
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 159

The Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997

Part III

Discharge of Liability to Provide Pensions Under a Relevant Scheme

Prohibition or restriction of the discharge of liability to provide pensions under a relevant scheme: exceptions

8. The trustees of a relevant scheme are prohibited or restricted from discharging any liability to provide pensions under a relevant scheme except—

- (a) in the circumstances or on the conditions specified in this Part; or
- (b) where the requirements imposed by the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(1) or Part V of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(2) (further requirements (all schemes) and overseas schemes) apply.

Circumstances in which liability to provide pensions under a relevant scheme may be discharged

9.—(1) The trustees of a relevant scheme may discharge any liability to provide pensions under a relevant scheme where the circumstances specified in paragraph (2) or (3) apply.

(2) The member or, if the member has died, the member's widow or widower, or if there is no such widow or widower, any person who may be entitled to payment of the pension under the scheme consents in writing to the discharge of liability, and the transaction to discharge the liability—

- (a) is to be carried out not earlier than the time when the member's pensionable service terminates; and
- (b) satisfies all the conditions specified in regulation 11.

(3) The member's employment is to cease to be contracted-out under section 5(2B)(3) (requirements for certification of schemes: general) and the transaction to discharge the liability satisfies all the conditions specified in regulation 11.

Meaning of "transaction"

10. For the purposes of regulation 9, "transaction" means—

- (a) the taking out of a policy of insurance or a number of such policies;
- (b) the entry into an annuity contract or a number of such contracts; or

(1) S.R. 1996 No. 621

(2) S.R. 1996 No. 493

(3) Section 5(2B) was substituted by Article 133(3) of the Pensions (Northern Ireland) Order 1995

- (c) the transfer of pensions and accrued rights to such a policy or policies or such a contract or contracts.

Conditions on which liability to provide pensions under a relevant scheme may be discharged

11.—(1) The conditions referred to in regulation 9(2)(b) and (3) which must be satisfied are specified in paragraphs (2) and (3).

(2) The policy of insurance or annuity contract must be taken out or entered into with an insurance company such as is described in section 15(4)(a) (requirements applying to policy of insurance or annuity contract for the purposes of discharging liability for guaranteed minimum pensions).

(3) The policy of insurance or annuity contract contains provision to the effect that, or is endorsed so as to provide that—

- (a) except in the circumstances specified in paragraph (4), where a pension or annuity is in payment at the date of the beneficiary’s death at least 50 per cent. of the annual rate attributable to pensions and accrued rights under the relevant scheme which was in payment at the date of death shall be payable to the beneficiary’s widow or widower;
 - (b) except in the circumstances specified in paragraph (4)(b) and (c), where a pension or annuity is not in payment at the date of the beneficiary’s death at least 50 per cent. of the accumulated value of the policy or contract at the date of death attributable to pension and accrued rights under the relevant scheme shall be applied so as to provide a pension or annuity for the beneficiary’s widow or widower;
 - (c) payments to a beneficiary’s widow or widower under the policy or contract which derive from a pension or accrued rights under the relevant scheme shall be subject to the same rate of an annual increase and restrictions which would have applied as a consequence of Articles 51 (annual increase in rate of pension) and 52 (restriction on increase where member is under 55) had the discharge of liability not taken place;
 - (d) the benefits secured under the policy or contract shall become payable with the beneficiary’s consent, and the beneficiary—
 - (i) has attained the age of 50 and is under the age of 75; or
 - (ii) is suffering from an incapacity or serious ill-health prior to normal pension age;
 - (e) any rights of a beneficiary to a payment under the policy or contract which derive from a pension or accrued rights under the relevant scheme shall be treated as if—
 - (i) section 8C(1) (transfer, commutation, etc.) and regulations made under that section; and
 - (ii) Articles 51 and 52 and regulations made under those Articles, were applicable to them.
- (4) The circumstances referred to in paragraph (3)(a) are—
- (a) that the beneficiary marries after having received benefits under the policy of insurance or annuity contract;
 - (b) that the beneficiary’s widow or widower remarries or lives together as husband and wife with another person to whom she or he is not married after having received benefits under the policy of insurance or annuity contract;
 - (c) that the beneficiary’s widow or widower is living together as husband and wife with another person to whom she or he is not married at the time of the member’s death.

(5) For the purposes of paragraph (3)(d), “incapacity” and “serious ill-health” have the same meaning as in regulation 4(4).

(6) For the purposes of paragraph (3)(e), the provisions of the Act and the Order shall be construed as if—

- (a) the policy of insurance or annuity contract were a relevant scheme;
- (b) the insurance company were the trustee of the relevant scheme;
- (c) the beneficiary were the member of the relevant scheme; and
- (d) the terms of the policy of insurance or annuity contract were the rules of the relevant scheme.