

SCHEDULE

Regulation 3

Miscellaneous Amendments

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations

1.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(1) shall be amended in accordance with sub-paragraphs (2) to (5).

(2) In regulation 1(2)(2) in the definition of “scheme year” for paragraph (b) there shall be substituted the following paragraph—

- “(b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees in connection with—
- (i) the commencement or termination of the scheme, or
 - (ii) a variation of the date on which the year or period referred to in paragraph (a) is to commence;”.

(3) In regulation 5(9)(3)—

- (a) for “the Occupational Pensions Board have” there shall be substituted “the Department has”; and
- (b) in sub-paragraph (a) for “it was communicated to the trustees by the Occupational Pensions Board” there shall be substituted “the date on which the trustees receive notification of that determination”.

(4) In Schedule 1 in paragraph 5 for “the Occupational Pensions Board” there shall be substituted “the Department”.

(5) In Schedule 2 in paragraph 10 for “the Occupational Pensions Board” there shall be substituted “the Department”.

Amendment of the Personal Pension Schemes (Transfer Values) Regulations

2.—(1) In regulation 2(b) of the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987(4) for “regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987” there shall be substituted “regulation 2 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(5)”.

(2) Sub-paragraph (1) shall not apply where the cash equivalent is used on or after 6th April 1997 in pursuance of an application made under section 91 of the Pension Schemes (Northern Ireland) Act 1993 before that date.

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations

3.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(6) shall be amended in accordance with sub-paragraphs (2) and (3).

(2) In regulations 6(2)(b) and 9(4)(a) for “regulation 2 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985” there shall be substituted “regulation 3

(1) S.R. 1987 No. 288; relevant amending regulations are S.R. 1992 No. 304

(2) The definition of “scheme year” was substituted by regulation 18(b) of S.R. 1992 No. 304

(3) Paragraph (9) was amended by regulation 20(c) of S.R. 1992 No. 304

(4) S.R. 1987 No. 290; regulation 2(b) was amended by paragraph 15(4)(b) of Schedule 2 to S.R. 1994 No. 300

(5) S.R. 1996 No. 509

(6) S.R. 1991 No. 37; relevant amending regulations are S.R. 1993 No. 324

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of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(7)".

(3) In regulation 12(3)(8)—

(a) in sub-paragraph (a) after “favourable” there shall be inserted “and, if that scheme were wound up immediately after the transfer, would not be likely to be materially less secure than they would be if the transferring scheme were wound up immediately before the transfer”; and

(b) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) no beneficiary or contingent beneficiary under the transferring scheme will receive materially inferior benefits in the receiving scheme; and”.

Amendment of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations

4.—(1) The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996(9) shall be amended in accordance with sub-paragraphs (2) to (14).

(2) In regulation 2(1)—

(a) in the definition of “eligible members” the words “or in regulation 5(2)” shall be omitted;

(b) in the definition of “member” before “, in relation to a scheme” there shall be inserted “shall be construed in accordance with regulation 3 and”;

(c) for the definition of “relevant self-administered scheme” there shall be substituted the following definition—

““relevant self-administered scheme” means an approved scheme which is—

(a) a small self-administered scheme, as defined in regulation 2(1) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991(10), or

(b) a scheme which satisfies paragraph (b) of that definition and, if it satisfied paragraph (a) of that definition, would be a scheme which the Commissioners of Inland Revenue would not be prohibited by those Regulations from approving under section 591 of the Taxes Act;” and

(d) after the definition of “relevant statutory scheme” there shall be inserted the following definition—

““relevant wholly insured scheme” means a scheme under which all the benefits are secured by contracts of insurance or annuity contracts, some or all of which are with an insurance company (as defined in section 96(1) of the Insurance Companies Act 1982(11)) which—

(a) is or is connected with the sole trustee of the scheme, but

(b) is not and is not connected with the employer;”.

(3) For regulation 3 there shall be substituted the following regulation—

(7) S.R. 1997 No. 159

(8) Regulation 12(3) was substituted by regulation 2(a) of S.R. 1993 No. 324

(9) S.R. 1996 No. 431

(10) S.I. 1991/1614

(11) 1982 c. 50

“Scheme membership

3.—(1) Subject to paragraphs (2) to (7), in determining at any time after the first scheme year of the scheme for the purposes of Articles 16 to 21 and these Regulations (so far as those Articles and these Regulations relate to the number of members which a scheme comprises or to the statutory consultation procedure) whether or not a person is a member or whether he is a member of a specified description, a person shall be treated as becoming or ceasing to be a member or, as the case may be, a member of that description at the beginning of the scheme year following that in which he actually becomes or ceases to be a member or, as the case may be, a member of that description.

