

2007 No. 185

PENSIONS

**The Occupational and Personal Pension Schemes
(Miscellaneous Amendments) Regulations (Northern Ireland)
2007**

Made - - - - *20th March 2007*

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SCHEDULE — Revocations

The Department for Social Development, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b), in relation to personal and occupational pensions makes the following Regulations in exercise of the powers conferred by that section, sections 1(1), 5(2B)(c), 8C(1)(a), 12(3), 16(1), 24(2)(b) and (4), 67(6), 109(1) and (2) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(c), Articles 35(7), 40(1), 66A(3), 73(2)(b), 73B(8) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(d), Articles 3(5)(c) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(e), and now vested in it(f), and Articles 165(1)(a), 200(1)(b) and (2), 203(1)(b), 206(4), 218(8)(c), 219(10), 226(2)(a), 236(1), 263(6), 264(1), 265(1), 268(1) and 287(3) of the Pensions (Northern Ireland) Order 2005(g).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2007 and shall come into operation on 6th April 2007.

(2) The Interpretation Act (Northern Ireland) 1954(h) 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. In Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(i) (information to be made available to individuals)—

- (a) in paragraph 1(j) omit sub-paragraphs (b) and (c), and
- (b) in paragraph 5 for “regulation 10(12) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1987” substitute “regulation 12(12) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations

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- (a) See Schedule 2 to the European Communities (Designation) (No. 7) Order 2004 (S.I. 2004/3328)
 - (b) 1972 c. 68
 - (c) 1993 c. 49; section 1 was amended by Article 216 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); section 5(2B) was substituted by Article 133(3) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 38(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671); section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995; section 12(3) was amended by paragraph 21 of Schedule 3 to that Order, *see also* paragraph 3 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 16(1) was amended by paragraph 2(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 24(2)(b) was amended by paragraph 2(2) of Schedule 5 to that Act; section 24(4) was amended by paragraph 3(2) of Schedule 5 to that Act and Article 261(3) of the Pensions (Northern Ireland) Order 2005; section 109(1) was amended by section 48(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
 - (d) S.I. 1995/3213 (N.I. 22); Article 35 was substituted by Article 221 of the Pensions (Northern Ireland) Order 2005; Article 40 was amended by Article 152 of S.I. 2001/3649, Article 26 of S.I. 2004/355 and paragraph 45 of Schedule 10 to the Pensions (Northern Ireland) Order 2005; Article 66A was inserted by section 51 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 73 was substituted, and Article 73B inserted, by Article 247(1) of the Pensions (Northern Ireland) Order 2005
 - (e) S.I. 1999/3147 (N.I. 11)
 - (f) See Article 8(b) of S.R. 1999 No. 481
 - (g) S.I. 2005/255 (N.I. 1); Part III is modified in its application to partially guaranteed schemes by S.R. 2005 No. 55, in its application to hybrid schemes by S.R. 2005 No. 84 and in its application to multi-employer schemes by S.R. 2005 No. 91 (as amended by S.R. 2005 Nos. 194 and 357) and Part IV is modified by S.R. 2005 Nos. 568 and 570
 - (h) 1954 c. 33 (N.I.)
 - (i) S.R. 1987 No. 288; relevant amending Regulations are S.R. 1988 No. 107, S.R. 1992 No. 304, S.R. 1993 No. 126 and S.R. 1994 No. 300
 - (j) Paragraph 1 was amended by regulation 6(e) of S.R. 1998 No. 107, regulation 23 of S.R. 1992 No. 304, regulation 3 of S.R. 1993 No. 126 and paragraph 13(5) of Schedule 2 to S.R. 1994 No. 300

(Northern Ireland) 1997(a) (death of scheme member before effect given to his protected rights)”.

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations

3.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(b) shall be amended in accordance with paragraphs (2) and (3).

(2) For regulation 5(c) (short service benefit in lump sum form) substitute—

“Short service benefit in lump sum form

5. For the purposes of section 67(6) (basic principle as to short service benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of short service benefit in the form of a lump sum before normal pension age are that the payment of a lump sum to the member is permitted in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004(d).”.

