

2008 No. 370

PENSIONS

**The Occupational Pension Schemes (Transfer Values)
(Amendment) Regulations (Northern Ireland) 2008**

Made - - - - *5th September 2008*

Coming into operation - *1st October 2008*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 23(3), 89A(2), 91(2)(d), 93(1), (2)(b), (3)(c) and (4), 97AC(2)(a), 97AF(1), (3)(b), (4)(b) and (5)(a), 97H(2) and (3), 97I, 97L, 109(1) and (3), 177(2) to (4) and 178 of the Pension Schemes (Northern Ireland) Act 1993(a), Articles 67D(4) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(b) and Articles 21(1)(b), 27, 38(1) and (2) and 73(4) of, and paragraphs 5(b) and 8(1) and (2) of Schedule 5 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999(c), and now vested in it(d).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 1st October 2008.

(2) In these Regulations “the principal Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(e).

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

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- (a) 1993 c. 49; section 89A was inserted by Article 149 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 23 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and subsection (1) is modified by regulation 19(2)(a) of S.R. 1996 No. 619; section 91 was amended by paragraph 5 of Schedule 4 to the Pensions (Northern Ireland) Order 1995, Part III(6) of Schedule 9 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and Article 133 of S.I. 2001/3649; section 93 was amended by paragraph 6 of Schedule 4 to the Pensions (Northern Ireland) Order 1995 and paragraph 5(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; sections 97AC and 97AF were inserted by Article 241 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); sections 97H, 97I and 97L were inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999; section 109 was amended by section 48 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, paragraph 13 of Schedule 10 to the Pensions (Northern Ireland) Order 2005, paragraph 4 of Schedule 5 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and paragraph 15 of the Schedule to S.R. 2005 No. 434; section 178 was amended by paragraph 14 of Schedule 4 and Schedule 5 to the Pensions (Northern Ireland) Order 1995, paragraph 31 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 27 of Schedule 10 to the Pensions (Northern Ireland) Order 2005; *see also* the definition of “guarantee date” in section 89A(2)
- (b) S.I. 1995/3213 (N.I. 22); Article 67D was inserted by Article 239 of the Pensions (Northern Ireland) Order 2005 and amended by paragraph 5 of Schedule 5 to the Pensions Act (Northern Ireland) 2008
- (c) S.I. 1999/3147 (N.I. 11); Article 21 was amended by paragraph 108 of Schedule 29 to the Civil Partnership Act 2004 (c. 33); Article 27 is modified by regulation 2(2)(b) of S.R. 2006 No. 282; paragraph 8 of Schedule 5 was amended by paragraph 71(2) of Schedule 10 to the Pensions (Northern Ireland) Order 2005
- (d) *See* Article 8(b) of S.R. 1999 No. 481
- (e) S.R. 1996 No. 619; relevant amending provisions are S.R. 1997 No. 160, S.R. 2003 No. 337, S.R. 2005 Nos. 20, 114, 171 and 568, S.I. 2006/744 and S.R. 2007 No. 64
- (f) 1954 c. 33 (N.I.)

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (interpretation)—

- (a) after the definition of “the Act” insert—
 - ““actuary” means—
 - (a) the actuary mentioned in Article 47(1)(b) (professional advisers); or
 - (b) in relation to a scheme to which that Article does not apply—
 - (i) a Fellow of the Faculty of Actuaries^(a);
 - (ii) a Fellow of the Institute of Actuaries^(b); or
 - (iii) a person with other actuarial qualifications who is approved, at the request of the trustees of the scheme in question, by the Department as being a proper person to act for the purposes of these Regulations in connection with that scheme;”;
- (b) omit the definition of “the Board for Actuarial Standards”^(c);
- (c) after the definition of “cash equivalent” insert—
 - ““discount rates” means the interest rates used to discount future payments of benefit for the purposes of placing a current value on them;”;
- (d) for the definition of “effective date”^(d) substitute—
 - ““effective date” means the date as at which the assets and liabilities are valued for the purposes of the insufficiency report;”;
- (e) after the definition of “the guarantee date” insert—
 - ““initial cash equivalent” means the amount calculated in accordance with regulation 7(1)(a);
 - ““insufficiency report” means the actuary’s last relevant report before the guarantee date prepared in accordance with Schedule 1B;
 - ““insufficiency report liabilities” has the meaning given in paragraph 7 of Schedule 1B;
 - ““insurance policy” means an insurance policy which is a contract on human life or a contract of annuity on human life, but excluding a contract which is linked to investment funds;”;
- (f) for the definition of “member” substitute—
 - ““member” has the meaning given to that expression in Article 121(1)^(e);”;
- (g) in the definition of “the Regulatory Authority” for “the Occupational Pensions Regulatory Authority” substitute “the Pensions Regulator^(f)”;
- (h) after the definition of “the relevant date” insert—
 - ““salary related benefits” means benefits which are not money purchase benefits;”;
- (i) omit the definition of “scheme actuary”;
- (j) after the definition of “section 5(2B) rights” insert—
 - ““statement of entitlement” has the meaning given in section 89A(1);”.

(a) The Faculty of Actuaries can be contacted at MacLaurin House, 18 Dublin Street, Edinburgh EH1 3PP
(b) The Institute of Actuaries can be contacted at Staple Inn Hall, High Holborn, London WC1V 7QJ
(c) The definition of “the Board for Actuarial Standards” was inserted by paragraph 5(a) of the Schedule to S.R. 2007 No. 64
(d) The definition of “effective date” was inserted by regulation 2(2) of S.R. 2003 No. 337
(e) The definition of “member” in Article 121(1) was amended by paragraph 50(2) of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
(f) The Pensions Regulator is established by section 1 of the Pensions Act 2004 (c. 35); *see also* Article 6(1) of the Pensions (Northern Ireland) Order 2005 which transferred the functions of the Occupational Pensions Regulatory Authority to the Pensions Regulator

Amendment of regulation 6 of the principal Regulations

3. For regulation 6(1)(a) of the principal Regulations (guaranteed statements of entitlement) substitute—

“(1) Subject to paragraph (1A), the guarantee date in relation to a statement of entitlement must be—

- (a) within the period of 3 months beginning on the date of the member’s application under section 89A (salary related schemes: right to statement of entitlement) for a statement of entitlement; or
- (b) where the trustees are unable to provide a statement of entitlement for reasons beyond their control within the period specified in sub-paragraph (a), within such longer period not exceeding 6 months beginning on the date of the member’s application as they may reasonably require.”.

Substitution of regulations 7 and 8 of the principal Regulations

4. For regulations 7(b) (manner of calculation and verification of cash equivalents) and 8(c) (further provisions as to calculation of cash equivalents and increases and reductions of cash equivalents (other than guaranteed cash equivalents)) of the principal Regulations substitute—

“Manner of calculation and verification of cash equivalents - general provisions

7.—(1) Subject to paragraph (5), cash equivalents are to be calculated and verified—

- (a) by calculating the initial cash equivalent—
 - (i) for salary related benefits, in accordance with regulations 7A and 7B; or
 - (ii) for money purchase benefits, in accordance with regulation 7C, and then making any reductions in accordance with regulation 7D; or
- (b) in accordance with regulation 7E.

(2) The trustees must decide whether to calculate and verify the cash equivalent in accordance with paragraph (1)(a) or (b), but they can only choose paragraph (1)(b) if they have had regard to any requirement for consent to paying a cash equivalent which is higher than the amount calculated and verified in accordance with paragraph (1)(a).

(3) The trustees are responsible for the calculation and verification of cash equivalents and initial cash equivalents.

(4) Paragraph (5) applies where the cash equivalent is calculated and verified in accordance with paragraph (1)(a).

(5) Where a portion of the cash equivalent relates to a salary related benefit and a portion relates to a money purchase benefit, the initial cash equivalent is to be calculated—

- (a) for the salary related benefit portion, in accordance with regulations 7A and 7B; and
- (b) for the money purchase benefit portion, in accordance with regulation 7C.