(2) If a member ceases to be a member before the statutory consultation procedure begins, he shall not be treated as a member by virtue of paragraph (1) for the purposes of that procedure (but this paragraph does not affect the application of paragraph (1) to persons who cease to be members of a specified description whilst remaining members).

(3) Where paragraph (1) applies and the statutory consultation procedure begins in one scheme year and ends in another, for the purposes of that procedure the question whether a person is a member or a member of a specified description at any time during that procedure shall be determined in accordance with that paragraph immediately before the start of that procedure.

(4) The trustees of a scheme may determine—

- (a) that paragraph (1) shall not apply in relation to the scheme at any time on or after the date of the determination, or
- (b) that, for the purposes of any statutory consultation procedure beginning on or after that date—
 - (i) the question whether a person is a member at any time during that procedure;
 - (ii) the question whether a member is a member of a specified description at any such time, or
 - (iii) both those questions,

shall be determined at a time no more than 2 months before the start of that procedure.

(5) A determination under paragraph (4) may apply as respects all the provisions to which paragraph (1) refers or only to provisions specified in the determination, and may be revoked or amended by a further determination.

(6) Paragraphs (1) to (5) are without prejudice to paragraph 8(3) of Schedule 1.

(7) For the purposes of Articles 16 to 21 and these Regulations, “member”, in relation to a scheme, does not include any person whose service is only pensionable service by virtue of qualifying him for death benefits (unless by virtue of any of the previous provisions of this regulation he is at any time treated as a member by virtue of previous membership).”.

(4) Regulation 4(2) shall be omitted.

(5) Regulation 5(2) and (3) shall be omitted.

(6) In regulation 6—

- (a) in paragraph (1) after sub-paragraph (j) there shall be inserted the following sub-paragraph—

“(ja) which is a relevant wholly insured scheme;”;

- (b) paragraph (2) shall be omitted.

(7) In regulation 9(2)—

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- (a) in sub-paragraph (b)(ii) for “otherwise” there shall be substituted “in any other case (except where the approval of alternative arrangements ceases to have effect by virtue of regulation 20(1)(d)(ii))”; and
 - (b) at the end of sub-paragraph (c)(ii) there shall be added—
 - “or
 - (iii) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of regulation 20(1)(d)(ii), the date on which the alternative arrangements ceased to have effect.”
- (8) In regulation 15(2)—
- (a) in sub-paragraph (b)(ii) for “otherwise” there shall be substituted “in any other case (except where the approval of alternative arrangements ceases to have effect by virtue of regulation 20(1)(f)(ii))”; and
 - (b) at the end of paragraph (c)(ii) there shall be added—
 - “or
 - (iii) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of regulation 20(1)(f)(ii), the date on which the alternative arrangements ceased to have effect.”
- (9) In regulation 18 the words “or regulation 5(2)” shall be omitted.
- (10) In regulation 20(1)—
- (a) for sub-paragraph (d) there shall be substituted the following sub-paragraph—
 - “(d) in the case of an approval of arrangements under Article 17—
 - (i) on the date on which the employer gives notice under regulation 9(1)(b)(ii) in respect of the approval of new arrangements or the fresh approval of the existing arrangements, or
 - (ii) on the date on which the employer gives notice to the trustees of the scheme that he wishes to withdraw the approved arrangements;”
 - (b) for sub-paragraph (f) there shall be substituted the following sub-paragraph—
 - “(f) in the case of an approval of arrangements under Article 19—
 - (i) on the date on which the employer gives notice under regulation 15(1)(b)
 - (ii) in respect of the approval of new arrangements or the fresh approval of the existing arrangements, or
 - (ii) on the date on which the employer gives notice to the company that he wishes to withdraw the approved arrangements;”
- (11) In regulation 23 for paragraph (1) there shall be substituted the following paragraph—
- “(1) Subject to paragraphs (2) and (3), any notice to be given to a person under these Regulations may be given only by being delivered to him or being left at, or sent by ordinary post to, his latest address known to the trustees, and a notice which is sent to him by ordinary post shall be treated as having been given on the day it was posted.”
- (12) In Schedule 1—
- (a) in paragraph 6—
 - (i) in sub-paragraph (1)(a) for “will be balloted only” there shall be substituted “may be balloted”;
 - (ii) in sub-paragraph (2)(c) for “end” in the first place where it occurs there shall be substituted “begin”; and