(3) In regulation 8 (early retirement or deferred retirement) for paragraph (2) substitute—

“(2) The member’s benefit must not be payable before normal pension age except in the circumstances where the member has either—

- (a) met the ill-health condition specified in paragraph 1 of Schedule 28 to the Finance Act 2004 (registered pension schemes – defined benefits and money purchase arrangements – ill health condition) immediately before he became entitled to the benefit under the scheme, or
- (b) attained normal minimum pension age as defined in section 279 of that Act (other definitions).”.

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996(e) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of “overseas scheme”(f) substitute—

““overseas scheme” means an occupational pension scheme which has its main administration outside the member States but does not include a scheme which is contracted-out in the Isle of Man by virtue of satisfying section 9(2) or (3) of the Pension Schemes Act 1993 as it has effect in the Isle of Man(g);”.

(3) In regulation 62(2) (fixed rate revaluation of guaranteed minimum pensions for early leavers)—

- (a) in sub-paragraph (e)(h) for “6th April 2002, 4.5 per cent.” substitute “6th April 2002 but before 6th April 2007, 4.5 per cent. ”, and
- (b) after sub-paragraph (e) add —

“(f) where that period of service terminates on or after 6th April 2007, 4 per cent. compound.”.

(a) S.R. 1997 No. 56; regulation 12(12) was amended by paragraph 32(a) of Schedule 2 to S.R. 2005 No. 433
(b) S.R. 1991 No. 37; relevant amending Regulations are S.R. 1994 No. 300 and S.R. 1996 No. 620
(c) Regulation 5 was amended by paragraph 26(6) of Schedule 2 to S.R. 1994 No. 300 and regulation 2(3) of S.R. 1996 No. 620
(d) 2004 c.12
(e) S.R. 1996 No. 493; relevant amending Regulations are S.R. 1999 No. 486 and S.R. 2002 No. 109
(f) The definition of “overseas scheme” was amended by regulation 4(2)(a) of S.R. 1999 No. 486
(g) See Article 3 of, and the Schedule to, the Pension Schemes Act 1993 (Application) Order 1995, Statutory Document No. 531/95, which applies (with modifications) section 9 of the Pension Schemes Act 1993 (c. 48) to the Isle of Man; and see Article 3(1)(b) of, and Schedule 1 to, the Pensions Act 1995 (Application) Order 1997, Statutory Document No. 501/97, which applies to the Isle of Man the amendments to that section 9 in section 136 of the Pensions Act 1995 (c. 26)
(h) Sub-paragraph (e) was added by regulation 2(14)(b) of S.R. 2002 No. 109

Amendment of the Protected Rights (Transfer Payment) Regulations

5. In regulation 1(2) of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(a) (interpretation) for the definition of “overseas scheme”(b) substitute—

““overseas scheme” means—

- (a) an occupational pension scheme which has its main administration outside the member States, or
- (b) a European pensions institution as defined in Article 269(8) of the Pensions (Northern Ireland) Order 2005 (functions of Regulator in relation to institutions administered in other member States),

but does not include one which is contracted-out within the meaning of section 3(3) nor one in respect of which section 49(c) (supervision: former contracted-out schemes) applies by virtue of section 48(1) (supervision of schemes which have ceased to be certified);”.

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations

6. In regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(d) (interpretation) for the definition of “overseas scheme”(e) substitute—

““overseas scheme” means—

- (a) an occupational pension scheme which has its main administration outside the member States, or
- (b) a European pensions institution as defined in Article 269(8) of the Pensions (Northern Ireland) Order 2005 (functions of Regulator in relation to institutions administered in other member States),

but does not include a salary-related contracted-out scheme nor one in respect of which section 49 (supervision: former contracted-out schemes) applies by virtue of section 48(1) (supervision of schemes which have ceased to be certified);”.