Manner of calculation of initial cash equivalents for salary related benefits

7A.—(1) For salary related benefits, the initial cash equivalent is to be calculated—

- (a) on an actuarial basis; and
- (b) in accordance with paragraph (2) and regulation 7B.

(a) Regulation 6 was amended by regulation 4(2) of S.R. 2005 No. 114

(b) Regulation 7 was amended by paragraph 11(4) of the Schedule to S.R. 1997 No. 160, regulation 15(2) of S.R. 2005 No. 171, paragraph 2(3) of Schedule 3 to S.R. 2005 No. 568 and paragraph 5(b) of the Schedule to S.R. 2007 No. 64

(c) Regulation 8 was amended by regulation 2(3) of S.R. 2003 No. 337, regulation 15(3) to (6) of S.R. 2005 No. 171, paragraph 2(4) of Schedule 3 to S.R. 2005 No. 568 and paragraph 5(c) of the Schedule to S.R. 2007 No. 64

(2) The initial cash equivalent is the amount at the guarantee date which is required to make provision within the scheme for a member's accrued benefits, options and discretionary benefits.

(3) For the purposes of paragraph (2), the trustees must determine the extent—

- (a) of any options the member has which would increase the value of his benefits under the scheme;
- (b) of any adjustments they decide to make to reflect the proportion of members likely to exercise those options; and
- (c) to which any discretionary benefits should be taken into account, having regard to any established custom for awarding them and any requirement for consent before they are awarded.

Initial cash equivalents for salary related benefits: assumptions

7B.—(1) The trustees must use the assumptions determined under this regulation in calculating the initial cash equivalent for salary related benefits.

(2) Having taken the advice of the actuary, the trustees must determine the economic, financial and demographic assumptions.

(3) In determining the demographic assumptions, the trustees must have regard to—

- (a) the main characteristics of the members of the scheme; or
- (b) where the members of the scheme do not form a large enough group to allow demographic assumptions to be made, the characteristics of a wider population sharing similar characteristics to the members.

(4) The trustees must have regard to the scheme's investment strategy when deciding what assumptions will be included in calculating the discount rates in respect of the member.

(5) The trustees must determine the assumptions under this regulation with the aim that, taken as a whole, they should lead to the best estimate of the initial cash equivalent.

Manner of calculation of initial cash equivalents for money purchase benefits

7C.—(1) For money purchase benefits, the initial cash equivalent is to be calculated in accordance with this regulation.

(2) The initial cash equivalent is the realisable value of any benefits to which the member is entitled.

(3) The trustees must calculate that realisable value—

- (a) in accordance with the scheme rules; and
- (b) in a manner which is—
 - (i) approved by the trustees; and
 - (ii) consistent with Chapter IV of Part IV of the Act.

(4) The realisable value must include any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules.

Reductions to initial cash equivalents

7D.—(1) An initial cash equivalent may or, as the case may be, must be reduced in accordance with Schedule 1A.

(2) The trustees may request an insufficiency report from the actuary in accordance with Schedule 1B.

(3) The trustees may treat the actuary's last relevant GN11(a) report as an insufficiency report.

Alternative manner of calculating and verifying cash equivalents

7E.—(1) This regulation applies where the trustees have decided to calculate and verify the cash equivalent in accordance with regulation 7(1)(b).

(2) The cash equivalent is to be calculated and verified in such manner as may be approved by the trustees.

(3) The cash equivalent must be higher than it would be if it were calculated and verified in accordance with regulation 7(1)(a).

(4) For the purposes of calculating and verifying the cash equivalent, the trustees may request an insufficiency report from the actuary in accordance with Schedule 1B.

(5) The trustees may treat the actuary's last relevant GN11 report as an insufficiency report.”.

Amendment of regulation 11 of the principal Regulations

5. In regulation 11 of the principal Regulations (disclosure)—

(a) for paragraph (1) substitute—

“(1) Subject to paragraphs (1A) and (1B), an active member of any scheme, and a deferred member of a money purchase scheme, is entitled to receive from the trustees, on request, the information mentioned in Schedule 1 in writing.

(1A) Paragraph (1) does not apply where the request is made within 12 months of the last occasion on which such information was provided to the member.

(1B) Information provided under paragraph (1) is to be provided by the trustees as soon as reasonably practicable, and in any event within 3 months after the date on which the member makes the request.”;

(b) omit paragraphs (2) and (3);

(c) in paragraph (4)(b)—

(i) omit head (i);

(ii) in head (ii)—

(aa) for “member's cash equivalent” substitute “member's initial cash equivalent”;

(bb) for “regulation 8”, in both places where it occurs, substitute “Schedule 1A”;

(iii) in head (vi)(b)—

(aa) at the end of sub-head (aa) insert “and”;

(bb) at the end of sub-head (bb) omit “and”;

(cc) omit sub-head (cc);

(d) after paragraph (4)(b) add—

“(c) the information mentioned in paragraph 3 of Schedule 1.”.

Amendment of regulation 12 of the principal Regulations

6. In regulation 12 of the principal Regulations (requirements to be met by receiving schemes, annuities and arrangements)—

(a) “GN11: Retirement Benefit Schemes – Transfer Values” was adopted by the Board for Actuarial Standards on 6th April 2007. The Board for Actuarial Standards means the operating body of that name of the Financial Reporting Council and can be contacted at Planning & Resources, 5th floor, Aldwych House, 71-91 Aldwych, London WC2B 4HN

(b) Head (vi) was added by regulation 4(a)(ii) of S.R. 2005 No. 20

- (a) in paragraph (2)(a)(a) for “a policy of insurance” substitute “an insurance policy”;
- (b) in paragraph (5)(c)(b) for “or is” substitute “, is”.

Amendment of Schedule 1 to the principal Regulations

7. In Schedule 1 to the principal Regulations (information to be made available to members)—

- (a) in paragraph 1—
 - (i) for sub-paragraph (a) substitute—
 - “(a) an estimate of its amount, calculated and verified in accordance with regulations 7 to 7E on the basis that the member’s pensionable service terminated or will terminate on a particular date;”;
 - (ii) at the end of sub-paragraph (c) insert “and”;
 - (iii) omit sub-paragraph (d);
 - (iv) in sub-paragraph (e)—
 - (aa) for “has been reduced by reference to regulation 8” substitute “included a reduction of the initial cash equivalent under Schedule 1A”;
 - (bb) for head (i) substitute—
 - “(i) a statement of that fact, a statement of the amount by which the initial cash equivalent has been reduced and an explanation of the reason for the reduction, which must refer to the paragraph of Schedule 1A relied upon;”;
- (b) after paragraph 2 add—

“3. Where information is made available under paragraph 1 or 2 to a member of a salary related scheme, the information to be made available to such a member also includes—

- (a) a statement that the Financial Services Authority(c), the Regulatory Authority(d) and the Pensions Advisory Service(e) provide information about transfers which may assist the member in deciding whether to transfer;
- (b) if the scheme is an eligible scheme as defined in Article 110 of the 2005 Order(f), confirmation that the scheme is so eligible and that the Board of the Pension Protection Fund(g) exists;
- (c) a recommendation that the member should take financial advice before making decisions about transfers.”.

Insertion of Schedules 1A and 1B in the principal Regulations

8. After Schedule 1 to the principal Regulations insert the Schedules set out in Schedule 1 to these Regulations.

Consequential amendments

9. Schedule 2 to these Regulations shall have effect.

(a) Paragraph (2)(a) was amended by paragraph 11(5) of the Schedule to S.R. 1997 No. 160
 (b) Paragraph (5)(c) was amended by Article 30(2)(d)(iii) of S.I. 2006/744
 (c) The Financial Services Authority can be contacted at 25 The North Colonnade, Canary Wharf, London E14 5HS or at www.fsa.gov.uk
 (d) The Pensions Regulator can be contacted at Napier House, Trafalgar Place, Brighton BN1 4DW or at www.thepensionsregulator.gov.uk
 (e) The Pensions Advisory Service can be contacted at 11 Belgrave Road, London SW1V 1RB or at www.pensionsadvisoryservice.org.uk
 (f) The definition of “the 2005 Order” was inserted by paragraph 2(2) of Schedule 3 to S.R. 2005 No. 568
 (g) The Board of the Pension Protection Fund is established by section 107 of the Pensions Act 2004

Revocations

10. The Regulations specified in column (1) of Schedule 3 to these Regulations are revoked to the extent specified in column (3).

