

2010 No. 108

PENSIONS

**The Occupational and Personal Pension Schemes
(Miscellaneous Amendments) Regulations
(Northern Ireland) 2010**

Made - - - - *16th March 2010*

Coming into operation - *6th April 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by section 17(1) of the Pension Schemes (Northern Ireland) Act 1993(a), Articles 68(2)(e), 73B(4)(a) and 116 of the Pensions (Northern Ireland) Order 1995(b), Article 27 of the Welfare Reform and Pensions (Northern Ireland) Order 1999(c), and now vested in it(d), and Articles 209(2) and (3) and 236(1) and (2) of the Pensions (Northern Ireland) Order 2005(e).

Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2010 and shall come into operation on 6th April 2010.

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

2. In regulation 60(1)(b) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(f) (payment of a guaranteed minimum pension as a lump sum)—

- (a) omit “permitted either”;
- (b) in heads (i) and (ii) at the beginning insert “permitted”;
- (c) in head (i)—
 - (i) at the end of sub-head (aa) insert “or”;
 - (ii) omit sub-head (cc);

(a) 1993 c. 49; section 17(1) was substituted by Article 261(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

(b) S.I. 1995/3213 (N.I. 22); Article 73B was substituted by Article 247(1) of the Pensions (Northern Ireland) Order 2005; Article 116 was amended by paragraph 62 of Schedule 10 to that Order and paragraph 6 of Schedule 5 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

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

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

(e) S.I. 2005/255 (N.I. 1); Article 209(3) was amended by Part 8 of Schedule 6 to the Pensions Act (Northern Ireland) 2008

(f) S.R. 1996 No. 493; regulation 60 was substituted by Article 28(10) of S.I. 2006/744 and amended by regulation 2 of S.R. 2006 No. 223 and regulation 4(3) of S.R. 2009 No. 365

(d) after head (ii) add—

“or

(iii) made by a registered pension scheme (within the meaning given in section 150(2) of that Act), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009(a) (commutation payments) and is made to or in respect of a member.”.

Amendment of the Occupational Pension Schemes (Winding Up) Regulations

3.—(1) The Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1 (interpretation) for paragraph (5)(c) substitute—

“(5) In these Regulations references to BAS standards are to guidance or standards adopted or prepared, and from time to time revised, by the Board for Actuarial Standards(d) which are relevant to the determination, calculation and verification of the amount or value of the liabilities of the scheme to which Article 73 applies.”.

(3) In regulation 4(1)(e) (calculation of the value or amount of scheme assets and liabilities) for sub-paragraph (d) substitute—

“(d) otherwise in accordance with any relevant BAS standards.”;

Amendment of the Pension Sharing (Valuation) Regulations

4. In regulation 3 of the Pension Sharing (Valuation) Regulations (Northern Ireland) 2000(f) (calculation and verification of cash equivalents for the purposes of the creation of pension debits and credits)—

(a) in paragraph (a) for “regulations 4 and 5” substitute “regulation 4”;

(b) in paragraph (b) for “regulations 6 and 7” substitute “regulations 5 and 7”.

Amendment of the Occupational Pension Schemes (Scheme Funding) Regulations

5. For regulation 15 of the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005(g) (guidance relating to actuarial advice) substitute—

“Guidance relating to actuarial advice

15. When advising the trustees or managers of a scheme on any of the matters specified in Article 209(1), the actuary shall have regard to any guidance or standards adopted or prepared, and from time to time revised, by the Board for Actuarial Standards(h) which are relevant to the matters specified in that Article.”.

(a) S.I. 2009/1171

(b) S.R. 1996 No. 621; relevant amending Regulations are S.R. 2005 No. 171, S.R. 2007 No. 64 and S.R. 2008 No. 365

(c) Paragraph (5) was substituted by paragraph 6(b) of the Schedule to S.R. 2007 No. 64 and amended by paragraph 4 of the Schedule to S.R. 2008 No. 365

(d) The definition of “the Board for Actuarial Standards” was inserted by paragraph 6(a) of the Schedule to S.R. 2007 No. 64

(e) Regulation 4 was substituted by regulation 9 of S.R. 2005 No. 171

(f) S.R. 2000 No. 144

(g) S.R. 2005 No. 568; regulation 15 was substituted by paragraph 15(b) of the Schedule to S.R. 2007 No. 64 and amended by paragraph 5 of the Schedule to S.R. 2008 No. 365

(h) The definition of “the Board for Actuarial Standards” was inserted by paragraph 15(a) of the Schedule to S.R. 2007 No. 64

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

6. In regulation 8 of the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006(a) (listed changes: occupational pension schemes)—

(a) in paragraph (3) after sub-paragraph (d) add—

“(e) to change what elements of pay constitute pensionable earnings, or to change the proportion of or limit the amount of any element of pay that forms part of pensionable earnings, for or in respect of members or members of a particular description.”;

(b) after paragraph (4) add—

“(5) “Pensionable earnings” means the earnings by reference to which pension benefits are calculated, and an “element of pay” includes basic salary, a pay rise, an overtime payment and a bonus payment.”.

