept deposits;
- (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
- (iii) quote a base rate applicable to sterling deposits.”;

(b) after paragraph (2) there shall be added the following paragraph –

“(3) Paragraph (2)(b) shall be read with –

- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section;
- (c) Schedule 2 to that Act.”.

^(a) S.R. 1997 No. 39; relevant amending regulations are S.R. 1997 No. 544

^(b) Paragraph (1) was amended by regulation 5(3) of S.R. 1997 No. 544

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations

10. The Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997^(a) (insurance companies that may provide protected rights by way of annuities) shall be amended in accordance with paragraphs (2) and (3).

(2) In the heading to regulation 11 for “Insurance companies” there shall be substituted “Insurers”.

(3) In regulation 11 –

(a) the words from “For the purposes of” to “revoked or rescinded.” shall be numbered as paragraph (1) of that regulation;

(b) in that paragraph –

(i) for “insurance company” in both places where it occurs there shall be substituted “insurer”;

(ii) for sub-paragraph (a) there shall be substituted the following sub-paragraph –

“(a) (i) is a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
or

(ii) is an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”;

(c) after that paragraph there shall be added the following paragraph –

“(2) Paragraph (1)(a) shall be read with –

(a) section 22 of the Financial Services and Markets Act 2000 (regulated activities);

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

11.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997^(b) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2) (interpretation) before the definition of “approved scheme” there shall be inserted the following definition –

“ “the 2000 Act” means the Financial Services and Markets Act 2000;”.

(3) In regulation 3(3) (professional advisers’ requirements: exceptions) –

(a) the words “(within the meaning of the Financial Services Act 1986)” shall be omitted;

(b) for sub-paragraph (a) there shall be substituted the following sub-paragraph –

“(a) relevant schemes of a kind mentioned in article 4(4) of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001^(c) (managing investments: occupational pension schemes);”.

(4) In regulation 5(2)(b)(d) (manner and terms of appointment and removal of professional advisers) for head (i) there shall be substituted the following head –

“(i) in the case of a fund manager, or a person carrying out functions referred to in regulation 2(c), who is subject to rules made under section 138 of the 2000 Act which impose requirements in relation to conflicts of interest, confirm in writing that he will notify the trustees or managers of any conflict of interest to which he is or may be subject in relation to the scheme in accordance with those requirements; and”.

(a) S.R. 1997 No. 56, to which there are amendments not relevant to these regulations

(b) S.R. 1997 No. 94; relevant amending regulations are S.R. 1997 Nos. 162 and 544 and S.R. 1999 No. 486

(c) S.I. 2001/1177

(d) Sub-paragraph (b) was substituted by regulation 5(2) of S.R. 1997 No. 162 and amended by regulation 7 of S.R. 1997 No. 544

- (5) In regulation 11 (requirement for money to be kept by trustees: exception) –
- (a) in paragraph (1)(a) –
- (i) for “at an institution authorised under the Banking Act 1987” there shall be substituted “with a deposit-taker”;
- (ii) in sub-paragraph (b) for head (i) there shall be substituted the following head –
“(i) kept by them with any of the persons specified in paragraph (3);”;
- (b) after paragraph (2) there shall be added the following paragraphs –
- “(3) The persons referred to in paragraph (1)(b)(i) are –
- (a) the Bank of England or the central bank of another EEA State;
- (b) the National Savings Bank; or
- (c) a municipal bank.
- (4) In paragraph (3) –
- (a) “EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2nd May 1992 as it has effect for the time being;
- (b) “municipal bank” means a company –
- (i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979^(b) or section 103(3) of the Banking Act 1987^(c); and
- (ii) is exempt from the prohibition imposed by section 19 of the 2000 Act in relation to the acceptance of deposits.
- (5) Paragraph (4)(b) shall be read with –
- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.
- (6) In regulation 15 (employer to make payments of benefits into a separate account) –
- (a) the words from “An employer is” to “by the employer.” shall be numbered as paragraph (1) of that regulation;
- (b) in that paragraph for “an institution authorised under the Banking Act 1987” there shall be substituted “a deposit-taker”;
- (c) after that paragraph there shall be added the following paragraphs –
- “(2) In this regulation “deposit-taker” means –
- (a) a person who has permission under Part IV of the 2000 Act to accept deposits; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.
- (3) Paragraph (2) shall be read with –
- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations

12.—(1) The Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997^(d) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) before the definition of “administrators” there shall be inserted the following definition –

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- (a) Paragraph (1) was amended by regulation 11(3) of S.R. 1999 No. 486
- (b) 1979 c. 37
- (c) 1987 c. 22
- (d) S.R. 1997 No. 139; relevant amending regulations are S.R. 2001 No. 118

“the 2000 Act” means the Financial Services and Markets Act 2000;”.

