
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART V

MISCELLANEOUS AND GENERAL

Transfer values

Extension of scope of right to cash equivalent

148.—(1) Section 89 of the Pension Schemes Act (scope of provisions relating to transfer values) is amended as follows.

(2) For subsection (1)(a) substitute—

“(a) to any member of an occupational pension scheme—

- (i) whose pensionable service has terminated at least one year before normal pension age, and
- (ii) who on the date on which his pensionable service terminated had accrued rights to benefit under the scheme,

except a member of a salary related occupational pension scheme whose pensionable service terminated before 1st January 1986 and in respect of whom prescribed requirements are satisfied;”.

(3) After subsection (1) insert—

“(1A) For the purposes of this section and the following provisions of this Chapter, an occupational pension scheme is salary related if—

- (a) the scheme is not a money purchase scheme, and
- (b) the scheme does not fall within a prescribed class.

(1B) Regulations may—

- (a) provide for this Chapter not to apply in relation to a person of a prescribed description, or
- (b) apply this Chapter with prescribed modifications to occupational pension schemes—
 - (i) which are not money purchase schemes, but
 - (ii) where some of the benefits that may be provided are money purchase benefits.”.

Right to guaranteed cash equivalent

149. After section 89 of the Pension Schemes Act insert—

“Salary related schemes: right to statement of entitlement.

89A.—(1) The trustees or managers of a salary related occupational pension scheme must, on the application of any member, provide the member with a written statement (in this Chapter referred to as a “statement of entitlement”) of the amount of the cash equivalent at the guarantee date of any benefits which have accrued to or in respect of him under the applicable rules.

(2) In this section—

“the applicable rules” has the same meaning as in section 90;

“the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—

- (a) within the prescribed period beginning with the date of the application, and
- (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.

(3) Regulations may make provision in relation to applications for a statement of entitlement, including, in particular, provision as to the period which must elapse after the making of such an application before a member may make a further such application.

(4) If, in the case of any scheme, a statement of entitlement has not been provided under this section, Article 10 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to impose civil penalties) applies to any trustee or manager who has failed to take all such steps as are reasonable to secure compliance with this section.”.

Right to guaranteed cash equivalent: supplementary

150.—(1) In paragraph (a) of section 90(1) of the Pension Schemes Act—

- (a) after “occupational pension scheme” insert “other than a salary related scheme”, and
- (b) after “terminates” insert “(whether before or after 1st January 1986)”.

(2) After that paragraph insert—

“(aa) a member of a salary related occupational pension scheme who has received a statement of entitlement and has made a relevant application within three months beginning with the guarantee date in respect of that statement acquires a right to his guaranteed cash equivalent;”.

(3) After that subsection insert—

“(2A) For the purposes of subsection (1)(aa), a person’s “guaranteed cash equivalent” is the amount stated in the statement of entitlement mentioned in that subsection.”.

(4) In subsection (2) of that section, after the definition of “the applicable rules” insert—

““the guarantee date” has the same meaning as in section 89A(2);”.

(5) After that subsection insert—

“(2) Regulations may provide that, in prescribed circumstances, subsection (1)(aa) does not apply to members of salary related occupational pension schemes or applies to them with prescribed modifications.”.

*Penalties***Breach of regulations under the Pension Schemes Act**

151.—(1) For section 164 of the Pension Schemes Act substitute—

“164 Breach of regulations.

(1) Regulations under any provision of this Act (other than Chapter II of Part VII) may make such provision as is referred to in subsection (2) or (4) for the contravention of any provision contained in regulations made or having effect as if made under any provision of this Act.

(2) The regulations may provide for the contravention to be an offence under this Act and for the recovery on summary conviction of a fine not exceeding level 5 on the standard scale.

(3) An offence under any provision of the regulations may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under such a provision by reference to any period of time following the preceding conviction of the offence.

(4) The regulations may provide for a person who has contravened the provision to pay to the Regulatory Authority, within a prescribed period, a penalty not exceeding an amount specified in the regulations; and the regulations must specify different amounts in the case of individuals from those specified in other cases and any amount so specified may not exceed the amount for the time being specified in the case of individuals or, as the case may be, others in Article 10(2)(a) of the Pensions (Northern Ireland) Order 1995.