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

7. In regulation 8 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(f) (giving effect to protected rights by the provision of a lump sum) omit paragraph (2).

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

8. In regulation 5 of the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(g) (information to be made available to individuals)—

- (a) in paragraph (12ZA)(h) for “(except excluded persons), within a reasonable period after the date” substitute “(except excluded persons), on, or before, or within a reasonable period after, the date”, and
- (b) after paragraph (15)(i) add—

(a) S.R. 1996 No. 509; relevant amending Regulations are S.R. 1997 No. 160

(b) The definition of “overseas scheme” was amended by paragraph 6(2)(a) of the Schedule to S.R. 1997 No. 160

(c) Section 49 was amended by paragraph 40 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 61 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 6 of Schedule 10 to the Pensions (Northern Ireland) Order 2005

(d) S.R. 1996 No. 618; relevant amending Regulations are S.R. 1997 No. 160

(e) The definition of “overseas scheme” was amended by paragraph 10(2)(a) of the Schedule to S.R. 1997 No. 160

(f) S.R. 1997 No. 56; regulation 8 was amended by Article 32(3) of S.I. 2006/744

(g) S.R. 1997 No. 98; the relevant amending regulations are S.R. 1997 No. 160 and S.R. 2005 No. 568

(h) Paragraph (12ZA) was inserted by paragraph 6(3)(b) of Schedule 3 to S.R. 2005 No. 568

(i) Paragraphs (14) and (15) were added by paragraph 19(4)(e) of the Schedule to S.R. 1997 No. 160

“(16) The requirement in paragraph (12ZA) does not apply in relation to a member or beneficiary whose only entitlement to benefits under the scheme is, or will be, to money purchase benefits.”.

Amendment of the Stakeholder Pension Schemes Regulations

9. In regulation 14 of the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000(a) (charges etc. - permitted reductions in members’ rights)—

- (a) in paragraph (1) for “paragraphs (2) to (5)” substitute “paragraphs (2) to (5A)”, and
- (b) after paragraph (5) insert—

“(5A) The value of a member’s rights under the scheme may be reduced by the amount of any payment made to discharge the liability of the trustees or managers in respect of any tax liability under the Finance Act 2004 in relation to that member.”.

Amendment of the Occupational Pension Schemes (Winding up, etc.) Regulations

10.—(1) The Occupational Pension Schemes (Winding up, etc.) Regulations (Northern Ireland) 2005(b) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 3(1) (schemes to which Article 73 of the 1995 Order does not apply)—

- (a) in sub-paragraph (j) for head (i) substitute—

“(i) the provisions of the scheme provide that any decision made by the trustees is made by the unanimous agreement of the trustees who are members of the scheme, or”;

- (b) in sub-paragraph (k) for head (i) substitute—

“(i) the provisions of the scheme provide that any decision made by the company in its capacity as trustee is made by the unanimous agreement of the directors who are members of the scheme; or”, and

- (c) omit sub-paragraph (l).

(3) In regulation 8(4)(a) (entitlement to death benefits treated as arising before commencement of winding up period) for “former spouse” substitute “former spouse, former civil partner”.

Amendment of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations

11. In regulation 2 of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005(c) (prescribed schemes)—

- (a) in paragraph (1)—

- (i) in sub-paragraph (f)(i) for “all decisions which fall to be made by the trustees are made by unanimous agreement by” substitute “any decision made by the trustees is made by the unanimous agreement of”;

- (ii) in sub-paragraph (g)—

- (aa) for “where a company is a trustee” substitute “where a company is the sole trustee”;

- (bb) in head (i) for “are made by the unanimous agreement of all the directors” substitute “is made by the unanimous agreement of the directors”, and

- (cc) in head (ii) for “one of the directors is a trustee who” substitute “one of the directors of the company”, and

(a) S.R. 2000 No. 262; regulation 14 was substituted by regulation 2(9) of S.R. 2005 No. 110

(b) S.R. 2005 No. 171 to which there are amendments not relevant to these Regulations

(c) S.R. 2005 No. 381

- (iii) omit sub-paragraph (k), and
- (b) in paragraph (2) for “within paragraph (1)(a) to (k)” substitute “within paragraph (1)(a) to (j)”.