(3) In regulation 2(2)(a) (forms of schemes which may be appropriate schemes) for sub-paragraph (b) there shall be substituted the following sub-paragraph –

“(b) a unit trust scheme of a kind mentioned in Part I of Schedule 1 which is the subject of an authorisation order made (or treated as made) under section 243 of the 2000 Act;”.

(4) In regulation 3 (persons who and bodies which may establish schemes) –

(a) for paragraph (2) there shall be substituted the following paragraph –

“(2) This paragraph applies to a Friendly Society which has permission under Part IV of the 2000 Act to effect or carry out contracts of insurance.”;

(b) in paragraph (3) –

(i) sub-paragraph (a) shall be omitted;

(ii) for sub-paragraph (c) there shall be substituted the following sub-paragraphs –

“(c) a person who has permission under Part IV of the 2000 Act to accept deposits;

(ca) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”;

(iii) in sub-paragraph (d) –

(aa) for “an institution” in both places where it occurs there shall be substituted “a person or firm”;

(bb) after “sub-paragraph (c)” there shall be inserted “or (ca)”;

(c) in paragraph (4) –

(i) for “an institution” there shall be substituted “a person or firm”;

(ii) after “paragraph (3)(c)” there shall be inserted “or (ca)”;

(d) after paragraph (4) there shall be added the following paragraph –

“(5) Paragraph (3)(c) and (ca) shall be read with –

(a) section 22 of the 2000 Act (regulated activities);

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

(5) In Schedule 1 (kinds of unit trust scheme that may be an appropriate scheme) –

(a) in Part I –

(i) in paragraph 2 for “investment company with variable capital” there shall be substituted “open-ended investment company”;

(ii) in paragraph 3 for “investment companies with variable capital” there shall be substituted “open-ended investment companies”;

(b) in Part II –

(i) in the definition of “authorised unit trust scheme” for “the Financial Services Act 1986” there shall be substituted “Part XVII of the 2000 Act”;

(ii) in the definition of “feeder fund” for “investment company with variable capital” there shall be substituted “open-ended investment company”;

(iii) in the definition of “fund of funds” for “investment companies with a variable capital” there shall be substituted “open-ended investment companies”;

(iv) the definition of “investment company with variable capital” shall be omitted;

(v) after the definition of “money market fund” there shall be inserted the following definition –

“ “open-ended investment company” has the same meaning as in the Open-Ended Investment Companies Regulations 2001(b);”;

(a) Regulation 2 was amended by regulation 4 of S.R. 2001 No. 118

(b) S.I. 2001/1228

- (vi) for the definition of “transferable security” there shall be substituted the following definition –

““transferable security” means any investment which is treated as a security for the purposes of any relevant order under section 22 of the 2000 Act (regulated activities), other than an investment which either cannot be transferred or can be transferred only with the consent of a third party.”.

Amendment of the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations

13. In regulation 1 of the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations 1997^(a) (interpretation) –

- (a) in paragraph (2) for the definition of “reference banks”^(b) there shall be substituted the following definition –

““reference banks” means the 4 largest persons for the time being who –

- (a) have permission under Part IV of the Financial Services and Markets Act 2000^(c) to accept deposits;
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
- (c) quote a base rate applicable to sterling deposits;”;

- (b) after paragraph (2) there shall be inserted the following paragraph –

“(2A) In paragraph (2) the definition of “reference banks” shall be read with –

- (a) section 22 of the Financial Services and Markets Act 2000 (regulated activities);
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

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

14. In regulation 2 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997^(d) (requirements applying to policies of insurance and annuity contracts) –

- (a) in paragraph (1) for the words from “with an insurance company” to the end there shall be substituted –

“with –

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”;

- (b) for paragraph (2) there shall be substituted the following paragraph –

“(2) Paragraph (1)(a) and (b) shall be read with –

- (a) section 22 of the Financial Services and Markets Act 2000 (regulated activities);
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations

15.—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000^(e) shall be amended in accordance with paragraphs (2) and (3).