- (iii) in sub-paragraph (3) the words “directly in accordance with paragraph 9(1)(a)” shall be omitted;
- (b) in paragraph 8(2)(b)—
 - (i) after “proposed rules” there shall be inserted “or arrangements”; and
 - (ii) for “end” there shall be substituted “beginning”;
- (c) in paragraph 8 for sub-paragraph (3) there shall be substituted the following sub-paragraph—

“(3) Where the objection will begin before the end of the first scheme year, the trustees must determine for the purposes of paragraph 6(2)(c) and sub-paragraph (2)(b) the number which is to be taken as the number of eligible members at the beginning of the objection period.”.
- (13) In Schedule 2 in paragraph 2(3) for “one of the nominees” there shall be substituted “one nominee in respect of each vacancy”.
- (14) In Schedule 3—
 - (a) in paragraph 1(1)—
 - (i) for head (e) there shall be substituted the following head—

“(e) after Article 18(8) there shall be added the following paragraph—

“(9) Where, apart from this paragraph, paragraph (8) would apply in relation to a company, the company may determine that one or more of the provisions mentioned in that paragraph shall not apply as mentioned in that paragraph or shall so apply only in relation to some of the schemes to which they would otherwise apply.”;”;
 - (ii) for head (g) there shall be substituted the following head—

“(g) after Article 21(7) there shall be added the following paragraph—

“(8) In Articles 16 to 19 “appropriate person” means—
 - (a) in a case where any employers have notified the trustees in writing that they wish to be consulted as to the nomination of the appropriate person, the person nominated by those employers to act for the employers for the purposes of this paragraph, and
 - (b) otherwise, the person nominated by the trustees so to act.”;”;
- (b) in paragraph 1(2) after head (a) there shall be inserted the following head—

“(aa) the definition of “relevant wholly insured scheme” in regulation 2(1) applies with the substitution in paragraph (b) for “the employer” of “any of the employers”; and”;
- (c) in paragraph 2(5) for head (a) there shall be substituted the following head—

“(a) in paragraph (1)(d)—
 - (i) in head (i) for the words from “the date” to the end there shall be substituted “the date following the next date on which arrangements under that Article are approved,”; and
 - (ii) in head (ii) for “the trustees” there shall be substituted “the eligible members”;
- (d) in paragraph 3(5) for head (a) there shall be substituted the following head—

“(a) in paragraph (1)(f)—

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- (i) in head (i) for the words from “the date” to the end there shall be substituted “the date following the next date on which arrangements under that Article are approved,”; and
 - (ii) in head (ii) for “the company” there shall be substituted “the eligible members”;
- (e) for paragraph 7 there shall be substituted the following paragraph—

“Modifications of Article 18: aggregation

7.—(1) Where, apart from this paragraph, in its application to a company to which sub-paragraph (2) applies, Article 18 would not have effect with the modifications mentioned in paragraph 1(1)(d) and (e), it shall have effect with those modifications.

(2) This sub-paragraph applies to a company—

- (a) to which Article 18 applies by virtue of regulation 5(1), or
- (b) which is—
 - (i) the trustee of 2 or more schemes which are relevant schemes in relation to the company, and
 - (ii) connected with a person who is the employer in relation to one or more of those schemes otherwise than by virtue of being that employer’s wholly-owned subsidiary (within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986(12)), or
- (c) which is the trustee of a trust scheme which is not a relevant scheme in relation to that company.”.

(15) Where, apart from the amendments made by sub-paragraphs (2) to (14), anything done before 6th April 1997 would be treated as done under or in compliance with any requirement imposed by or under Articles 16 to 21 of the Pensions (Northern Ireland) Order 1995, it shall continue to be so treated despite those sub-paragraphs; and where the statutory consultation procedure (as defined in Article 21(6) of that Order) was begun before that date, the validity of that procedure shall not be affected by the inclusion or exclusion of any person who by virtue of sub-paragraph (3) is not to be treated as a member for the purposes of that procedure.

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

5.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(13) shall be amended in accordance with sub-paragraphs (2) to (15).