(5) Regulations made by virtue of subsection (4) do not affect the amount of any penalty recoverable under that subsection by reason of an act or omission occurring before the regulations are made.

(6) Where—

(a) apart from this subsection, a penalty under subsection (4) is recoverable from a body corporate by reason of any act or omission of the body as a trustee of a trust scheme, and

(b) the act or omission was done with the consent or connivance of, or is attributable to any neglect on the part of, any persons mentioned in subsection (7),

such a penalty is recoverable from each of those persons who consented to or connived in the act or omission or to whose neglect the act or omission was attributable.

(7) The persons referred to in subsection (6)(b) are—

(a) any director, manager, secretary, or other similar officer of the body corporate, or a person purporting to act in any such capacity, and

(b) where the affairs of the body corporate are managed by its members, any member in connection with his functions of management.

(8) Where the Regulatory Authority require any person to pay a penalty by virtue of subsection (6), they may not also require the body corporate in question to pay a penalty in respect of the same act or omission.

(9) A penalty under subsection (4) is recoverable by the Authority and any such penalty recovered by the Authority must be paid to the Department.

(10) Where by reason of the contravention of any provision contained in regulations made, or having effect as if made, under this Act—

(a) a person is convicted of an offence under this Act, or

(b) a person pays a penalty under subsection (4),

then, in respect of that contravention, he shall not, in a case within paragraph (a), be liable to pay such a penalty or, in a case within paragraph (a), be liable to pay such a penalty or, in a case within paragraph (b), be convicted of such an offence.

164A Offence in connection with the Registrar.

(1) Any person who knowingly or recklessly provides the Registrar with information which is false or misleading in a material particular is guilty of an offence if the information—

- (a) is provided in purported compliance with a requirement under section 2, or
- (b) is provided otherwise than as mentioned in paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Registrar for the purpose of discharging his functions under this Act.

(2) Any person guilty of an offence under subsection (1) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum,
- (b) on conviction on indictment, to imprisonment or a fine, or both.”.

(2) In section 181 of the Pension Schemes Act (Assembly control of regulations), in subsection (2), before “and” insert “or 164(2)”.

*Pensions Ombudsman***Employment of staff by the Pensions Ombudsman**

152. For section 141(2) of the Pension Schemes Act, substitute—

“(2A) The Pensions Ombudsman may (with the approval of the Department as to numbers) appoint such persons to be employees of his as he thinks fit, on such terms and conditions as to remuneration and other matters as the Pensions Ombudsman may with the approval of the Department determine.

(2B) The Department may, on such terms as to payment by the Pensions Ombudsman as the Department thinks fit, make available to the Pensions Ombudsman such additional staff and such other facilities as it thinks fit.

(2C) Any function of the Pensions Ombudsman, other than the determination of complaints made and disputes referred under this Part, may be performed by any—

- (a) employee appointed by the Pensions Ombudsman under subsection (2A) or any corresponding provision in force in Great Britain, or
- (b) member of staff made available to him under subsection (2B) or any corresponding provision in force in Great Britain,

who is authorised for that purpose by the Pensions Ombudsman.”.

Jurisdiction of Pensions Ombudsman

153.—(1) Sections 142 to 147 of the Pension Schemes Act are amended as shown in paragraphs (2) to (11).

(2) In section 142 (investigations concerning the trustees or managers of schemes), for subsection (1) to (4) substitute—

“(1) The Pensions Ombudsman may investigate and determine the following complaints and disputes—

- (a) a complaint made to him by or on behalf of an actual or potential beneficiary of an occupational or personal pension scheme who alleges that he has sustained injustice in consequence of maladministration in connection with any act or omission of a person responsible for the management of the scheme,
- (b) a complaint made to him—

(i) by or on behalf of a person responsible for the management of an occupational pension scheme who in connection with any act or omission of another person responsible for the management of the scheme, alleges maladministration of the scheme, or

(ii) by or on behalf of the trustees or managers of an occupational pension scheme who in connection with any act or omission of any trustee or manager of another such scheme, allege maladministration of the other scheme,

and in any case falling within sub-paragraph (ii) references in this Part to the scheme to which the complaint relates is to the other scheme referred to in that sub-paragraph,