(a) S.R. 1997 No. 141; relevant amending regulations are S.R. 1998 No. 233

(b) Definition of “reference banks” was amended by regulation 3 of S.R. 1998 No. 233

(c) 2000 c. 8

(d) S.R. 1997 No. 159, to which there are amendments not relevant to these regulations

(e) S.R. 2000 No. 145, amended by S.R. 2000 No. 335

- (2) In regulation 1 (interpretation) –
- (a) in paragraph (2) –
- (i) after the definition of “the 1995 Order” there shall be inserted the following definition –
- “ “the 2000 Act” means the Financial Services and Markets Act 2000;”;
- (ii) for the definition of “reference banks”(a) there shall be substituted the following definition –
- “ “reference banks” means the seven largest persons for the time being who –
- (a) have permission under Part IV of the 2000 Act to accept deposits;
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (c) quote a base rate in sterling,
- and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in Article 4 of the Companies (Northern Ireland) Order 1986(b)), as shown in the audited end of year accounts last published before that time;”;
- (b) after paragraph (2) there shall be inserted the following paragraph –
- “(2A) The definition of “reference banks” in paragraph (2) must be read with –
- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.
- (3) In regulation 11 (qualifying arrangements) –
- (a) in paragraph (1) for sub-paragraphs (a) to (c) there shall be substituted the following sub-paragraphs –
- “(a) a person who has permission under Part IV of the 2000 Act to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”;
- (b) for paragraph (2) there shall be substituted the following paragraph –
- “(2) Paragraph (1)(a) and (b) must be read with –
- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations

16.—(1) The Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(c) shall be amended in accordance with paragraphs (2) and (3).

- (2) In regulation 1 (interpretation) –
- (a) in paragraph (2) –
- (i) after the definition of “the 1999 Order” there shall be inserted the following definition –
- “ “the 2000 Act” means the Financial Services and Markets Act 2000;”;
- (ii) for the definition of “reference banks”(d) there shall be substituted the following definition –

(a) Definition of “reference banks” was amended by regulation 11(2)(b) of S.R. 2000 No. 335

(b) S.I. 1986/1032 (N.I. 6); Articles 4 and 4A were substituted for Article 4 by Article 62(1) of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))

(c) S.R. 2000 No. 146, amended by S.R. 2000 No. 335

(d) Definition of “reference banks” was amended by regulation 12(2) of S.R. 2000 No. 335

“reference banks” means the seven largest persons for the time being who –

- (a) have permission under Part IV of the 2000 Act to accept deposits;
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (c) quote a base rate in sterling,

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in Article 4 of the Companies (Northern Ireland) Order 1986), as shown in the audited end of year accounts last published before that time.”;

(b) after paragraph (2) there shall be inserted the following paragraph –

“(2A) In paragraph (2) the definition of “reference banks” shall be read with –

- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

(3) In regulation 5 (means of assuring pension credit benefit) –

(a) in paragraph (3) for sub-paragraphs (a) to (c) there shall be substituted the following sub-paragraphs –

- “(a) a person who has permission under Part IV of the 2000 Act to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”;

(b) for paragraph (4) there shall be substituted the following paragraph –

- “(4) Paragraph (3)(a) and (b) must be read with –
- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

Amendment of the Pension Sharing (Safeguarded Rights) Regulations

17. In regulation 8 of the Pension Sharing (Safeguarded Rights) Regulations (Northern Ireland) 2000(a) (insurance companies that may provide safeguarded rights by way of annuities) –

(a) for paragraph (2) there shall be substituted the following paragraph –

“(2) The insurance company must be –

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”;

(b) in paragraph (4) for “a friendly society as described in paragraph (2)(b),” there shall be substituted “an insurance company which is a friendly society, within the meaning given by section 116 of the Friendly Societies Act 1992(b),”;

(c) after paragraph (4) there shall be added the following paragraph –

“(5) Paragraph (2) must be read with –

- (a) section 22 of the Financial Services and Markets Act 2000 (regulated activities);
- (b) any relevant order under that section, and

(a) S.R. 2000 No. 147, to which there are amendments not relevant to these regulations

(b) 1992 c. 40

(c) Schedule 2 to that Act.”.