Sealed with the Official Seal of the Department for Social Development on 5th September 2008

(L.S.)

John O'Neill

A senior officer of the Department for Social Development

SCHEDULE 1

Regulation 8

Schedules to be inserted in the principal Regulations

“SCHEDULE 1A

Regulation 7D(1)

Reductions in Initial Cash Equivalents

1. In a case where 2 or more paragraphs of this Schedule apply, they must be applied in the order in which they occur in this Schedule.
2. In the case of a scheme to which Part IV(a) of the 2005 Order (scheme funding) applies, the member's initial cash equivalent may be reduced by the trustees if—
 - (a) the insufficiency conditions are met; and
 - (b) the insufficiency report has an effective date which is no earlier than the effective date of the most recent actuarial valuation received by the trustees in accordance with Article 203(4) of the 2005 Order (actuarial valuations and reports).
3. The insufficiency conditions are that the last insufficiency report shows that at the effective date of the report—
 - (a) the scheme had assets which were insufficient to cover the insufficiency report liabilities in respect of all the members; and
 - (b) the assets were insufficient to cover in full any category of insufficiency report liabilities which is an equivalent category of liabilities for benefits in respect of which the member's cash equivalent is being calculated.
4. If the insufficiency conditions are met the trustees may reduce, by a percentage not exceeding the deficiency percentage, any part of the member's initial cash equivalent which is payable in respect of such an equivalent category of liabilities as is mentioned in paragraph 3(b).
5. The deficiency percentage for any such part of a member's initial cash equivalent is the percentage by which the insufficiency report shows that the assets were insufficient to cover that category of liabilities.
6. If, by virtue of regulations made under Article 211 of the 2005 Order (power to modify provisions of Part IV), Part IV of that Order applies to a section of a scheme as if that section were a separate scheme, paragraphs 2 and 3 apply as if that section were a separate scheme and as if the reference to a scheme were accordingly a reference to that section.

(a) See regulations 17 and 18 of, and Schedules 2 and 4 to, S.R. 2005 No. 568 for exemptions, modifications and transitional provisions and savings in relation to Part IV; see also regulation 5 of S.R. 2005 No. 570

7. In a case where a contributions equivalent premium has been paid in respect of a member in accordance with section 51(a) (payment of state scheme premiums on termination of certified status), the initial cash equivalent must be reduced (to nil if need be) to the extent that it represents the member's accrued rights which have been extinguished by virtue of section 56(b) (effect of payment of premiums on rights) by payment of that premium.

8. Where a member's cash equivalent is to be used for acquiring—

- (a) transfer credits under the rules of another scheme; or
- (b) rights under the rules of a personal pension scheme,

and the receiving scheme has undertaken to provide benefits at least equal in value to the benefits represented by that cash equivalent on payment of a lesser sum (including nil), the initial cash equivalent must be reduced so that the cash equivalent is that lesser sum.

9. Where effect has been given to protected rights in accordance with section 28A(c) (discharge of protected rights on winding up: insurance policies), the initial cash equivalent of those rights must be reduced so that the cash equivalent is nil.

10. Where all or any of a member's benefits have been appropriately secured, the initial cash equivalent in respect of those benefits must be reduced so that the cash equivalent is nil.

11. For the purposes of paragraph 10, "appropriately secured" means the same as in section 15(d) (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts), except that a policy of insurance or annuity contract which is taken out or entered into with an authorised friendly society (as defined for the purposes of regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(e) (means of assuring short service benefit)), but which otherwise satisfies the conditions for being appropriate for the purposes of section 15, is to be treated as if it were appropriate for the purposes of that section provided the terms of such policy or contract are not capable of being amended, revoked or rescinded.

12. Where a scheme has (in the case of a cash equivalent mentioned in section 89A(f), before the guarantee date) begun to be wound up, an initial cash equivalent may be reduced to the extent necessary for the scheme to comply with the winding up provisions (as defined in Article 73B(10)(a)(g)) and regulations made under those provisions.

13. If, by virtue of regulations made under Article 73B(4)(b)(i) (Articles 73 and 73A: supplementary) by virtue of Article 73B(5), the winding up provisions (as so defined) apply to a section of a scheme as if that section were a separate scheme, paragraph 12 applies as if that section were a separate scheme and as if the references to a scheme were accordingly references to that section.

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- (a) Section 51 was amended by Article 138(1) of, and paragraph 42 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), paragraph 63 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), paragraph 7(2) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30) and paragraph 3 of Schedule 1 to S.I. 2005/3029
 - (b) Section 56 was amended by paragraph 46 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 17 of Schedule 1 to S.R. 2005 No. 433
 - (c) Section 28A was inserted by Article 143(1) of the Pensions (Northern Ireland) Order 1995 and amended by Article 19 of S.I. 2002/1555 and regulation 2(4) of S.R. 2007 No. 457
 - (d) Section 15 was amended by Article 129 of S.I. 2001/3649, paragraph 6 of Schedule 1 to S.R. 2005 No. 433 and regulation 2(3) of S.R. 2007 No. 457
 - (e) S.R. 1991 No. 37; the definition of "authorised friendly society" in regulation 6(4) was substituted by regulation 8(b) of S.R. 1995 No. 7
 - (f) Section 89A was inserted by Article 149 of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 23 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and subsection (1) is modified by regulation 19(2)(a) of S.R. 1996 No. 619
 - (g) Article 73B was inserted by Article 247(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

14. Where all or any of the benefits to which an initial cash equivalent relates have been surrendered, commuted or forfeited before the date on which the trustees do what is needed to carry out what the member requires, the initial cash equivalent of the benefits so surrendered, commuted or forfeited must be reduced so that the cash equivalent is nil.

15. The trustees may reduce an initial cash equivalent to reflect any reasonable administration costs were the member to leave the scheme and must offset against these costs any reasonable administrative savings.

SCHEDULE 1B Regulations 7D(2) and 7E(4)

Insufficiency Reports

1. Where the trustees have requested an insufficiency report under regulation 7D(2) or 7E(4), the actuary is responsible for the preparation of the report.

2. The insufficiency report must contain—

- (a) a comparison, as at the effective date of the report, between the insufficiency report liabilities of all members and the market value of the assets of the scheme; and
- (b) a statement of any allowance the actuary makes under paragraph 3.

3. The actuary may deduct from the assets of the scheme an allowance which—

- (a) is of such amount as he considers reasonable in the circumstances of the scheme; and
- (b) represents the expenses associated with wind up.

4. Where it appears to the actuary that the circumstances are such that it is appropriate, he may exclude any rights under an insurance policy from the scheme assets.

5. Where rights under an insurance policy are excluded under paragraph 4, the liabilities secured by the policy must be disregarded for the purposes of the insufficiency report.

6. The value of any rights under an insurance policy included in the scheme assets must be the value the actuary considers appropriate.