(c) any dispute of fact or law which arises in relation to an occupational or personal pension scheme between—

(i) a person responsible for the management of the scheme, and

(ii) an actual or potential beneficiary,

and which is referred to him by or on behalf of the actual or potential beneficiary, and

(d) any dispute of fact or law which arises between the trustees or managers of an occupational pension scheme and—

(i) another person responsible for the management of the scheme, or

(ii) any trustee or manager of another such scheme,

and which is referred to him by or on behalf of the person, trustee or manager referred to in sub-paragraph (i) or (ii); and in any case falling within sub-paragraph (ii) references in this Part to the scheme to which the reference relates is to the scheme first mentioned in this paragraph.

(2) Complaints and references made to the Pensions Ombudsman must be made to him in writing.

(3) For the purposes of this Part, the following persons (subject to subsection (4)) are responsible for the management of an occupational pension scheme—

(a) the trustees or managers, and

(b) the employer;

but, in relation to a person falling within one of those paragraphs, references in this Part to another person responsible for the management of the same scheme are to a person falling within the other paragraph.

(3A) For the purpose of this Part, a person is responsible for the management of a personal pension scheme if he is a trustee or manager of the scheme.

(4) Regulations may provide that, subject to any prescribed modification or exceptions, this Part shall apply in the case of an occupational or personal pension scheme in relation to any prescribed person or body of persons where the person or body—

(a) is not a trustee or manager or employer, but

(b) is concerned with the financing or administration of, or the provision of benefits under, the scheme,

as if for the purposes of this Part he were a person responsible for the management of the scheme.”.

(3) In subsection (7) of section 142, for ““authorised complainants”” substitute ““actual or potential beneficiaries””.

(4) In section 143 (death, insolvency, etc.), in subsections (1) and (2), for “authorised complainant” (wherever occurring) substitute “actual or potential beneficiary” and in subsection (2) for “the authorised complainant's” substitute “his”.

(5) In subsection (3) of that section, for “an authorised complainant” substitute “a person by whom, or on whose behalf, a complaint or reference has been made under this Part”.

(6) In section 144 (staying court proceedings), in subsection (4), for paragraphs (a) and (b) substitute—

- “(a) the person by whom, or on whose behalf, the complaint or reference has been made;
- (b) any person responsible for the management of the scheme to which the complaint or reference relates;”.

(7) In section 145 (procedure on investigation), in subsection (1)(a), for “the trustees and managers of the scheme concerned” substitute “any person (other than the person by whom, or on whose behalf, the complaint or reference was made) responsible for the management of the scheme to which the complaint or reference relates”.

(8) In section 146 (investigations: further provisions), in subsection (1)(a), for “any trustee or manager of the scheme concerned” substitute “any person responsible for the management of the scheme to which the complaint or reference relates”.

(9) In section 147 (determinations of Pensions Ombudsman), for subsection (1)(a) and (b) substitute—

- “(a) to the person by whom, or on whose behalf, the complaint or reference was made; and
- (b) to any person (if different) responsible for the management of the scheme to which the complaint or reference relates;”.

(10) In subsection (2) of that section, for “the trustees or managers of the scheme concerned” substitute “any person responsible for the management of the scheme to which the complaint or reference relates”.

(11) In subsection (3) of that section, for paragraphs (a) to (c) substitute—

- “(a) the person by whom, or on whose behalf, the complaint or reference was made;
- (b) any person (if different) responsible for the management of the scheme to which the complaint or reference relates; and
- (c) any person claiming under a person falling within paragraph (a) or (b).”.

Allowances

54.—(1) In section 145 of the Pension Schemes Act—

(a) after subsection (3)(b) insert “and”

“(c) for the payment by the Pensions Ombudsman of such travelling and other allowances (including compensation for loss of remunerative time) as the Department may determine, to—

- (i) actual or potential beneficiaries of a scheme to which a complaint or reference relates, or
- (ii) persons appearing and being heard on behalf of such actual or potential beneficiaries, who attend at the request of the Pensions Ombudsman any oral hearing held in connection with an investigation into the complaint or dispute”, and

(b) at the end of subsection (3)(a), omit “and”.