Amendment of the Stakeholder Pension Schemes Regulations

18.—(1) The Stakeholder Pension Schemes Regulations (Northern Ireland) 2000^(a) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1 (interpretation) –

(a) in paragraph (3) –

(i) after the definition of “the Taxes Act” there shall be inserted the following definition –

“ “the 2000 Act” means the Financial Services and Markets Act 2000;”;

(ii) for the definition of “insurance company” there shall be substituted the following definition –

“ “insurer” means –

(a) a person who has permission under Part IV of the 2000 Act to effect or carry out contracts of insurance, or

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;”;

(iii) for the definition of “securities” there shall be substituted the following definition –

“ “securities” means investments of the following kinds –

(a) shares;

(b) instruments creating or acknowledging indebtedness;

(c) government and public securities;

(d) instruments giving entitlements to investments;

(e) certificates representing securities,

but does not include shares in an investment trust;”;

(iv) in the definition of “with-profits fund” for “insurance company” in both places where it occurs there shall be substituted “insurer”.

(b) after paragraph (3) there shall be inserted the following paragraph –

“(3A) In paragraph (3) the definitions of “insurer” and “securities” shall be read with –

(a) section 22 of the 2000 Act (regulated activities);

(b) any relevant order under that section, and

(c) Schedule 2 to that Act.”.

(3) In regulation 8 (requirement applying to all stakeholder pension schemes as regards investments) –

(a) in paragraph (4) for “section 75 of the Financial Services Act 1986” there shall be substituted “section 235 of the 2000 Act”;

(b) in paragraph (5) for “insurance company” there shall be substituted “insurer”;

(c) in paragraph (6) for the definitions of “contract of insurance”^(b), “deposit” and “reference banks” there shall be substituted the following definitions –

“ “contract of insurance” means a contract –

(a) which, or any part of which, is of one or more of the following kinds –

(i) life and annuity;

(ii) linked long term;

(iii) pension fund management, and

^(a) S.R. 2000 No. 262; relevant amending regulations are S.R. 2001 No. 119 and S.R. 2002 No. 268

^(b) Definition of “contract of insurance” was substituted by regulation 5 of S.R. 2001 No. 119

- (b) which is carried out by an insurer who has permission, as the case may be, under –
 - (i) Part IV of the 2000 Act, or
 - (ii) paragraph 15 of Schedule 3 to that Act (EEA passport rights),

to effect or carry out contracts of insurance of that kind;

“reference banks” means the seven largest persons for the time being who –

- (a) have permission under Part IV of the 2000 Act to accept deposits;
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (c) quote a base rate applicable to sterling deposits,

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in Article 4 of the Companies (Northern Ireland) Order 1986), as shown in the audited end of year accounts last published before that time.”;

- (d) after paragraph (6) there shall be added the following paragraph –

“(7) In this regulation the expression “deposit”, and the definitions of “contract of insurance” and “reference banks” in paragraph (6), shall be read with –

- (a) section 22 of the 2000 Act (regulated activities);
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

- (4) In regulation 10 (requirement for manager of schemes not established under a trust to have regard to certain matters, and to take advice, relating to investment) –

- (a) in paragraph (5)(a) for sub-paragraph (a) there shall be substituted the following sub-paragraph –

“(a) where the giving of advice constitutes a regulated activity of advising on investments (or would constitute such a regulated activity but for the identity of the person carrying on that activity), advice given by a person who may give that advice without contravening the prohibition imposed by section 19 of the 2000 Act;”;

- (b) after paragraph (5) there shall be inserted the following paragraph –

- “(5A) Paragraph (5)(a) shall be read with –
- (a) section 22 of the 2000 Act (regulated activities);
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act.”.

- (5) In regulation 15(3)(b), (4)(c) and (5) (requirement for trustees or manager to satisfy certain conditions in relation to with-profits funds) for “insurance company” in each place where it occurs there shall be substituted “insurer”.