7. The insufficiency report liabilities are—

- (a) for active members with vested rights, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—
 - (i) paragraphs 2 to 6 of Schedule 1A are to be disregarded;
 - (ii) references to “guarantee date” are to be taken to mean the effective date of the report; and
 - (iii) it is to be assumed that the member ceases pensionable service on the effective date;
- (b) for deferred members, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—
 - (i) paragraphs 2 to 6 of Schedule 1A are to be disregarded; and
 - (ii) references to “guarantee date” are to be taken to mean the effective date of the report;
- (c) for pensioner members, calculated and verified in accordance with regulations 7 to 7C as appropriate except that references to “guarantee date” are to be taken to mean the effective date of the report;
- (d) for members over normal pension age not in receipt of a pension, calculated and verified—

- (i) in the same way as those of pensioner members; and
 - (ii) on the assumption that the member's pension comes into payment on the effective date of the report;
- (e) for pension credit members, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—
- (i) paragraphs 2 to 6 of Schedule 1A are to be disregarded; and
 - (ii) references to “guarantee date” are to be taken to mean the effective date of the report; and
- (f) for members with unvested rights, equal to the amount of the unvested contributions and the actuary is to assume that the member ceases pensionable service on the effective date of the report.
- 8.** When preparing the insufficiency report—
- (a) the actuary must make estimates comparing the relevant assets with the relevant liabilities of the scheme in respect of each category of liability;
 - (b) for the purposes of sub-paragraph (a), the actuary may use one or more categories of liability;
 - (c) where the actuary uses more than one category, he must have regard to the priority order on winding up specified in Article 73(3)(a) (preferential liabilities on winding up); and
 - (d) in determining the extent and content of the category or categories of liabilities, the actuary may use such approximations as he considers reasonable.
- 9.** In this Schedule—
- “relevant assets” means, subject to paragraphs 2(b) to 6, for a particular category of liability, the market value of the scheme assets, less the total of the relevant liabilities for all categories with greater priority under the priority order and are not to exceed the maximum of the relevant liabilities for that category;
- “relevant liabilities” means, for a particular category of liability, the sum of all insufficiency report liabilities falling into that category.”

SCHEDULE 2

Regulation 9

Consequential Amendments

Amendment of the Personal Pension Schemes (Transfer Values) Regulations

1.—(1) The Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987(b) shall be amended in accordance with sub-paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)—

- (a) omit the definition of “the Board for Actuarial Standards”(c);
- (b) after the definition of “cash equivalent” insert—

““initial cash equivalent” means the amount calculated in accordance with regulation 3(2) to (4);”;

(a) Article 73 was substituted by Article 247(1) of the Pensions (Northern Ireland) Order 2005

(b) S.R. 1987 No. 290; relevant amending Regulations are S.R. 1994 No. 300 and S.R. 2007 No. 64

(c) The definition of “the Board for Actuarial Standards” was inserted by paragraph 2(a) of the Schedule to S.R. 2007 No. 64

- (c) for the definition of ““money purchase benefits” and “personal pension scheme””(a) substitute—

““personal pension scheme” has the same meaning as in section 1(1)(b);”.

- (3) For regulation 3(c) (manner of calculation and verification of cash equivalents) substitute—

“Manner of calculation and verification of cash equivalents

3.—(1) Cash equivalents are to be calculated and verified by calculating the initial cash equivalent in accordance with this regulation and then making any increases or reductions in accordance with regulation 4.

(2) The initial cash equivalent is the realisable value of any benefits to which the member is entitled.

(3) The trustees must calculate that realisable value—

- (a) in accordance with the scheme rules, and
- (b) in a manner which is—
 - (i) approved by the trustees, and
 - (ii) consistent with Chapter IV of Part IV.

(4) The realisable value must include any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules.”.

- (4) For regulation 4(d) (increases and reductions of cash equivalents) substitute—

“Increases and reductions of cash equivalents

4.—(1) Initial cash equivalents may or, as the case may be, must be increased or reduced in accordance with this regulation.

(2) If the whole or any part of the benefits referred to in section 90(1)(b)(e) (right to cash equivalent) is or has been surrendered, commuted or forfeited before the trustees of the personal pension scheme do what is needed to comply with what the member requires, the initial cash equivalent must be reduced in proportion to the reduction in the total value of the benefits.

(3) If the trustees of a personal pension scheme fail without reasonable excuse to do what is needed to carry out what a member of the scheme requires within 6 months of the relevant date, that member’s initial cash equivalent must be increased by—

- (a) the interest on that initial cash equivalent, calculated on a daily basis over the period from the relevant date to the date on which the trustees carry out what the member requires, at the same rate as that payable for the time being on judgment debts by virtue of Order 42, Rule 9(2) of the Rules of the Supreme Court (Northern Ireland) 1980(f), or, if it is greater,
- (b) the amount, if any, by which that initial cash equivalent falls short of what it would have been if the relevant date had been the date on which the trustees carry out what the member requires.

(a) The definition of ““money purchase benefits” and “personal pension scheme”” was amended by paragraph 15(2)(e) of Schedule 2 to S.R. 1994 No. 300

(b) Section 1 became section 1(1) by virtue of Article 216(2) of the Pensions (Northern Ireland) Order 2005 and the definition of “personal pension scheme” was substituted by paragraph (3) of that Article and amended by paragraph 23(2) of Schedule 20 to the Finance Act 2007 (c. 11)

(c) Regulation 3 was amended by paragraph 15(6) of Schedule 2 to S.R. 1994 No. 300 and paragraph 2(b) of the Schedule to S.R. 2007 No. 64

(d) Regulation 4 was amended by paragraph 15(7) of Schedule 2 to S.R. 1994 No. 300

(e) Section 90 was amended by Article 150 of the Pensions (Northern Ireland) Order 1995, paragraph 24 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 9 of Schedule 10 to the Pensions (Northern Ireland) Order 2005

(f) S.R. 1980 No. 346; the rate of interest was amended by S.R. 1993 No. 143

(4) In a case where both paragraphs (2) and (3) fall to be applied to a calculation, paragraph (2) must be applied first.”.

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

2.—(1) The Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(a) shall be amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) omit the definition of “the Board for Actuarial Standards”(b).

(3) For regulation 2(c) (manner of calculation and verification of protected rights) substitute—

“Manner of calculation and verification of protected rights

2.—(1) For the purposes of section 23(3) (identification and valuation of protected rights), the trustees must calculate and verify the value of a member’s protected rights in accordance with regulation 7C of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(d).

(2) In calculating the rights under paragraph (1), the trustees must treat the references to “initial cash equivalent” in that regulation as if they were references to “protected rights”.

(3) The trustees must adopt methods and assumptions which are consistent with sections 5(3) and (5)(e), 6(f) and 22 to 28(g).”.

Amendment of the Pensions on Divorce etc. (Provision of Information) Regulations

3.—(1) The Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000(h) shall be amended in accordance with sub-paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of “the Board for Actuarial Standards”(i);

(b) after the definition of “normal benefit age” insert—

““normal pension age” has the meaning given by section 175;”.

(a) S.R. 1997 No. 56; relevant amending Regulations are S.R. 2007 No. 64
(b) The definition of “the Board for Actuarial Standards” was inserted by paragraph 7(a) of the Schedule to S.R. 2007 No. 64
(c) Regulation 2 was amended by paragraph 7(b) of the Schedule to S.R. 2007 No. 64
(d) S.R. 1996 No. 619
(e) Section 5 was amended by Article 133(3) and (4) of, and paragraphs 14(a) and 17 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, paragraph 38 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, Article 260 of the Pensions (Northern Ireland) Order 2005 and Article 8(2) of S.I. 2006/745
(f) Section 6 was amended by paragraph 18 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 39 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, Article 29(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 23(2) of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29)
(g) Section 24 was amended by Articles 139 and 143(2) of, and paragraph 27 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, paragraph 4 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraphs 2(2) and 3 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)), Article 261(3) to (6) of, and Schedule 11 to, the Pensions (Northern Ireland) Order 2005, paragraph 10 of Schedule 1 to S.R. 2005 No. 433 and Article 8(3) of S.I. 2006/745; section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 11 of Schedule 1 to S.R. 2005 No. 433 and Article 8(4) of S.I. 2006/745; section 24B was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 44 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; section 25 was amended by Article 141 of, and paragraph 28 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, Article 261(7) of the Pensions (Northern Ireland) Order 2005, Article 130 of S.I. 2001/3649 and paragraph 12 of Schedule 1 to S.R. 2005 No. 433; section 26 was amended by paragraph 14 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; section 27 was amended by paragraph 29 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 46 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
(h) S.R. 2000 No. 142; relevant amending Regulations are S.R. 2003 No. 337, S.R. 2005 No. 536 and S.R. 2007 No. 64
(i) The definition of “the Board for Actuarial Standards” was inserted by paragraph 9(a) of the Schedule to S.R. 2007 No. 64

(3) In regulation 3(a) (information about pensions on divorce and dissolution of a civil partnership: valuation of pension benefits)—

(a) in paragraph (1)(d)—

(i) for “paragraphs (7) to (9)” substitute “paragraphs (7) and (8)”;

(ii) at the end of head (ii) omit “or”;

(iii) after head (iii) add—

“or

(iv) the pension of the person with pension rights is not in payment and the person has attained normal pension age.”;

(b) for paragraphs (7) to (9) substitute—

“(7) Cash equivalents are to be calculated and verified in accordance with regulations 7 to 7C and 7E(1) to (3) of the Transfer Values Regulations as appropriate.