Disclosing information

155.—(1) In section 145 of the Pension Schemes Act, after subsection (4) add—

“(5) The Pensions Ombudsman may disclose any information which he obtains for the purposes of an investigation under this Part to any person to whom subsection (6) applies, if the Ombudsman considers that the disclosure would enable or assist that person to discharge any of his functions.

(6) This subsection applies to the following—

- (a) the Regulatory Authority,
- (b) the Pensions Compensation Board,
- (c) the Registrar,
- (d) any Northern Ireland department or department of the Government of the United Kingdom,
- (e) the Bank of England,
- (f) the Friendly Societies Commission,
- (g) the Building Societies Commission,
- (h) an inspector appointed by the Department of Economic Development under Part XV of the Companies (Northern Ireland) Order 1986(1),
- (i) an inspector appointed by the Secretary of State under Part XIV of the Companies Act 1985(2) or section 94 or 177 of the Financial Services Act 1986(3),
- (j) a person authorised under section 106 of the Financial Services Act 1986 to exercise powers conferred by section 105 of that Act,
- (k) a designated agency or transferee body or the competent authority, within the meaning of that Act, and
- (l) a recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house, within the meaning of that Act.

(7) The Department may by order—

- (a) amend subsection (6) by adding any person or removing any person for the time being specified in that subsection, or
- (b) restrict the circumstances in which, or impose conditions subject to which, disclosure may be made to any person for the time being specified in that subsection.”.

(2) In section 147 of that Act, in subsection (7)(a), after “this section” insert—

“(aa) in disclosing any information under section 145(5),”.

Interest on late payment of benefit

156. After section 147 of the Pension Schemes Act insert—

(1) 1986 NI 6
(2) 1985 c. 6.
(3) 1986 c. 60.

“Interest on late payment of benefit.

147a. Where under this Part the Pensions Ombudsman directs a person responsible for the management of an occupational or personal pension scheme to make any payment in respect of benefit under the scheme which, in his opinion, ought to have been paid earlier, his direction may also require the payment of interest at the prescribed rate.”.

*Modification and winding up of schemes***Repeal of sections 132 to 139 of Pension Schemes Act**

157. Sections 132 to 137 (modification) and 138 and 139 (winding up) of the Pension Schemes Act shall cease to have effect.

*Personal pensions***Annual increase in rate of personal pension**

158.—(1) This Article applies to any pension provided to give effect to protected rights of a member of a personal pension scheme if—

- (a) there is in force, or was in force at any time after the appointed day, an appropriate scheme certificate issued in accordance with Chapter I or Part III (certification) of the Pension Schemes Act, and
- (b) apart from this Article, the annual rate of the pension would not be increased each year by at least the appropriate percentage of that rate.

(2) Where a pension to which this Article applies, or any part of it, is attributable to contributions in respect of employment carried on on or after the appointed day—

- (a) the annual rate of the pension, or
- (b) if only part of the pension is attributable to contributions in respect of employment carried on on or after the appointed day, so much of the annual rate as is attributable to that part,

must be increased annually by at least the appropriate percentage.

Article 158: supplementary

159.—(1) The first increase required by Article 158 in the rate of a pension must take effect not later than the first anniversary of the date on which the pension is first paid, and subsequent increases must take effect at intervals of not more than 12 months.

(2) Where the first such increase is to take effect on a date when the pension has been in payment for a period of less than 12 months, the increase must be of an amount at least equal to one twelfth of the amount of the increase so required (apart from this paragraph) for each complete month in that period.

(3) In Article 158 and this Article—

“annual rate”, in relation to a pension, means the annual rate of the pension, as previously increased under the rules of the scheme or under Article 158,

“the appointed day” means the day appointed under Article 1 for the commencement of Article 158,

“appropriate percentage”, in relation to an increase in the whole or part of the annual rate of a pension, means the revaluation percentage for the revaluation period the reference period for

which ends with the last preceding 30th September before the increase is made (expressions used in this definition having the same meaning as in Article 54(3)),

“pension”, in relation to a scheme, means any pension in payment under the scheme and includes an annuity,

“protected rights” has the meaning given by section 6 of the Pension Schemes Act (money purchase benefits).