Amendment of the Pension Schemes (Categories) Regulations

12. In regulation 2 of the Pension Schemes (Categories) Regulations (Northern Ireland) 2005(a) (prescription of certain pension schemes as occupational pension schemes) after paragraph (5) add—

“(6) This regulation applies to the Pilots’ National Pension Fund which is a pilots’ benefit fund established under byelaws made by the Trinity House of Deptford Strond under section 15(1)(i) of the Pilotage Act 1983(b).”.

Amendment of the Occupational Pension Schemes (Scheme Funding) Regulations

13.—(1) The Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005(c) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 17(1)(d) (exemptions - general)—

- (a) in sub-paragraph (h)—
 - (i) for “a scheme which has” substitute “a scheme with”;
 - (ii) in head (i) for “all decisions which fall to be made by the trustees are” substitute “any decision made by the trustees is”, and
 - (iii) in head (ii) for “who is an independent trustee” substitute “who is independent”, and
- (b) in sub-paragraph (i)—
 - (i) for “a scheme which has” substitute “a scheme with”;
 - (ii) for “where a company is a trustee” substitute “where a company is the sole trustee”;
 - (iii) in head (i) for “is made only by the unanimous agreement” substitute “is made by the unanimous agreement”, and
 - (iv) in head (ii) for “one of the directors is a trustee who” substitute “one of the directors of the company”.

(3) In Schedule 3 (supplementary and consequential provisions) in paragraph 7(2)—

- (a) for “(except excluded persons)” substitute “(except excluded persons or a member or beneficiary whose only entitlement to benefits under the scheme is, or will be, to money purchase benefits)”, and
- (b) in head (c) for “any estimate” substitute “an estimate”.

(4) In Schedule 4 (transitional provisions and savings) in paragraph 3—

- (a) in sub-paragraph (4) omit the words from “and the trustees or managers have determined before that date” to the end of that sub-paragraph, and
- (b) in sub-paragraph (5) for “the effective date they have determined” substitute “an effective date which is no earlier than 22nd September 2005 and not more than three years after the effective date of the last valuation they received under the 1995 Order”.

(a) S.R. 2005 No. 413

(b) 1983 c.21; section 15 was repealed by Schedule 3 to the Pilotage Act 1987 (c.21) and saved by paragraph 4 of Schedule 1 to that Act so that any pilots’ benefit fund established under section 15(1)(i) of the Pilotage Act 1983 continues in existence notwithstanding the repeal of section 15

(c) S.R. 2005 No. 568; relevant amending Regulations are S.R. 2006 No. 297

(d) Regulation 17 was amended by regulation 5(3) of S.R. 2006 No. 297 and is modified in its application to an occupational pension scheme that is subject to the regulatory own fund requirement by regulation 5(2)(d) of S.R. 2005 No. 570

Amendment of the Occupational Pension Schemes (Investment) Regulations

14.—(1) The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005(a) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) in the definition of “small scheme” in paragraph (a)(i) for “by unanimous agreement by” substitute “by the unanimous agreement of”.

(3) In regulation 12(1) (restrictions on employer-related investments) for “applies to trust schemes” substitute “applies to schemes”.

Amendment of the Occupational Pension Schemes (Regulatory Own Funds) Regulations

15.—(1) The Occupational Pension Schemes (Regulatory Own Funds) Regulations (Northern Ireland) 2005(b) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 10(8) (postponement) for “given in regulation 11” substitute “given in regulation 3 of the Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005(c) (meaning of “European employer” and “host member State” in Part VII of the Order)”.

(3) Omit regulation 11 (meaning of “European employer”).

