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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace most of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (“the 1996 Regulations”) in consequence of provision made by the Pensions Act (Northern Ireland) 2015 (“the 2015 Act”).

The 2015 Act creates a new state pension for people reaching pensionable age after implementation on 6th April 2016. This date is referred to in the Pension Schemes (Northern Ireland) Act 1993 (“the 1993 Act”) (as amended by the 2015 Act) as “the second abolition date”. The new pension will be a single pension, replacing the current state pension which has 2 components: a basic state pension and an additional state pension. The 2015 Act therefore also makes amendments to existing primary legislation to abolish contracting-out of the state additional pension for salary related pension schemes. Much of the provision made by the 1996 Regulations is revoked with effect from the second abolition date by regulation 23.

Some provisions of the 1993 Act and the 1996 Regulations will remain in operation until 6th April 2019, in accordance with savings provisions contained in the Pensions (2015 Act) (Savings) Order (Northern Ireland) 2016 ([S.R. 2016 No. 106](#)). In particular, provisions relating to the issue, variation and surrender of contracting-out certificates remain in operation to enable the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) to issue certificates relating to a period before the second abolition date, and to deal with any variation or surrender of such a certificate which is to take effect from a date preceding that date. Provisions relating to schemes which have ceased to contract-out before the second abolition date also remain in operation, to ensure that the Commissioners are notified of the termination of contracted-out employment in these circumstances and that earner’s pension rights are protected.

Provisions of the 1996 Regulations which are to continue to have effect after the second abolition date are, where necessary, amended by regulations 20 and 21 (Part 5) to reflect the abolition of contracting-out.

Provisions of the 1996 Regulations which are to continue to apply indefinitely to pension schemes which were contracted-out prior to the second abolition date are re-enacted, with modifications reflecting the abolition of contracting-out, in these Regulations. Part 2 contains provisions relating to all pension schemes which were salary related contracted-out schemes, Part 3 carries forward additional requirements relating to section 5(2B) rights, and Part 4 continues additional requirements in relation to guaranteed minimum pensions. “Section 5(2B) rights” are rights attributable to employment which was contracted-out on and after 6th April 1997 under section 5(2B) of the 1993 Act. Guaranteed minimum pensions relate to contracted-out employment before that date where, under scheme rules, the weekly rate of the pension is to be not less than the guaranteed minimum under sections 10 to 12 of the 1993 Act.

In Part 2, regulation 3 imposes limitations on the alteration of scheme rules, regulation 4 deals with correction of errors as to whether an earner was in contracted-out employment, regulation 5 provides for the disclosure of certain information by the Department and the Commissioners and regulation 6 continues requirements as to the rules of overseas schemes. Regulation 7 carries forward certain transitional provisions and savings from the 1996 Regulations.

In Part 3, regulation 8 sets out the circumstances in which scheme rules may be altered in relation to section 5(2B) rights and regulation 9 carries forward requirements for the payment of lump sums and commutation of benefits. Regulation 10 governs the circumstances in which section 5(2B) rights may be forfeited.

**Changes to legislation:** *There are currently no known outstanding effects for the The Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016. (See end of Document for details)*

In Part 4, regulation 11 continues limitations on the alteration of scheme rules in relation to guaranteed minimum pensions and regulations 12 and 13 carry forward requirements as to the payment of pensions to surviving spouses and civil partners. Regulations 14 and 15 deal with revaluation of guaranteed minimum pensions and regulation 16 describes the circumstances in which a lump sum may be paid instead of a pension. Provision as to suspension and forfeiture of guaranteed minimum pensions is carried forward by regulation 17; regulations 18 and 19 deal with conversion of guaranteed minimum pensions into other benefits.

Part 6 carries forward modifications of section 12 of the 1993 Act in relation to revaluation after transfer from another scheme previously located in the 1996 Regulations, by inserting those provisions into the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996.

Part 7 provides for revocations and savings of the 1996 Regulations. Regulations 62, 65 and 66 of the 1996 Regulations are saved for the purposes of maintaining the current provisions for fixed rate revaluation of guaranteed minimum pensions where an earner ceased contracted-out employment before the second abolition date.

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

An assessment of the impact of this legislation is included in the Regulatory Impact Assessment which accompanied the Pensions Act (Northern Ireland) 2015, a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of that 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 or from the website: <https://www.dsdni.gov.uk/articles/pension-information>.

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