Power to reject notice choosing appropriate personal pension scheme

160. In section 40 of the Pension Schemes Act (earner’s chosen scheme)—

(a) in subsection (1), after paragraph (b) insert—

“then unless the Department rejects the notice on either or both of the grounds mentioned in subsection (1A)”, and

(b) after the subsection insert—

“(1A) The grounds referred to in subsection (1) are that the Department is of the opinion—

(a) that section 27(5) is not being complied with in respect of any members of the scheme,

(b) that, having regard to any other provisions of sections 22 to 28 and 39 to 41, it is inexpedient to allow the scheme to be the chosen scheme of any further earners.”.

Levy

Levy

161. For section 170 of the Pension Schemes Act substitute—

“170 Levies towards certain expenditure.

(1) For the purpose of meeting expenditure—

(a) under section 2,

(b) under Part X and section 169, or

(c) of the Regulatory Authority (including the establishment of the authority and, if the authority are appointed as Registrar under section 6 of the Pension Schemes Act 1993, their expenditure as Registrar),

regulations may make provision for imposing levies in respect of prescribed occupational or prescribed personal pension schemes.

(2) Any levy imposed under subsection (1) is payable to the Department by or on behalf of—

(a) the administrators of any prescribed public service pension scheme,

(b) the trustees or managers of any other prescribed occupational or prescribed personal pension scheme, or

(c) any other prescribed person,

at prescribed rates and at prescribed times.

(3) Regulations made by virtue of subsection (1)—

- (a) in determining the amount of any levy in respect of the Regulatory Authority, must take account (among other things) of any amounts paid to the Department under section 164(4) or Article 10 of the Pensions (Northern Ireland) Order 1995, and
- (b) in determining the amount of expenditure in respect of which any levy is to be imposed, may take one year with another and, accordingly, may have regard to expenditure estimated to be incurred in current or future periods and to actual expenditure incurred in previous periods (including periods ending before the coming into operation of this subsection).

(4) Regulations may make provision for imposing a levy in respect of prescribed occupational pension schemes for the purpose of meeting expenditure of the Pensions Compensation Board (including the establishment of the Board).

(5) Any levy imposed under subsection (4) is payable to the Board by or on behalf of—

- (a) the trustees of any prescribed occupational pension scheme, or
- (b) any other prescribed person,

at prescribed times and at a rate not exceeding the prescribed rate, determined by the Board.

(6) In determining the amount of expenditure in respect of which any levy under subsection (4) is to be imposed, the Board, and regulations made by virtue of subsection (5), may take one year with another and, accordingly, may have regard to expenditure estimated to be incurred in current or future periods and to actual expenditure incurred in previous periods (including periods ending before the coming into operation of this subsection).

(7) Notice of the rates determined by the Board under subsection (5) must be given to prescribed persons in the prescribed manner.

(8) An amount payable by a person on account of a levy imposed under this section shall be a debt due from him to the appropriate person, that is—

- (a) if the levy is imposed under subsection (1), the Department, and
- (b) if the levy is imposed under subsection (4), the Board,

and an amount so payable shall be recoverable by the appropriate person accordingly or, if the appropriate person so determines, be recoverable by the Registrar on behalf of the appropriate person.

(9) Without prejudice to the generality of subsections (1) and (4), regulations under this section may include provision relating to—

- (a) the collection and recovery of amounts payable by way of levy under this section, or
- (b) the circumstances in which any such amount may be waived.”.

Pensions on divorce, etc.

Pensions on divorce, etc.

162.—(1) In the Matrimonial Causes (Northern Ireland) Order 1978(4), after Article 27A insert—

“**Pensions**

27B.—(1) The matters to which the court is to have regard under Article 27(2) include—

- (a) in the case of sub-paragraph (a), any benefits under a pension scheme which a party to the marriage has or is likely to have; and
- (b) in the case of sub-paragraph (h), any benefits under a pension scheme which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring,

and, accordingly, in relation to benefits under a pension scheme, Article 27(2)(a) shall have effect as if “in the foreseeable future” were omitted.