(8) When calculating and verifying a cash equivalent in accordance with those regulations—

(a) references to “trustees” must be read as references to “person responsible for the pension arrangement”;

(b) where the person with pension rights is a pensioner member on the date on which the request for the valuation is received, the value of his pension must be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations as appropriate;

(c) where the person is over normal pension age but not in receipt of a pension—

(i) the value of his pension must be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations as appropriate, and

(ii) the person responsible for the pension arrangement must assume that the pension came into payment on the date on which the request for the valuation was received, and

(d) the date by reference to which the cash equivalent is to be calculated and verified is to be the date on which the request for the valuation was received.”;

(c) in paragraph (10) for “paragraph (3), (4) or (9)” substitute “paragraph (3), (4) or (7)”.

(4) In regulation 4(2)(c)(b) (provision of information in response to a notification that a pension sharing order or provision may be made) for the words from “regulation 8(4)” to “reductions of cash equivalents)” substitute “paragraphs 2, 3 and 12 of Schedule 1A to the Transfer Values Regulations (reductions in initial cash equivalents)”.

Amendment of the Pensions on Divorce etc. (Charging) Regulations

4. In regulation 9(2)(f)(i) of the Pensions on Divorce etc. (Charging) Regulations (Northern Ireland) 2000(c) (charges in respect of pension sharing activity—method of recovery) for “regulation 7” substitute “regulations 7 to 7E”.

Amendment of the Pension Sharing (Valuation) Regulations

5.—(1) The Pension Sharing (Valuation) Regulations (Northern Ireland) 2000(d) shall be amended in accordance with sub-paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)—

(a) Regulation 3 was amended by paragraph 1(4) of Schedule 1 to S.R. 2005 No. 536 and paragraph 9(b) of the Schedule to S.R. 2007 No. 64

(b) Regulation 4(2)(c) was amended by regulation 3 of S.R. 2003 No. 337

(c) S.R. 2000 No. 143

(d) S.R. 2000 No. 144; relevant amending Regulations are S.R. 2000 No. 335, S.R. 2003 No. 337, S.R. 2005 Nos. 171 and 568 and S.R. 2007 No. 64

- (a) omit the definition of “the 2005 Order”(a);
 - (b) after the definition of “the Minimum Funding Requirement Regulations” insert—
“the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996;”;
 - (c) omit the definition of “the Board for Actuarial Standards”(b);
 - (d) omit the definition of “effective date”(c);
 - (e) after the definition of “employer” insert—
“initial cash equivalent” means the amount calculated in accordance with regulation 7(1)(a) of the Transfer Values Regulations;”;
 - (f) omit the definition of “scheme actuary”.
- (3) For regulations 4 to 6(d) substitute—

“Manner of calculation and verification of cash equivalents: occupational pension schemes

4.—(1) Subject to this regulation, cash equivalents for members of occupational pension schemes are to be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations.

(2) Reductions to initial cash equivalents can only be made in accordance with regulation 7D of, and paragraphs 1 to 6 and 12 to 14 of Schedule 1A to, the Transfer Values Regulations.

(3) The reduction referred to in paragraph 2 of Schedule 1A to the Transfer Values Regulations must not be applied to a case where liability in respect of a pension credit is to be discharged in accordance with—

- (a) paragraph 1(2) of Schedule 5 to the 1999 Order (pension credits: mode of discharge — funded pension schemes), or
- (b) paragraph 1(3) of that Schedule, in a case where regulation 7(2) of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000(e) (funded pension schemes) applies.

(4) When calculating and verifying the cash equivalent, the Transfer Values Regulations are to be read as if—

- (a) in regulation 1(2) (interpretation)—
 - (i) after the definition of “member” there were inserted—
“normal pension age” has the meaning given by section 175;”;
 - (ii) after the definition of “the Taxes Act” there were inserted—
“transfer day” has the meaning given by Article 26(8) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;”, and
 - (iii) after the definition of “trustees” there were added—
“valuation day” has the meaning given by Article 26(7) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;”;

(a) The definition of “the 2005 Order” was inserted by paragraph 8(2) of Schedule 3 to S.R. 2005 No. 568
(b) The definition of “the Board for Actuarial Standards” was inserted by paragraph 10(a) of the Schedule to S.R. 2007 No. 64
(c) The definition of “effective date” was inserted by regulation 4(2) of S.R. 2003 No. 337
(d) Regulation 4 was amended by regulation 10(3) of S.R. 2000 No. 335, regulation 16(2) of S.R. 2005 No. 171, paragraph 8(3) of Schedule 3 to S.R. 2005 No. 568 and paragraph 10(b) of S.R. 2007 No. 64; regulation 5 was amended by regulation 10(4) of S.R. 2000 No. 335, regulation 4(3) of S.R. 2003 No. 337, regulation 16(3) to (7) of S.R. 2005 No. 171, paragraph 8(4) of Schedule 3 to S.R. 2005 No. 568 and paragraph 10(c) of the Schedule to S.R. 2007 No. 64; regulation 6 was amended by regulation 10(5) of S.R. 2000 No. 335 and paragraph 10(d) of the Schedule to S.R. 2007 No. 64
(e) S.R. 2000 No. 145; regulation 7(2) was amended by regulation 11(4) of S.R. 2000 No. 335

- (b) in regulation 7(1) (manner of calculation and verification of cash equivalents – general provisions) for “paragraph (5)” there were substituted “paragraphs (5) to (9)”;
- (c) after regulation 7(5) there were added—
 - “(6) Where the person with pension rights is a deferred member of an occupational pension scheme on the transfer day, the value of the benefits which he has accrued under that scheme must be taken to be—
 - (a) in the case of an occupational pension scheme other than a salary related scheme, the cash equivalent to which he acquired a right under section 90(1)(a) (right to cash equivalent) on the termination of his pensionable service, calculated and verified on the assumption that he has made an application under section 91(1)(a) (ways of taking right to cash equivalent); or
 - (b) in the case of a salary related occupational pension scheme, the guaranteed cash equivalent to which he would have acquired a right under section 90(1)(aa) if he had made an application under section 91(1).
 - (7) Where the person with pension rights is an active member of an occupational pension scheme on the transfer day, the value of the benefits which he has accrued under that scheme must be calculated and verified on the assumption that the member had made a request for an estimate of the cash equivalent that would be available to him were his pensionable service to terminate on the transfer day.
 - (8) Where the person with pension rights is a pensioner member of an occupational pension scheme on the transfer day, the value of his pension must be calculated and verified in accordance with this regulation and regulations 7A to 7C and 7E(1) to (3) as appropriate.
 - (9) Where the person with pension rights attains, or is over, normal pension age and is not in receipt of a pension—
 - (a) the pension must be calculated and verified in accordance with this regulation and regulations 7A to 7C and 7E(1) to (3) as appropriate; and
 - (b) the trustees must assume that the member’s pension comes into payment on the transfer day.”;
 - (d) in regulation 7A(2) (manner of calculation and verification of cash equivalents for salary related benefits) the reference to “guarantee date” were a reference to “valuation day”, and
 - (e) in paragraph 12 of Schedule 1A (reductions in initial cash equivalents) the reference to “guarantee date” were a reference to “valuation day”.

Manner of calculation and verification of cash equivalents: other relevant arrangements

5.—(1) Subject to this regulation, cash equivalents for members of a relevant arrangement other than an occupational pension scheme are to be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations.