(4) In regulation 15(1) (exemptions)—

(a) in sub-paragraph (h)—

(i) for “a scheme which has” substitute “a scheme with”;

(ii) in head (i) for “all decisions which fall to be made by the trustees are” substitute “any decision made by the trustees is”, and

(iii) in head (ii) for “who is an independent trustee” substitute “who is independent”, and

(b) in sub-paragraph (i)—

(i) for “a scheme which has” substitute “a scheme with”;

(ii) for “where a company is a trustee” substitute “where a company is the sole trustee”;

(iii) in head (i) for “is made only by the unanimous agreement” substitute “is made by the unanimous agreement”, and

(iv) in head (ii) for “one of the directors is a trustee who” substitute “one of the directors of the company”.

Amendment of the Occupational Pension Schemes (Cross-border Activities) Regulations

16.—(1) The Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005(d) shall be amended in accordance with paragraphs (2) to (9).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1) in the definition of “segregated multi-employer scheme” in paragraph (b) for “a specified part or proportion” substitute “a specified proportion”;

(b) in paragraph (3) for “Where a scheme is a segregated multi-employer scheme” substitute “Subject to paragraph (4), where a scheme is a segregated multi-employer scheme”, and

(c) after paragraph (3) add—

“(4) This paragraph applies where—

(a) a European employer is an employer in relation to a segregated multi-employer scheme;

(a) S.R. 2005 No. 569 to which there are amendments not relevant to these Regulations

(b) S.R. 2005 No. 570

(c) S.R. 2005 No. 581

(d) S.R. 2005 No. 581; relevant amending regulations are S.R. 2006 Nos. 65 and 160

(b) that European employer is an associate of one or more employers in relation to that scheme.

(5) Where paragraph (4) applies, all sections of the scheme that receive contributions from at least one of the employers referred to in that paragraph are together to be treated as a separate scheme for the purposes of regulations 7(2)(d) and 8(5).

(6) In paragraph (4)(b) “associate” has the meaning given in Article 4(a) of the Insolvency Order (associated employer).”.

(3) In regulation 3 (meaning of “European employer” and “host member State” in Part VII of the Order) for paragraph (1) substitute—

“(1) Subject to paragraphs (2) to (4), in Part VII of the Order “European employer” means a person who in relation to a host member State either—

- (a) employs qualifying persons in that member State, or
- (b) is a qualifying self-employed person in that member State,

and is making (or proposes to make) contributions to a scheme either in respect of a qualifying person or in respect of himself as a qualifying self-employed person.”.

(4) In regulation 5 (applications for general authorisation to accept contributions from European employers: established schemes which are carrying on cross-border activity)—

(a) in paragraph (1)—

- (i) at the end of sub-paragraph (b) insert “or”, and
- (ii) after that sub-paragraph add—

“(c) the trustees or managers of that scheme apply, on or after 6th April 2007, to the Regulator for authorisation under Article 264.”.

(b) in paragraph (2)(b) for “Subject to paragraph (3), such” substitute “Subject to paragraph (3) or (4), where the application is made before 22nd September 2008, such”, and

(c) after paragraph (3)(c) add—

“(4) In a case where the trustees or managers of a pre-23rd September 2005 scheme make an application on or after 22nd September 2008—

- (a) where the scheme is a money purchase scheme, such an application shall be made in a form which provides the information described in paragraphs 2 and 3 of Schedule 1, or
- (b) where the scheme is not a money purchase scheme, such an application shall be made in a form which provides the information described in paragraphs 2 and 4 of that Schedule.”.

(5) In regulation 7(2) (conditions for general authorisation to accept contributions from European employers) in sub-paragraph (d) for head (ii) substitute—

“(ii) where the application is made under regulation 5—

- (aa) in a case where the application is made on or after 6th April 2007 but before 22nd September 2008, that the scheme to which the application relates will, in the opinion of the Regulator, meet the statutory funding objective by 22nd September 2008, or
- (bb) in a case where the application is made on or after 22nd September 2008, that the scheme to which the application relates meets the statutory funding objective, or”.