(2) In any proceedings for a financial provision order under Article 25 in a case where a party to the marriage has, or is likely to have, any benefit under a pension scheme, the court shall, in addition to considering any other matter which it is required to consider apart from this paragraph, consider—

- (a) whether having regard to any matter to which it is required to have regard in the proceedings by virtue of paragraph (1), such an order (whether deferred or not) should be made; and
- (b) where the court determines to make such an order, how the terms of the order should be affected, having regard to any such matter.

(3) The following provisions apply where, having regard to any benefits under a pension scheme, the court determines to make an order under Article 25.

(4) To the extent to which the order is made having regard to any benefits under a pension scheme, the order may require the trustees or managers of the pension scheme in question, if at any time any payment in respect of any benefits under the scheme becomes due to the party with pension rights, to make a payment for the benefit of the other party.

(5) The amount of any payment which, by virtue of paragraph (4), the trustees or managers are required to make under the order at any time shall not exceed the amount of the payment which is due at that time to the party with pension rights.

(6) Any such payment by the trustees or managers—

- (a) shall discharge so much of the trustees' or managers' liability to the party with pension rights as corresponds to the amount of the payment; and
- (b) shall be treated for all purposes as a payment made by the party with pension rights in or towards the discharge of his liability under the order.

(7) Where the party with pension rights may require any benefits which he has or is likely to have under the scheme to be commuted, the order may require him to commute the whole or part of those benefits; and this Article applies to the payment of any amount commuted in pursuance of the order as it applies to other payments in respect of benefits under the scheme.

Pensions: lump sums

27C.—(1) The power of the court under Article 25 to order a party to a marriage to pay a lump sum to the other party includes, where the benefits which the party with pension rights has or is likely to have under a pension scheme include any lump sum payable in respect of his death, power to make any of the following provision by the order.

(2) The court may—

- (a) if the trustees or managers of the pension scheme in question have power to determine the person to whom the sum, or any part of it, is to be paid, require them to pay the whole or part of that sum, when it becomes due, to the other party;
- (b) if the party with pension rights has power to nominate the person to whom the sum, or any part of it, is to be paid, require the party with pension rights to nominate the other party in respect of the whole or part of that sum;

- (c) in any other case, require the trustees or managers of the pension scheme in question to pay the whole or part of that sum, when it becomes due, for the benefit of the other party instead of to the person to whom, apart from the order, it would be paid.

(3) Any payment by the trustees or managers under an order made under Article 25 by virtue of this Article shall discharge so much of the trustees', or managers', liability in respect of the party with pension rights as corresponds to the amount of the payment.

Pensions: supplementary

27.—(1) Where—

- (a) an order made under Article 25 by virtue of Article 27B or 27C imposes any requirement on the trustees or managers of a pension scheme (“the first scheme”) and the party with pension rights acquires transfer credits under another pension scheme (“the new scheme”) which are derived (directly or indirectly) from a transfer from the first scheme of all his accrued rights under that scheme (including transfer credits allowed by that scheme); and
- (b) the trustees or managers of the new scheme have been given notice in accordance with regulations,

the order shall have effect as if it had been made in respect of the trustees or managers of the new scheme; and in this paragraph “transfer credits” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993.

(2) Regulations may—

- (a) in relation to any provision of Article 27B or 27C which authorises the court making an order under Article 25 to require the trustees or managers of a pension scheme to make a payment for the benefit of the other party, make provision as to the person to whom, and the terms on which, the payment is to be made;
- (b) require notices to be given in respect of changes of circumstances relevant to such orders which include provision made by virtue of Articles 27B and 27C;
- (c) make provision for the trustees or managers of any pension scheme to provide, for the purposes of orders under Article 25, information as to the value of any benefits under the scheme;
- (d) make provision for the recovery of the administrative expenses of—
 - (i) complying with such orders, so far as they include provision made by virtue of Articles 27B and 27C; and
 - (ii) providing such information,
 from the party with pension rights or the other party;
- (e) make provision for the value of any benefits under a pension scheme to be calculated and verified, for the purposes of orders under Article 25, in a prescribed manner;

and regulations made by virtue of sub-paragraph (e) may provide for that value to be calculated and verified in accordance with guidance which is prepared and revised by a prescribed person and approved by the Department of Health and Social Services.