(2) When calculating and verifying the cash equivalent, the Transfer Values Regulations are to be read as if—

- (a) in regulation 1(2)—
 - (i) after the definition of “the Taxes Act” there were inserted—

(a) Section 91 was amended by paragraph 5 of Schedule 4 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), Part III(6) of Schedule 9 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Article 133 of S.I. 2001/3649

““transfer day” has the meaning given by Article 26(8) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;”, and

(ii) for the definition of “trustees” there were substituted—

““trustees” means the person responsible for the relevant arrangement;”;

(b) in regulation 7(1) for “paragraph (5)” there were substituted “paragraphs (5) and (6)”, and

(c) after regulation 7(5) there were added—

“(6) Where the person with pension rights is a member of a personal pension scheme, or those rights are contained in a retirement annuity contract, the value of the benefits which he has accrued under that scheme or contract on the transfer day must be taken to be the cash equivalent to which he would have acquired a right under section 90(1)(b) (right to cash equivalent), if he had made an application under section 91(1) (ways of taking right to cash equivalent) on the date on which the request for the valuation was received.”.

(3) In relation to a personal pension scheme which is comprised in a retirement annuity contract made before 4th January 1988, this regulation applies as if such a scheme were not excluded from the scope of Chapter IV of Part IV of the Pension Schemes Act by section 89(1)(b)(a) (scope of Chapter IV).”.

(4) In regulation 7 (other relevant arrangements: reduction of cash equivalents)—

(a) the existing provision shall be numbered as paragraph (1) of that regulation;

(b) after that paragraph add—

“(2) This regulation does not apply to occupational pension schemes.”.

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

6.—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000(**b**) shall be amended in accordance with sub-paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of “the 2005 Order”(**e**);

(b) after the definition of “the Transfer and Transfer Payment Regulations” insert—

““the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996;”;

(c) omit the definition of “the Board for Actuarial Standards”(**d**);

(d) omit the definition of “effective date”(**e**);

(e) omit the definition of “scheme actuary”.

(3) For regulation 10(**f**) (calculation of the value of appropriate rights) substitute—

“Calculation of the value of appropriate rights

10. The value of rights conferred on a person entitled to a pension credit are to be calculated in a manner which is consistent with the methods adopted and assumptions made

(a) Section 89 was amended by Article 148 of the Pensions (Northern Ireland) Order 1995 and paragraph 22 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(b) S.R. 2000 No. 145; relevant amending Regulations are S.R. 2000 No. 335, S.R. 2003 No. 337, S.R. 2005 Nos. 171 and 568 and S.R. 2007 No. 64

(c) The definition of “the 2005 Order” was inserted by paragraph 9(2) of Schedule 3 to S.R. 2005 No. 568

(d) The definition of “the Board for Actuarial Standards” was inserted by paragraph 11(a) of the Schedule to S.R. 2007 No. 64

(e) The definition of “effective date” was inserted by regulation 5(2) of S.R. 2003 No. 337

(f) Regulation 10 was amended by regulation 11(5) of S.R. 2000 No. 335 and paragraph 11(b) of the Schedule to S.R. 2007 No. 64

when transfers of other pension rights are received by the person responsible for the pension arrangement.”.

(4) In regulation 16(a) (adjustments to the amount of pension credit — occupational pension schemes which are underfunded on the valuation day) for paragraphs (2) to (3) substitute—

“(2) Reductions may be made to a pension credit in accordance with paragraphs 2 to 6 of Schedule 1A to the Transfer Values Regulations (reductions in initial cash equivalents) modified as if—

- (a) in paragraph 2 for “initial cash equivalent” there were substituted “pension credit”;
- (b) in paragraph 3(b) for “in respect of which the member’s cash equivalent is being calculated” there were substituted “to which the pension credit relates”;
- (c) in paragraph 4 for “member’s initial cash equivalent which is payable in respect of” there were substituted “pension credit which relates to”, and
- (d) in paragraph 5 for “a member’s initial cash equivalent” there were substituted “the pension credit”.”.

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations

7.—(1) The Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(b) shall be amended in accordance with sub-paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation)—

- (a) omit the definition of “the 2005 Order”(c);
- (b) omit the definition of “the Minimum Funding Requirement Regulations”(d);
- (c) after the definition of “the Transfer and Transfer Payment Regulations” insert—
““the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(e);”;
- (d) omit the definition of “the Board for Actuarial Standards”(f);
- (e) omit the definition of “effective date”(g).

(3) In regulation 23(2) (statements of entitlement)—

- (a) omit “to obtain the information required”;
- (b) omit “as a result of that inability”.

(4) For regulation 24(h) (manner of calculation and verification of cash equivalents) substitute—

“Manner of calculation and verification of cash equivalents

24.—(1) Subject to paragraph (2), cash equivalents are to be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations as appropriate.

(2) When calculating and verifying the cash equivalent, the Transfer Values Regulations are to be read as if—

- (a) in regulation 1(2) (interpretation)—
 - (i) after the definition of “effective date” there were inserted—

(a) Regulation 16 was amended by regulation 5(3) of S.R. 2003 No. 337, regulation 17(2) and (3) of S.R. 2005 No. 171; paragraph 9(3) of Schedule 3 to S.R. 2005 No. 568 and paragraph 11(c) of the Schedule to S.R. 2007 No. 64
(b) S.R. 2000 No. 146; relevant amending Regulations are S.R. 2000 No. 335, S.R. 2003 No. 337, S.R. 2005 Nos. 171 and 568 and S.R. 2007 No. 64
(c) The definition of “the 2005 Order” was inserted by paragraph 10(2) of Schedule 3 to S.R. 2005 No. 568
(d) The definition of “the Minimum Funding Requirement Regulations” was inserted by regulation 18(2) of S.R. 2005 No. 171
(e) S.R. 1996 No. 619
(f) The definition of “the Board for Actuarial Standards” was inserted by paragraph 12(a) of the Schedule to S.R. 2007 No. 64
(g) The definition of “effective date” was inserted by regulation 6(2) of S.R. 2003 No. 337
(h) Regulation 24 was amended by regulation 12(5) of S.R. 2000 No. 335, regulation 18(4) of S.R. 2005 No. 171, paragraph 10(3) of Schedule 3 to S.R. 2005 No. 568 and paragraph 12(b) of the Schedule to S.R. 2007 No. 64

““eligible member” has the meaning given by section 97P(1)(a);”, and

(ii) after the definition of “trustees” there were added—

““valuation date” has the meaning given by section 97J(7);”;

- (b) in regulation 7(1) (manner of calculation and verification of cash equivalents – general provisions) for “paragraph (5)” there were substituted “paragraphs (5) and (6)”;
- (c) in regulations 7A to 7C and Schedule 1A references to “member” were references to “eligible member”;
- (d) after regulation 7(5) there were inserted—

“(6) Cash equivalents are to be calculated and verified in relation to the valuation date.”;
- (e) in regulation 7A(2) (manner of calculation and verification of cash equivalents for salary related benefits) the reference to “guarantee date” were a reference to “valuation date”;
- (f) paragraphs 7 and 9 of Schedule 1A (reductions in initial cash equivalents) were omitted, and
- (g) in paragraph 12 of Schedule 1A the words “a cash equivalent mentioned in section 89A, before the guarantee date” were “a cash equivalent such as is mentioned in section 97H, before the valuation date”.

(5) Omit regulation 27(b) (increases and reductions of cash equivalents before a statement of entitlement has been sent to the eligible member).

Amendment of the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations

8.—(1) The Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations (Northern Ireland) 2006(c) shall be amended in accordance with sub-paragraphs (2) to (6).