(a) Article 4 was amended by paragraph 80 of Schedule 29 to the Civil Partnership Act 2004 (c. 33) and paragraph 6 of the Schedule to S.R. 2005 No. 479, and is modified in its application to limited liability partnerships by regulation 5 of, and Schedule 3 to, S.R. 2004 No. 307

(b) Paragraph (2) was amended by regulation 9(3)(a) of S.R. 2006 No. 65

(c) Paragraph (3) was added by regulation 9(3)(b) of S.R. 2006 No. 65 and amended by regulation 2(3) of S.R. 2006 No. 160

(6) In regulation 10 (applications for approval in relation to particular European employer: established schemes which are carrying on cross-border activity)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (b) insert “or”, and

(ii) after that sub-paragraph add—

“(c) the trustees or managers of that scheme make an application for approval under Article 265 in relation to one or more European employers on or after the end of that period.”.

(b) in paragraph (2)(a) for “Subject to paragraph (3), the information to be contained in the notice of intention relating to such an application,” substitute “Subject to paragraph (3) or (4), the information to be contained in the notice of intention relating to such an application, where the application is made before 22nd September 2008”, and

(c) after paragraph (3)(b) add—

“(4) In a case where an application is made on or after 22nd September 2008—

(a) where the scheme is a money purchase scheme, such an application shall be made in accordance with the provisions of paragraph 6(1), (2), (3) and (7) of Schedule 1, or

(b) where the scheme is not a money purchase scheme, such an application shall be made in accordance with the provisions of paragraph 6(1), (2), (4) and (7) of that Schedule.”.

(7) In regulation 15(3) (ring-fencing of assets) at the beginning of sub-paragraph (b)(ii) insert “within a time specified by the Regulator (subject to any extension the Regulator may subsequently grant)”.

(8) After regulation 18 (amendment of the Occupational Pension Schemes (Trust and Retirement Benefits Exemption) Regulations) add—

“Treatment of overseas residents: Article 66A of the 1995 Order

19. Where the provisions of an occupational pension scheme comply with these Regulations those provisions shall not contravene paragraph (3) of Article 66A(c) of the 1995 Order to the extent that they would, apart from that paragraph, have an effect with respect to the matters specified in sub-paragraphs (a) to (c) of that paragraph, which would be different according to whether that person works wholly in the United Kingdom or wholly or partly outside the United Kingdom.”.

(9) In Schedule 1 (additional information to be contained in applications for authorisation or approval) in paragraph 6(7)—

(i) at the end of head (h) omit “and”, and

(ii) after head (i) add—

“(j) the number of members in the scheme, and

(k) whether the scheme has any external, contractual-based asset manager.”.

(a) Paragraph (2) was amended by regulation 9(4)(a) of S.R. 2006 No. 65

(b) Paragraph (3) was added by regulation 9(4)(b) of S.R. 2006 No. 65 and amended by regulation 2(4) of S.R. 2006 No. 160

(c) Article 66A was inserted by section 51 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))

Amendment of the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations

17. In regulation 4(4) of the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006(a) (excluded employers: occupational pension schemes) in the definition of “small occupational pension scheme”—

- (a) in paragraph (a)(i) for “all decisions which fall to be made by the trustees are made by unanimous agreement by” substitute “any decision made by the trustees is made by the unanimous agreement of”, and
- (b) in paragraph (b)—
 - (i) for “where a company is a trustee” substitute “where a company is the sole trustee”;
 - (ii) in sub-paragraph (i) for “are made by the unanimous agreement of all the directors” substitute “is made by the unanimous agreement of the directors”, and
 - (iii) in sub-paragraph (ii) for “one of the directors is a trustee who” substitute “one of the directors of the company”.