(3) In this Article and Articles 27B and 27C—

- (a) references to a pension scheme include—
 - (i) a retirement annuity contract; or
 - (ii) an annuity, or insurance policy, purchased or transferred for the purpose of giving effect to rights under a pension scheme;

(b) in relation to such a contract or annuity, references to the trustees or managers shall be read as references to the provider of the annuity;

(c) in relation to such a policy, references to the trustees or managers shall be read as references to the insurer;

and in Article 27B(1) and (2), references to benefits under a pension scheme include any benefits by way of pension, whether under a pension scheme or not.

(4) In this Article and Articles 27B and 27C—

“the party with pension rights” means the party to the marriage who has or is likely to have benefits under a pension scheme and “the other party” means the other party to the marriage;

“pension scheme” means an occupational pension scheme or a personal pension scheme (applying the definitions in section 1 of the Pension Schemes (Northern Ireland) Act 1993, but as if the reference to employed earners in the definition of “personal pension scheme” were to any earners);

“prescribed” means prescribed by regulations; and

“regulations” means regulations made by the Lord Chancellor;

and regulations made under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.”

(2) In Article 27(2)(h) of that Order (loss of chance to acquire benefits), omit “(for example, a pension)”.

(3) In Article 33 of that Order (variation, discharge, etc. of orders)—

(a) in paragraph (2), after sub-paragraph (d) insert—

“(dd) any deferred order made by virtue of Article 25(1)(c) (lump sums) which includes provision made by virtue of—

(i) Article 27B(4), or

(ii) Article 27C,

(provision in respect of pension rights);”, and

(b) after paragraph (2A) insert—

“(2B) Where the court has made an order referred to in paragraph (2)(dd)(ii), this Article shall cease to apply to the order on the death of either of the parties to the marriage.”.

(4) Nothing in the provisions mentioned in paragraph (5) applies to a court exercising its powers under Article 25 of that Order (financial provision orders in connection with divorce proceedings, etc.) in respect of any benefits under a pension scheme (within the meaning of Article 27B(1) of that Order) which a party to the marriage has or is likely to have.

(5) The provisions referred to in paragraph (4) are—

(a) section 203(1) and (2) of the Army Act 1955⁽⁵⁾, 203(1) and (2) of the Air Force Act 1955⁽⁶⁾, 128G(1) and (2) of the Naval Discipline Act 1957⁽⁷⁾ or 155(4) and (4A) of the Pension Schemes Act (which prevent assignment, or orders being made restraining a person from receiving anything which he is prevented from assigning),

(b) Article 89,

(5) 1955 c. 18.

(6) 1955 c. 19.

(7) 1957 c. 53

- (c) any provision of any enactment (whether passed or made before or after this Order is made) corresponding to any of the enactments mentioned in sub-paragraphs (a) and (b), and
- (d) any provision of the scheme in question corresponding to any of those enactments.

(6) Article 27B(3) to (7) and Article 27C of the Matrimonial Causes (Northern Ireland) Order 1978⁽⁸⁾, as inserted by this Article, do not affect the powers of the court under Article 33 of that Order (variation, discharge, etc.) in relation to any order made before the commencement of this Article.

Official and public service pensions

Equal treatment in relation to official pensions

163.—(1) Section 3 of the Pensions (Increase) Act (Northern Ireland) 1971⁽⁹⁾ (qualifying conditions for pensions increase) is amended as follows.

- (2) In subsection (2)(c), omit “is a woman who”.
- (3) In subsection (10)—
 - (a) for “woman is in receipt of a pension” substitute “person is in receipt of a pension the whole or any part of”, and
 - (b) for “woman and that pension” substitute “person and that pension and that pension or part”.
- (4) In subsection (11)—
 - (a) for “woman's” substitute “person's”, and
 - (b) for “woman” substitute “persons,”

and accordingly for “she” substitute “he”.

(5) This Article has effect, and shall be deemed to have had effect, in relation to pensions commencing after 17th May 1990, and in relation to so much of any such pension as is referable to service on or after that date.