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of “the Board for Actuarial Standards”(d);

(b) after the definition of “the 2005 Order” add—

““the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(e);

“actuary”, in relation to a scheme, means—

- (a) the actuary appointed under Article 47(1)(b) of the 1995 Order (professional advisers) in relation to that scheme, or
- (b) in relation to a scheme to which that Article does not apply—
 - (i) a Fellow of the Faculty of Actuaries(f);
 - (ii) a Fellow of the Institute of Actuaries(g), or
 - (iii) a person with other actuarial qualifications who is approved, at the request of the trustees of the scheme in question, by the Department as being a proper

(a) Sections 97A to 97Q were inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(b) Regulation 27 was amended by regulation 12(6) of S.R. 2000 No. 335, regulation 6(3) of S.R. 2003 No. 337, regulation 18(5) to (9) of S.R. 2005 No. 171, paragraph 10(4) of Schedule 3 to S.R. 2005 No. 568 and paragraph 12(c) of the Schedule to S.R. 2007 No. 64
(c) S.R. 2006 No. 49 as amended by S.R. 2007 No. 64
(d) The definition of “the Board for Actuarial Standards” was added by paragraph 16(a) of the Schedule to S.R. 2007 No. 64
(e) S.R. 1996 No. 619
(f) The Faculty of Actuaries can be contacted at MacLaurin House, 18 Dublin Street, Edinburgh EH1 3PP
(g) The Institute of Actuaries can be contacted at Staple Inn Hall, High Holborn, London WC1V 7QJ

person to act for the purposes of these Regulations in connection with that scheme;”;

“discount rates” means the interest rates used to discount future payments of benefit for the purposes of placing a current value on them;

“initial cash transfer sum” means the amount calculated in accordance with regulation 2(1)(a);

“insufficiency report” means the actuary’s last relevant report before the date on which the member’s pensionable service terminated as provided for by regulation 7D of, and Schedule 1B to, the Transfer Values Regulations (reductions to initial cash equivalents and insufficiency reports);

“insufficiency report liabilities” has the meaning given in paragraph 7 of Schedule 1B to the Transfer Values Regulations;

“salary related benefits” means benefits which are not money purchase benefits;”.

(3) For regulation 2(a) (calculation and verification of cash transfer sum) substitute—

“Manner of calculation and verification of cash transfer sums - general provisions

2.—(1) Subject to paragraph (5), cash transfer sums are to be calculated and verified—

(a) by calculating the initial cash transfer sum—

(i) for salary related benefits, in accordance with regulations 2A and 2B, or

(ii) for money purchase benefits, in accordance with regulation 2C,
and then making any reductions in accordance with regulation 4, or

(b) in accordance with regulation 2D.

(2) The trustees or managers must decide whether to calculate and verify the cash transfer sum in accordance with paragraph (1)(a) or (b), but they can only choose paragraph (1)(b) if they have had regard to any requirement for consent to paying a cash transfer sum which is higher than the amount calculated and verified in accordance with paragraph (1)(a).

(3) The trustees or managers are responsible for the calculation and verification of cash transfer sums and initial cash transfer sums.

(4) Paragraph (5) applies where the cash transfer sum is calculated and verified in accordance with paragraph (1)(a).

(5) Where a portion of the cash transfer sum relates to a salary related benefit and a portion relates to a money purchase benefit, the initial cash transfer sum is to be calculated—

(a) for the salary related benefit portion, in accordance with regulations 2A and 2B,
and

(b) for the money purchase benefit portion, in accordance with regulation 2C.

Manner of calculation of initial cash transfer sums for salary related benefits

2A.—(1) For salary related benefits, the initial cash transfer sum is to be calculated—

(a) on an actuarial basis, and

(b) in accordance with paragraph (2) and regulation 2B.

(2) The initial cash transfer sum is the amount which is required to make provision within the scheme for a member’s accrued benefits, options and discretionary benefits mentioned in section 97AA(4)(b)(b).

(a) Regulation 2 was amended by paragraph 16(b) of the Schedule to S.R. 2007 No. 64

(b) Sections 97AA to 97AI were inserted by Article 241 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

(3) For the purposes of paragraph (2), the trustees or managers must determine the extent—

- (a) of any options the member has which would increase the value of his benefits under the scheme;
- (b) of any adjustments they decide to make to reflect the proportion of members likely to exercise those options, and
- (c) to which any discretionary benefits should be taken into account, having regard to any established custom for awarding them and any requirement for consent before they are awarded.

Initial cash transfer sum for salary related benefits: assumptions

2B.—(1) The trustees or managers must use the assumptions determined under this regulation in calculating the initial cash transfer sum for salary related benefits.

(2) Having taken the advice of the actuary, the trustees or managers must determine the economic, financial and demographic assumptions.

(3) In determining the demographic assumptions, the trustees or managers must have regard to—

- (a) the main characteristics of the members of the scheme, or
- (b) where the members of the scheme do not form a large enough group to allow demographic assumptions to be made, the characteristics of a wider population sharing similar characteristics to the members.

(4) The trustees or managers must have regard to the scheme's investment strategy when deciding what assumptions will be included in calculating the discount rates in respect of the member.

(5) The trustees or managers must determine the assumptions under this regulation with the aim that, taken as a whole, they should lead to the best estimate of the initial cash transfer sum.

Manner of calculation of initial cash transfer sums for money purchase benefits

2C.—(1) For money purchase benefits, the initial cash transfer sum is to be calculated in accordance with this regulation.

(2) The initial cash transfer sum is the realisable value of any benefits to which the member is entitled.

(3) The trustees or managers must calculate that realisable value—

- (a) in accordance with the scheme rules, and
- (b) in a manner which is—
 - (i) approved by the trustees or managers, and
 - (ii) consistent with Chapter IV of Part IV of the Act.

(4) The realisable value must include any increases to the benefits resulting from a payment of interest made in accordance with the scheme rules.

Alternative manner of calculating and verifying cash transfer values

2D.—(1) This regulation applies where the trustees or managers have decided to calculate and verify the cash transfer value in accordance with regulation 2(1)(b).

(2) The cash transfer value is to be calculated and verified in such manner as may be approved by the trustees or managers.

(3) The cash transfer value must be higher than it would be if it were calculated and verified in accordance with regulation 2(1)(a).

(4) For the purposes of calculating and verifying the cash transfer value, the trustees or managers may request an insufficiency report from the actuary in accordance with Schedule 1B to the Transfer Values Regulations.

(5) The trustees or managers may treat the actuary's last relevant GN11(a) report as an insufficiency report.”

(4) For regulation 4(b) (reduction of cash transfer sums and contribution refunds) substitute—

“Reduction of cash transfer sums and contribution refunds

4.—(1) In the case of a scheme to which Part IV(c) of the 2005 Order (scheme funding) applies, the member's initial cash transfer sum may be reduced by the trustees or managers if the insufficiency conditions are met.

(2) The insufficiency conditions are that the last insufficiency report shows that at the effective date of the report—

- (a) the scheme had assets that were insufficient to match the insufficiency report liabilities in respect of all the members, and
- (b) the assets were insufficient to cover in full any category of insufficiency report liabilities that is an equivalent category of liabilities for benefits in respect of which the member's cash transfer sum is being calculated.

(3) If the insufficiency conditions are met the trustees or managers may reduce, by a percentage not exceeding the deficiency percentage, any part of the member's initial cash transfer sum that is payable in respect of such an equivalent category of liabilities as are mentioned in paragraph (2)(b).

(4) The deficiency percentage for any such part of a member's initial cash transfer sum is the percentage by which the insufficiency report shows that the assets were insufficient to cover that category of liabilities.

(5) If, by virtue of regulations made under Article 211 of the 2005 Order (power to modify provisions of Part IV), Part IV of that Order applies to a section of a scheme as if that section were a separate scheme, paragraphs (1) and (2) apply as if that section were a separate scheme and as if the reference to a scheme were accordingly a reference to that section.

(6) In a case where a contributions equivalent premium has been paid in respect of a member in accordance with section 51(d) (payment of state scheme premiums on termination of certified status), the initial cash transfer sum must be reduced (to nil if need be) to the extent that it represents the member's rights to a cash transfer sum under section 97AB (right to cash transfer sum and contribution refund) which have been extinguished by virtue of section 56(e) (effect of payment of premiums on rights) by payment of that premium.