Amendment of the Occupational Pension Schemes (Trustees’ Knowledge and Understanding) Regulations

18. In regulation 2 of the Occupational Pension Schemes (Trustees’ Knowledge and Understanding) Regulations (Northern Ireland) 2006(b) (exceptions for trustees of small schemes)—

- (a) in paragraph (1)(a) for “all decisions which fall to be made by the trustees are made by the unanimous agreement of” substitute “any decision made by the trustees is made by the unanimous agreement of”, and
- (b) in paragraph (2)—
 - (i) for “where a company is a trustee” substitute “where a company is the sole trustee”;
 - (ii) in sub-paragraph (a) for “all decisions made by the company in its capacity as trustee are made by the unanimous agreement of all the directors” substitute “any decision made by the company in its capacity as trustee is made by the unanimous agreement of the directors”, and
 - (iii) in sub-paragraph (b) for “one of the directors is a trustee who” substitute “one of the directors of the company”.

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

19.—(1) The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 2006(c) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) for the definition of “relevant small occupational pension scheme” substitute—

““relevant small occupational pension scheme” means a scheme with fewer than 12 members, where—

- (a) all the members are trustees of the scheme and either—
 - (i) the provisions of the scheme provide that any decision made by the trustees is made by the unanimous agreement of the trustees who are members of the scheme, or

(a) S.R. 2006 No. 48
(b) S.R. 2006 No. 120
(c) S.R. 2006 No. 148

- (ii) the scheme has a trustee who is independent in relation to the scheme for the purposes of Article 23(a) of the 1995 Order (power to appoint independent trustees), and is registered in the register maintained by the Regulator in accordance with regulations made under paragraph (4) of that Article, or
- (b) all the members are directors of a company which is the sole trustee of the scheme, and either—
 - (i) the provisions of the scheme provide that any decision made by the company in its capacity as trustee are made by the unanimous agreement of the directors who are members of the scheme, or
 - (ii) one of the directors of the company is independent in relation to the scheme for the purposes of Article 23 of the 1995 Order, and is registered in the register maintained by the Regulator in accordance with regulations made under paragraph (4) of that Article;”.
- (3) In regulation 2 (exemptions from requirement to have member-nominated trustees)—
 - (a) at the end of paragraph (l) omit “or”, and
 - (b) after paragraph (m) add—
 - “or
 - (n) is designated as an existing scheme by virtue of Article 15 of the Railway Pensions (Protection and Designation of Schemes) Order 1994(b) (designation of existing schemes).”.
- (4) In regulation 3 (prescribed exemptions from requirement to have member-nominated directors of corporate trustees)—
 - (a) at the end of paragraph (n) omit “or”, and
 - (b) after paragraph (o) add—
 - “or
 - (p) is designated as an existing scheme by virtue of Article 15 of the Railway Pensions (Protection and Designation of Schemes) Order 1994.”.

Revocations

20. The Regulations specified in column 1 of the Schedule are revoked to the extent specified in column 3.

Sealed with the Official Seal of the Department for Social Development on 20th March 2007

(L.S.)

John O'Neill
A senior officer of the Department for Social Development

SCHEDULE

Regulation 20

Revocations

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Citation</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Occupational and Personal Pension Schemes	S.R. 1993 No. 126	The whole Regulations

- (a) Article 23 was substituted by Article 32(3) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
- (b) S.I. 1994/1432 to which there are amendments not relevant to these Regulations

(Miscellaneous Amendments) Regulations (Northern Ireland) 1993		
The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations (Northern Ireland) 1994	S.R. 1994 No. 300	In Schedule 2, paragraphs 13(5)(b) and (c) and 26(6)
The Personal and Occupational Pension Schemes (Preservation of Benefit and Perpetuities) (Amendment) Regulations (Northern Ireland) 1996	S.R. 1996 No. 620	Regulation 2(3)
The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1997	S.R. 1997 No. 160	In the Schedule, paragraphs 6(2)(a) and 10(2)(a)
The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1999	S.R. 1999 No. 486	Regulation 4(2)(a)
The Occupational Pension Schemes (Republic of Ireland Schemes Exemption (Revocation) and Tax Exempt Schemes (Miscellaneous Amendments)) Regulations (Northern Ireland) 2006	S.R. 2006 No. 65	Regulation 9(3)(a) and (4)(a)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various Regulations concerning occupational and personal pension schemes.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 amends the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987 to omit or, as the case may be, update references to other legislation.