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

7. After regulation 6 of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006(b) (modification of schemes: 2004 Act) insert—

“Modification of schemes: the Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2009

6A.—(1) Paragraph (2) applies where any power to amend the rules of an existing trust scheme, as those rules stood immediately before 6th April 2006, is subject to the agreement, consent, approval or confirmation of continued approval, of the scheme by—

- (a) the Inland Revenue, the Board of Inland Revenue, the Commissioners of Inland Revenue, or any officer of any of them (whether referred to as such or by reference to another title), or
- (b) Her Majesty’s Revenue and Customs, the Commissioners for Her Majesty’s Revenue and Customs or an officer of Revenue and Customs.

(2) Where this paragraph applies, the trustees of a trust scheme may by resolution modify the power of amendment mentioned in paragraph (1) so as to remove that requirement for agreement, consent, approval or confirmation of continued approval.

(3) Paragraph (4) applies where (apart from this regulation) the trustees of an existing trust scheme do not have power to make such alterations to the scheme as may be required to remove any requirement in the scheme rules, as they stood immediately before 6th April 2006, for the agreement, consent, approval or confirmation of continued approval, of the scheme by any of the bodies or persons mentioned in paragraph (1)(a) and (b).

(4) Where this paragraph applies, the trustees of a trust scheme may by resolution amend the rules of the scheme so as to remove that requirement for agreement, consent, approval or confirmation of continued approval.”.

(a) S.R. 2006 No. 48

(b) S.R. 2006 No. 149

Revocations

8. The following provisions are revoked—

- (a) paragraphs 6(b) and 15(b) of the Schedule to the Occupational and Personal Pension Schemes (Prescribed Bodies) Regulations (Northern Ireland) 2007(a);
- (b) paragraphs 4 and 5 of the Schedule to the Pensions (2008 Act) (Actuarial Guidance) (Consequential Provisions) Order (Northern Ireland) 2008(b);
- (c) regulation 4(3)(c) and (d) of the Occupational and Personal Pension Schemes (Authorised Payments) Regulations (Northern Ireland) 2009(c).

Sealed with the Official Seal of the Department for Social Development on 16th March 2010

(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

(a) S.R. 2007 No. 64
(b) S.R. 2008 No. 365
(c) S.R. 2009 No. 365

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 2 amends the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 to correct an error in regulation 60.

Regulation 3 replaces a reference in the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996 to the Board for Actuarial Standards (BAS) guidance note GN 19 with a reference to relevant BAS standards, which should be taken into account for the purposes of calculating the value or amount of scheme assets or liabilities on wind-up.

Regulation 4 makes an amendment to the Pension Sharing (Valuation) Regulations (Northern Ireland) 2000 to correct certain cross-references.

Regulation 5 replaces a reference in the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005 to the BAS guidance note GN 49 with a general reference to any relevant guidance or standards issued by the BAS, which the actuary should have regard to when advising trustees and managers on the matters listed in Article 209(1) of the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”).

Regulation 6 amends the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006 to include in the listed changes on which an employer is required to consult the affected members before making that change to an occupational pension scheme, changing what elements of pay are included within pensionable earnings, and changing the proportion or limiting the amount of any element of pay that forms part of pensionable earnings.

Regulation 7 amends the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 by inserting regulation 6A. This regulation permits the trustees of a trust scheme by resolution to alter a power of amendment in the scheme rules so as to remove a requirement for agreement, consent, approval or continued approval, of the scheme (“consent”) by the Inland Revenue or Her Majesty’s Revenue and Customs. It also permits the trustees of a scheme which has no power of amendment to modify the scheme so as to remove a requirement in the rules for consent by the Inland Revenue or Her Majesty’s Revenue and Customs. It is consequential to modifications made by the Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2009, which require trustees, in making an amendment to the scheme rules, to disregard any such requirement for consent to the extent that the provision requires such consent.

Regulation 8 makes 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”), Part V of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (“the 1999 Order”) and the 2005 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, Article 73(9) of the 1999 Order and Article 289(2)(e) of the 2005 Order.

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