

2014 No. 93

PENSIONS

**The Occupational Pension Schemes
(Miscellaneous Amendments) Regulations
(Northern Ireland) 2014**

Made - - - - *20th March 2014*

Coming into operation - *6th April 2014*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 15(4)(c) and 177(2) and (3) of the Pension Schemes (Northern Ireland) Act 1993(a), Articles 47(5)(b), 87(2) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(b), and now vested in it(c), and Article 235(7) of the Pensions (Northern Ireland) Order 2005(d).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2014 and shall come into operation on 6th April 2014.

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

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

2. In regulation 4 of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(f)(qualifications and experience or approval required for appointment as auditor or actuary)—

(a) in paragraph (2)(d)(g) at the beginning insert “subject to paragraph (3),”;

(b) after paragraph (2) add—

“(3) Paragraph (2)(d) does not apply in relation to the accounts and auditor’s statement for a relevant scheme for a scheme year—

(a) in which, on the first day of that scheme year, the scheme has at least 500 participating employers; or

(b) which immediately precedes a scheme year in which sub-paragraph (a) is satisfied.

(a) 1993 c. 49; section 15(4) was amended by Article 129(2) of S.I. 2001/3649 and regulation 2(3) of S.R. 2007 No. 457
(b) S.I. 1995/3213 (N.I. 22); Article 87(2) was amended by Schedule 11 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
(c) See Article 8(b) of S.R. 1999 No. 481
(d) S.I. 2005/255 (N.I. 1); see the definition of “relevant contributions” in Article 235(7)
(e) 1954 c. 33 (N.I.)
(f) S.R. 1997 No. 94; relevant amending provision is S.I. 2008/948
(g) Paragraph (2)(d) was amended by paragraph 22 of Schedule 1 to S.I. 2008/948

(4) In paragraph (3) “relevant scheme” means a trust scheme which applies to earners in employment under different employers.”.

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

3. In regulation 4 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(a) (conditions on which policies of insurance and annuity contracts may be commuted)—

- (a) in paragraph (1)(b)(b) for “that Act.” substitute “that Act, or”;
- (b) after paragraph (1)(b) add—
 - “(c) subject to paragraph (2A)—
 - (i) the benefits secured by the policy of insurance or annuity contract have become payable;
 - (ii) the earner requests or consents to the amount secured by the policy of insurance or annuity contract being paid as a lump sum, and
 - (iii) that payment does not exceed the amount for the time being permitted for a lump sum payment by the lump sum rule in section 166 of that Act and qualifies as a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act.”;
- (c) after paragraph (2) insert—

“(2A) The commutation referred to in paragraph (1)(c) does not apply to that part of the benefits which consist of the earner’s and the earner’s widow’s, widower’s or surviving civil partner’s guaranteed minimum pensions.”.

Amendment of the Transfer of Employment (Pension Protection) Regulations

4.—(1) The Transfer of Employment (Pension Protection) Regulations (Northern Ireland) 2005(c) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1 (citation, commencement, application and interpretation) for paragraph (3) substitute—

“(3) In these Regulations “remuneration period” means a period in respect of which the employee is paid remuneration.

(4) In calculating the amount of the employee’s remuneration for the purposes of these Regulations—

- (a) only payments made in respect of basic pay shall be taken into account and bonus, commission, overtime and similar payments shall be disregarded, and
- (b) no account shall be taken of any deductions which are made in respect of tax, national insurance or pension contributions.

(5) In calculating the amount of a transferee’s pension contributions for the purposes of these Regulations in the case of a scheme which is contracted-out by virtue of section 5(d) of the Pension Schemes Act (requirements for certification of schemes: general), minimum payments within the meaning of that Act shall be disregarded.

(6) In these Regulations any reference to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 2005 bearing that number.”.

(a) S.R. 1997 No. 159; relevant amending provision is S.I. 2006/744

(b) Paragraph (1) was substituted by Article 34(2)(a) of S.I. 2006/744

(c) S.R. 2005 No. 94

(d) Section 5 was amended by Article 133(3) of, and paragraph 14 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 (S.I. 1999/671), Article 260 of the Pensions (Northern Ireland) Order 2005, section 12(4) of, and Part 6 of Schedule 6 to, the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and Article 8(2) of S.I. 2006/745; *see also* regulation 27 of S.R. 1996 No. 493

(3) For the heading to regulation 2 (requirements concerning a transferee's pension scheme) substitute "Requirements where the transferee's pension scheme is not a money purchase scheme".