Regulation 3 amends the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991, amongst other things, to substitute regulation 5 enabling the payment of short service benefit in the form of a lump sum before normal pension age, where the payment satisfies requirements contained in the Finance Act 2004 (“the 2004 Act”) for lump sum payments by pension schemes.

Regulation 4 amends the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 to substitute the definition of “overseas scheme”. It also prescribes the fixed rate of revaluation of accrued rights to a guaranteed minimum pension, where contracted-out employment ceases on or after 6th April 2007, as 4 per cent.

Regulation 5 amends the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996 to extend the definition of “overseas scheme” to cover “European pensions institution” as defined in Article 269(8) of the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”).

Regulation 6 amends the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 to extend the definition of “overseas scheme” to cover “European pensions institution” as defined in Article 269(8) of the 2005 Order.

Regulation 7 amends the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997 to omit regulation 8(2) enabling schemes to give effect to a part of a member’s protected rights in the form of a lump sum in accordance with the 2004 Act. Regulation 8(2) is no longer needed as it applies only to lump sums paid on grounds of triviality and the link in paragraphs 7 to 9 of Part 1 of Schedule 29 to the 2004 Act already provides for this.

Regulation 8 amends the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997 to make it clear that the trustees of an occupational pension scheme are not required to provide the information under regulation 5(12ZA) to a member whose only entitlement to benefits is, or will be, to money purchase benefits.

Regulation 9 amends the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000 to allow a member’s benefits to be reduced to take account of any payment in respect of any tax liability in relation to the member in accordance with the 2004 Act.

Regulation 10 amends the Occupational Pension Schemes (Winding up, etc.) Regulations (Northern Ireland) 2005 to cover, amongst other things, civil partnerships.

Regulation 11 amends the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005 to amend the provisions concerning a scheme with fewer than twelve members where all of the members are trustees of the scheme. It also amends the provisions concerning a scheme with fewer than twelve members where a company is the sole trustee of the scheme.

Regulation 12 amends the Pension Schemes (Categories) Regulations (Northern Ireland) 2005 to prescribe a further scheme which is an occupational pension scheme.

Regulation 13 amends the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005, amongst other things, to exempt the trustees and managers of a scheme from having to disclose a summary funding statement containing prescribed information in accordance with paragraph 7(2) of Schedule 3 to members who are, or will be, entitled only to money purchase benefits.

Regulation 14 amends the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005, amongst other things, to extend the scope of regulation 12 to cover all occupational pension schemes.

Regulation 15 amends the Occupational Pension Schemes (Regulatory Own Funds) Regulations (Northern Ireland) 2005 to amend the definition of “European employer”. It also amends the description of a small scheme.

Regulation 16 amends the Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005, amongst other things, to enable occupational pension schemes that currently carry out cross-border activities within the European Union to apply to the Pensions Regulator for authorisation or approval on or after 6th April 2007 and prescribes the manner and form in which the trustees or managers of such occupational pension schemes must apply. It also makes provision for the Pensions Regulator to instruct the trustees or managers of a scheme to complete the ring-fencing of the scheme within a specified period of time.

Regulation 17 amends the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006 to amend the definition of “small occupational pension scheme”.

Regulation 18 amends the Occupational Pension Schemes (Trustees’ Knowledge and Understanding) Regulations (Northern Ireland) 2006 to amend the description of small schemes which are exempt from the requirements of Articles 224(3) and (4) and 225(3) and (5) of the 2005 Order.

Regulation 19 amends the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 2006 to amend the definition of “relevant small occupational pension scheme” and to add to the list of schemes exempt from the member-nominated trustees’ and member-nominated directors of corporate trustees’ requirements.

Regulation 20 and the Schedule make consequential revocations.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement to consult under Article 117(1) of the Pensions (Northern Ireland) Order 1995 and Article 289(1) of the 2005 Order does not apply by virtue of paragraph (2)(e) of each of those Articles.