Information about public service schemes

164.—(1) In prescribed circumstances, the appropriate Department may provide information to any prescribed person in connection with the following questions—

- (a) whether an individual who during any period—
 - (i) has been eligible to be an active member of an occupational pension scheme under the Superannuation (Northern Ireland) Order 1972⁽¹⁰⁾, but
 - (ii) has instead made contributions to a personal pension scheme, has suffered loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986⁽¹¹⁾ (actions for damages in respect of contravention of rules, etc. made under the Act), and
- (b) if so, what payment would need to be made to the occupational scheme in respect of the individual to restore the position to what it would have been if the individual had been an active member of the occupational scheme throughout the period in question,

and may impose on that person reasonable fees in respect of administrative expenses incurred in providing that information.

⁽⁸⁾ 1978 NI 15.

⁽⁹⁾ 1971 c. 35 (N.I.).

⁽¹⁰⁾ 1972 NI 10.

⁽¹¹⁾ 1986 c. 60.

(2) Where—

- (a) such an individual as is mentioned in paragraph (1) is admitted or readmitted as an active member of an occupational pension scheme under the Superannuation (Northern Ireland) Order 1972, or
- (b) a payment is made to the appropriate Department in respect of such an individual for the purpose mentioned in paragraph (1)(b),

that Department may impose on any prescribed person reasonable fees in respect of administrative expenses incurred in connection with the admission, readmission or payment.

(3) References in paragraphs (1) and (2) to the appropriate Department shall be read—

- (a) in the case of an occupational pension scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972⁽¹²⁾ (superannuation of civil servants), as references to the Department of Finance and Personnel, or such person as may be prescribed;
- (b) in the case of other occupational pension schemes, as references to such Northern Ireland department as may be designated by the Department of Finance and Personnel as having responsibility for the particular scheme.

(4) In the case of an occupational pension scheme under Article 9 of the Superannuation (Northern Ireland) Order 1972 (superannuation of persons employed in local government, etc.), the references in paragraphs (1) and (2) to the appropriate Department include references to a prescribed person.

(5) In this Article—

“prescribed” means—

- (a) in the case of a scheme made under Article 3 of the Superannuation (Northern Ireland) Order 1972, prescribed by a scheme made by the Department of Finance and Personnel, or
- (b) in any other case, prescribed by regulations made by the appropriate Department, and “active member”, in relation to an occupational pension scheme, has the same meaning as in Part II.

General minor and consequential amendments

General minor and consequential amendments

165. Schedule 4, which makes general minor and consequential amendments, has effect.

Subordinate legislation, etc.

Orders and regulations (general provisions)

166.—(1) Where a power under this Order to make regulations or an order is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.

(2) Any power to make regulations or an order for the purposes of any one provision of this Order is without prejudice to any power to make regulations or an order for the purposes of any other provision.

(3) Any power conferred by this Order to make regulations or an order includes power to make such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations or order to be expedient for the purposes of the regulations or order.

(12) 1972 NI 10.

(4) Regulations made under this Order may, for the purposes of or in connection with the coming into operation of any provisions of this Order, make any such provision as could be made by virtue of Article 1(5)(a), by an order bringing those provisions into operation.

Assembly, etc. control of orders and regulations

167.—(1) Subject to paragraph (2)—

- (a) any orders (except orders under Article 1) made under this Order by a Northern Ireland department, and
- (b) any regulations made under this Order,

are subject to negative resolution.

(2) Orders and regulations to which this paragraph applies—

- (a) must be laid before the Assembly after being made, and
- (b) take effect on such date as may be specified in the order or regulations, but (without prejudice to the validity of anything done thereunder or to the making of a new order or new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the order or regulations are approved by a resolution of the Assembly.

(3) Paragraph (2) applies in relation in orders and regulations made by virtue of—

- (a) Article 10(2),
- (b) Article 64(4),
- (c) Article 113(1), or
- (d) Article 146,

(whether made alone or with other orders or regulations).

(4) Orders (except orders under Article 1) made under this Order by a Minister of the Crown are subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946(13) applies accordingly.

Repeals

168.—(1) The enactments set out in Schedule 5 are repealed to the extent specified in column 3.