(4) In regulation 2 for paragraph (2) substitute—

“(2) In this regulation—

“pensionable pay” means that part of the remuneration payable to a member of a scheme by reference to which the amount of contributions and benefits are determined under the rules of the scheme;

“relevant contributions” means contributions—

(a) made by the transferee in respect of each remuneration period in respect of which the employee contributes to the scheme, and

(b) the amount of which is—

(i) where the employee's contributions are less than 6 per cent. of the employee's remuneration, not less than the contributions made by the employee, or

(ii) where the employee's contributions equal or exceed 6 per cent. of the employee's remuneration, not less than 6 per cent. of that remuneration.”.

(5) For regulation 3 (requirements concerning a transferee's pension contributions) substitute—

“Requirements where the transferee's pension scheme is a money purchase scheme or stakeholder pension scheme

3.—(1) In a case where these Regulations apply, the transferee's contributions are relevant contributions for the purposes of paragraphs (2)(b) (money purchase scheme) and (3) to (5) (stakeholder pension scheme) of Article 235, if—

(a) the contributions are made in respect of each remuneration period in respect of which the employee contributes to the scheme, and

(b) paragraph (2) or (3) is satisfied.

(2) This paragraph is satisfied if the amount contributed by the transferee in respect of each remuneration period is—

(a) where the employee's contributions are less than 6 per cent. of the employee's remuneration, an amount not less than the contributions made by the employee;

(b) where the employee's contributions equal or exceed 6 per cent. of the employee's remuneration, an amount not less than 6 per cent. of that remuneration.

(3) This paragraph is satisfied if—

(a) in respect of the remuneration period immediately before the relevant time—

(i) the transferor had been required to make contributions, and

(ii) those contributions had been solely for the purpose of producing money purchase benefits for the employee, and

(b) the amount contributed by the transferee is not less than the amount the transferor had been required to contribute.”.

Amendment of the Occupational Pension Schemes (Employer Debt) Regulations

5. In regulation 10(3)(b)(i) of the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005^(a) for “Article 79(1)(c) (cases where compensation provisions apply)” substitute “Article 165(1)(b) of the 2005 Order”.

Sealed with the Official Seal of the Department for Social Development on 20th March 2014

(L.S.)

Will Haire

A senior officer of the Department for Social Development

^(a) S.R. 2005 No. 168

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 (“the Scheme Administration Regulations”), the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997 (“the Discharge of Liability Regulations”), the Transfer of Employment (Pension Protection) Regulations (Northern Ireland) 2005 (“the Transfer of Employment Regulations”) and the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005 (“the Employer Debt Regulations”).

Regulation 2 amends regulation 4 of the Scheme Administration Regulations. Regulation 4(2)(d) of those Regulations provides that a person shall be prohibited from acting as a statutory auditor on the grounds of lack of independence as set out in section 1214 of the Companies Act 2006 (c. 46). The amendment provides that regulation 4(2)(d) does not apply to the accounts and auditor’s statement for a relevant scheme for a scheme year—

in which the scheme has at least 500 participating employers at the start of that scheme year, or

which immediately precedes such a scheme year.

A relevant scheme is a trust scheme which applies to earners in employment under different employers.

Regulation 3 amends regulation 4 of the Discharge of Liability Regulations, which prescribes the conditions on which policies of insurance and annuity contracts may be commuted to provide a lump sum. The amendment ensures that commutation may take place if benefits secured by an insurance policy or annuity contract have become payable, the earner requests or consents to payment of a lump sum and the payment qualifies under the Finance Act 2004 (c. 12) as a pension commencement lump sum. However, commutation under this provision does not apply to benefits consisting of the guaranteed minimum pension (as defined in section 4(2) of the Pension Schemes (Northern Ireland) Act 1993) of an earner or their widow, widower or surviving civil partner.

Regulation 4 amends the Transfer of Employment Regulations to—

insert a definition of “remuneration period” (which is relevant to both regulations 2 and 3 of those Regulations);

insert a provision for the calculation of the employee’s remuneration;

substitute regulation 2(2) to include a definition of “relevant contributions” for the purposes of regulation 2;

substitute regulation 3 to define “relevant contributions” where the transferee sponsors a money purchase scheme or a stakeholder pension scheme. Contributions are “relevant contributions” if they match either those made by the employee, up to 6 per cent. of the employee’s remuneration or, in certain circumstances, the contributions the transferor had been required to make.

Regulation 5 updates a reference in regulation 10(3) of the Employer Debt Regulations to take account of the repeal of Article 79(1)(c) of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) and its re-enactment in Article 165(1)(b) of the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”).

As these Regulations, in so far as they are made under the 1995 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 and Article 289(2)(e) of the 2005 Order.

STATUTORY RULES OF NORTHERN IRELAND

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