Revocations

- 19.** The following regulations are hereby revoked –

- (a) regulation 22(a) of the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1992(d);
- (b) paragraph 20(2) and (3) of Schedule 2 to the Occupational and Personal Pension Schemes (Consequential Amendments) Regulations (Northern Ireland) 1994(e);
- (c) regulations 5(3) and 7 of the Personal and Occupational Pension Schemes (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1997(f);

(a) Paragraph (5) was amended by regulation 6(4) of S.R. 2001 No. 119

(b) Paragraph (3) was amended by regulation 11(2) of S.R. 2001 No. 119 and regulation 5(2) of S.R. 2002 No. 268

(c) Paragraph (4) was amended by regulation 11(3) of S.R. 2001 No. 119 and regulation 5(3) of S.R. 2002 No. 268

(d) S.R. 1992 No. 304

(e) S.R. 1994 No. 300

(f) S.R. 1997 No. 544

- (d) regulation 3 of the Occupational Pension Schemes (Bank of England Act) (Consequential Amendments) Regulations (Northern Ireland) 1998**(a)**;
- (e) regulations 11(2)(b) and 12(2) of the Pension Sharing (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2000**(b)**;
- (f) regulation 5 of the Stakeholder Pension Schemes (Amendment No. 2) Regulations (Northern Ireland) 2001**(c)**.

Sealed with the Official Seal of the Department for Social Development on 25th April 2003.

(L.S.)

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

(a) S.R. 1998 No. 233
(b) S.R. 2000 No. 335
(c) S.R. 2001 No. 119

SCHEDULE

PROVISIONS CONFERRING POWERS EXERCISED IN
MAKING THESE REGULATIONS

Column (1) <i>Provision</i>	Column (2) <i>Relevant Amendments</i>
Social Security Administration (Northern Ireland) Act 1992 (a)	section 72(5)
Pension Schemes (Northern Ireland) Act 1993 (b)	section 5(5) and (6)
	section 15(4)(a)(ii)
	section 22
	section 25(3)(b)
	section 26(1)
	section 28A(2)(a)
	section 64D
	section 97D(1)(b)
	section 97L(1) and (2)(a)
	section 109
	Pensions (Northern Ireland) Order 1995(c), Schedule 3, paragraph 14(a)
	Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001(d), article 129
	Pensions (Northern Ireland) Order 1995, Article 141(3); Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001, article 130(2)
	Pensions (Northern Ireland) Order 1995, Schedule 3, paragraph 14(a); Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999(e), Schedule 1, paragraph 45
	Pensions (Northern Ireland) Order 1995, Article 143(1); Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002(f), article 19
	Welfare Reform and Pensions (Northern Ireland) Order 1999(g), Article 33
	Welfare Reform and Pensions (Northern Ireland) Order 1999, Article 34
	Welfare Reform and Pensions (Northern Ireland) Order 1999, Article 34
	Child Support, Pensions and Social Security Act (Northern Ireland) 2000(h), section 48

- (a) 1992 c. 8
(b) 1993 c. 49
(c) S.I. 1995/3213 (N.I. 22)
(d) S.I. 2001/3649
(e) S.I. 1999/671
(f) S.I. 2002/1555
(g) S.I. 1999/3147 (N.I. 11)
(h) 2000 c. 4 (N.I.)

Column (1) <i>Provision</i>	Column (2) <i>Relevant Amendments</i>
Pensions (Northern Ireland) Order 1995	section 142(6)(b) section 147A Article 19(4) Article 21(5) Article 35(7) Article 40(1) and (2)
	Pensions (Northern Ireland) Order 1995, Article 156 Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001, article 152
	Article 47(5)(a) and (6) Article 49(1) and (5)
	Welfare Reform and Pensions (Northern Ireland) Order 1999, Schedule 2, paragraph 10(2); Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001, article 154
	Article 56(3) Article 60(2)(b), (5)(b) and (6) Article 81(3)(a)
	Welfare Reform and Pensions (Northern Ireland) Order 1999, Schedule 10, Part I
Welfare Reform and Pensions (Northern Ireland) Order 1999	Article 115(1)(a) and (b) Article 116 Article 122(3) Article 3(1)(b) and (5) Article 5(1)
	Schedule 5, paragraphs 6(2)(b) and 10 Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001, article 160

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make amendments to social security and pensions regulations in consequence of the coming into force of the Financial Services and Markets Act 2000 (“the Act”). The Act, which extends throughout the United Kingdom, provides for the regulation of financial services, insurance and banking and for the transfer of certain statutory functions relating to building societies and certain other mutual societies.

In particular, these Regulations amend references in regulations to repealed enactments and to the expressions used in those enactments so that they refer to the appropriate provision or expression under the Act.

These Regulations also contain consequential revocations.

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