(7) Where a scheme begins to wind up after the member's pensionable service terminates but before the trustees or managers have discharged the cash transfer sum or paid the contribution refund to the member, the initial cash transfer sum or contribution refund may be reduced to the extent necessary for the scheme to comply with the winding up provisions

(a) “GN11: Retirement Benefit Schemes – Transfer Values” was adopted by the Board for Actuarial Standards on 6th April 2007. The Board for Actuarial Standards means the operating body of that name of the Financial Reporting Council and can be contacted at Planning & Resources, 5th floor, Aldwych House, 71-91 Aldwych, London WC2B 4HN

(b) Regulation 4 was amended by paragraph 16(c) of the Schedule to S.R. 2007 No. 64

(c) See regulations 17 and 18 of, and Schedules 2 and 4 to, S.R. 2005 No. 568 for exemptions, modifications and transitional provisions and savings in relation to Part IV; see also regulation 5 of S.R. 2005 No. 570

(d) Section 51 was amended by Article 138(1) of, and paragraph 42 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), paragraph 63 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), paragraph 7(2) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30) and paragraph 3 of Schedule 1 to S.I. 2005/3029

(e) Section 56 was amended by paragraph 46 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 17 of Schedule 1 to S.R. 2005 No. 433

(as defined in Article 73B(10)(a) of the 1995 Order^(a)) and regulations made under those provisions.

(8) If, by virtue of regulations made under Article 73B(4)(b)(i) of the 1995 Order by virtue of Article 73B(5) of that Order, the winding up provisions (as so defined) apply to a section of a scheme as if that section were a separate scheme, paragraph (7) applies as if that section were a separate scheme and as if the references to a scheme were accordingly references to that section.

(9) A member's initial cash transfer sum or contribution refund under the scheme may be reduced if the member has incurred some monetary obligation due to the employer or to the scheme and arising out of a criminal, negligent or fraudulent act or omission by that member.

(10) A member's initial cash transfer sum or contribution refund under the scheme may be reduced by reason of paragraph (9) to the extent only that the reduction does not exceed the amount of the monetary obligation in question.

(11) A reduction under paragraph (9) must not take effect where there is a dispute as to the amount of the monetary obligation in question, unless the obligation has become enforceable under an order of a competent court or in consequence of an award of an arbitrator.

(12) The trustees or managers may reduce an initial cash transfer sum to reflect any reasonable administration costs were the member to leave the scheme and must offset against these costs any reasonable administrative savings.

(13) In a case where two or more paragraphs of this regulation fall to be applied to a cash transfer sum or paragraph (7) or (9) falls to be applied to a contribution refund, they are to be applied in the order in which they occur in this regulation.”.

(5) In regulation 5(1) and (2)(b) (increases of cash transfer sum and contribution refund) for “regulations 2 and 4” substitute “regulations 2 to 2D and 4”.

(6) In regulation 7(1) (information)—

(a) at the end of sub-paragraph (g) omit “and”;

(b) after sub-paragraph (h) add—

“and

(i) where the cash transfer sum or the contribution refund is subject to variation by virtue of regulation 2C or 3, a statement explaining the reason for the variation.”.

Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations

9. In regulation 5(2)(a)(ii) of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006^(b) (calculation of the actuarial value of affected member's subsisting rights) for “regulation 7(3)(b)” substitute “regulations 7 to 7C and 7E(1) to (3) as appropriate”.

^(a) Article 73B was inserted by Article 247(1) of the Pensions (Northern Ireland) Order 2005

^(b) S.R. 2006 No. 149; regulation 5(2) was amended by paragraph 17(b) of the Schedule to S.R. 2007 No. 64

SCHEDULE 3

Regulation 10

Revocations

<i>Column (1)</i> <i>Citation</i>	<i>Column (2)</i> <i>Reference</i>	<i>Column (3)</i> <i>Extent of revocation</i>
The Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations (Northern Ireland) 1988	S.R. 1988 No. 107	Regulation 7
The Personal and Occupational Pension Schemes (Transfer to Self-employed Pension Arrangements) Regulations (Northern Ireland) 1988	S.R. 1988 No. 214	The whole Regulations
The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations (Northern Ireland) 1994	S.R. 1994 No. 300	Paragraph 15(2)(e) and (4) to (7) of Schedule 2
The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1997	S.R. 1997 No. 160	Paragraph 11(4) of the Schedule
The Pension Sharing (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2000	S.R. 2000 No. 335	Regulations 10(3) to (5), 11(5) and 12(5) and (6)
The Occupational Pension Schemes (Transfer Values and Miscellaneous Amendments) Regulations (Northern Ireland) 2003	S.R. 2003 No. 337	The whole Regulations
The Pensions Regulator (Freezing Orders and Consequential Amendments) Regulations (Northern Ireland) 2005	S.R. 2005 No. 114	Regulation 4(2)(a)
The Occupational Pension Schemes (Winding up, etc.) Regulations (Northern Ireland) 2005	S.R. 2005 No. 171	Regulations 15(2) to (6) and (9) and (10), 16, 17 and 18(2) and (4) to (9)
The Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005	S.R. 2005 No. 568	Paragraphs 2(3) and (4) and 8 to 10 of Schedule 3
The Occupational and Personal Pension Schemes (Prescribed Bodies) Regulations (Northern Ireland) 2007	S.R. 2007 No. 64	Paragraphs 2, 5, 7, 9 to 12 and 16 of the Schedule

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to provisions about the calculation and verification of transfer values (the amount that may be transferred from one pension scheme to another). They set out the new manner for calculating and verifying cash equivalents and cash transfer sums.

Regulation 2 amends the interpretation provisions in the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (“the principal Regulations”).

Regulation 3 amends regulation 6 of the principal Regulations to specify the guarantee date (the date by reference to which the value of the cash equivalent is calculated).

Regulation 4 replaces regulations 7 and 8 of the principal Regulations with regulations 7 to 7E which prescribe the manner by which cash equivalent transfer values are calculated and verified. The trustees or managers of a pension scheme are required to calculate the cash equivalent in accordance with the rules in regulations 7 to 7D or by any other method that produces a higher figure (regulation 7E). The new rules are also used in modified form for the purposes of—

- other Regulations which deal with cash equivalents, and
- calculating and verifying the cash transfer sums for pension sharing Regulations.

Both these modified forms are set out in Schedule 2 to these Regulations.

Regulations 5 and 7 amend respectively regulation 11 of, and Schedule 1 to, the principal Regulations. They modify the information that members of certain pension schemes are entitled to receive from the trustees or managers of the scheme. In particular, they ensure that members are aware that advice is available when making transfers from one pension scheme to another.

Regulation 6 amends regulation 12 of the principal Regulations to reflect the new definition of “insurance policy” and corrects a minor technical error.

Regulations 8 to 10 introduce the Schedules to these Regulations.

Schedule 1 inserts Schedules 1A and 1B into the principal Regulations. Schedule 1A contains the circumstances in which an initial cash equivalent transfer value must or may be reduced. New Schedule 1B makes provisions about actuaries preparing insufficiency reports for trustees or managers of pension schemes.

Schedule 2 sets out further consequential amendments to the provisions of—

- the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987;
- the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997;
- the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000;
- the Pensions on Divorce etc. (Charging) Regulations (Northern Ireland) 2000;
- the Pension Sharing (Valuation) Regulations (Northern Ireland) 2000;
- the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000;
- the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000;
- the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations (Northern Ireland) 2006;
- the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006.

Schedule 3 sets out consequential revocations.

As these Regulations, in so far as they are made under Part II of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) and Part V of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (“the 1999 Order”), 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 for consultation does not apply by virtue of Article 117(2)(e) of the 1995 Order and Article 73(9) of the 1999 Order.

An assessment of the cost to business of these Regulations is detailed in a Regulatory Impact Assessment, copies of which have been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA.

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2008 No. 370

PENSIONS

The Occupational Pension Schemes (Transfer Values)
(Amendment) Regulations (Northern Ireland) 2008