(2) In regulation 1(2) for the definition of “section 5(2B) rights” there shall be substituted the following definition—

““section 5(2B) rights” are—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a scheme contracted-out by virtue of section 5(2B) of the Act(14), so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day, and
- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—

(12) S.I. 1986/1032 (N.I. 6); Articles 4 and 4A were substituted for Article 4 by Article 61(1) of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))

(13) S.R. 1996 No. 493

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

- (i) such rights as are referred to in paragraph (a) under another scheme contracted-out by virtue of section 5(2B) of the Act, or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of contracted-out employment on or after the principal appointed day;”
- (3) In regulation 2 for paragraph (2) there shall be substituted the following paragraph—
- “(2) In making or abstaining from making an election as to the inclusion of an employment in a contracting-out certificate, an employer may discriminate between different earners (otherwise than on the ground of the nature of their employment) in any case where such discrimination would be lawful apart from section 7(3) of the Act.”
- (4) In regulation 3 for paragraphs (4) and (5) there shall be substituted the following paragraphs—
- “(4) Unless paragraph (5) applies, a notice under this regulation must specify a date of expiry which is not earlier than the date 3 months after the date on which the notice is given.
- (5) Where—
- (a) there is no independent trade union recognised in relation to the earners concerned, or
 - (b) before the notice has been given every such trade union has consented in writing to the notice specifying an earlier date than that which is required under paragraph (4),
- the notice may specify an earlier date (but not earlier than the date one month after that on which the notice is given).”
- (5) Regulation 6(2)(f)(i) shall be omitted.
- (6) In regulation 7 at the end there shall be added “or the date from which it is intended that the certificate is to have effect”.
- (7) In regulation 9(8) at the end there shall be added “or the date from which it is intended that the variation or surrender is to have effect”.
- (8) In regulation 42 for paragraphs (1) and (2) there shall be substituted the following paragraphs—
- “(1) For the purposes of section 33(1) of the Act(15) (prohibition on alteration of rules of contracted-out schemes unless the alteration is of a prescribed description), the alterations which are prescribed are any alterations which are not prohibited by paragraph (2), (2A) or (2B).
- (2) The rules of a salary related contracted-out scheme cannot be altered in relation to any section 5(2B) rights under the scheme unless—
- (a) the trustees of the scheme have informed the actuary in writing of the proposed alteration;
 - (b) the actuary has considered the proposed alteration and has confirmed to the trustees in writing that he is satisfied that the scheme would continue to satisfy the statutory standard in accordance with section 8A of the Act if the alteration were made, and
 - (c) the alteration does not otherwise prevent the scheme from satisfying the conditions of section 5(2B) of the Act.

(15) Section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

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(2A) The rules of a scheme contracted-out under section 5(3) of the Act (a money purchase contracted-out scheme) cannot be altered in relation to protected rights if the alteration would—

- (a) affect any of the matters dealt with in Part III of the Act or any regulations made under that Part which relate to protected rights in a manner which would or might adversely affect any entitlement or accrued rights of any member of the scheme acquired before the alteration takes effect, or
- (b) otherwise prevent the scheme from satisfying the conditions of that section.

(2B) The rules of a contracted-out scheme cannot be altered in relation to any guaranteed minimum pensions under the scheme if the alteration would—

- (a) affect any of the matters dealt with in Part III of the Act or any regulations made under that Part which relate to guaranteed minimum pensions in a manner which would or might adversely affect any entitlement or accrued rights of any member of the scheme acquired before the alteration takes effect;
- (b) affect any of the matters dealt with in sections 83 to 88 (protection of increases in guaranteed minimum pensions) and 105 and 106 of the Act⁽¹⁶⁾ (annual increases of guaranteed minimum pensions) or in any regulations made under those provisions which relate to guaranteed minimum pensions, or
- (c) otherwise prevent the scheme from satisfying—
 - (i) in the case of a salary related contracted-out scheme, section 5(2) of the Act, or
 - (ii) in the case of a scheme contracted-out under section 5(3) of the Act, that section.”.

(9) In regulation 48—

(a) in paragraph (5) for sub-paragraph (c) there shall be substituted the following sub-paragraphs—

“(c) except in cases to which regulation 73 applies, for the purposes of section 5(2B)(c)(i) of the Act, the requirement as to the amount of the resources of the scheme is that, if the scheme were to be wound up at any time, those resources would be sufficient to meet in full the liabilities mentioned in paragraphs (a) to (e) of Article 73(3) of the Order, calculating, determining and valuing those liabilities and resources in a manner approved by the Department,

(ca) the scheme must provide that, if it is wound up, the assets of the scheme must be applied first towards satisfying the amounts of liabilities mentioned in those sub-paragraphs and, if they are insufficient to satisfy those amounts in full, then—

- (i) they must be applied first towards satisfying the amounts of the liabilities mentioned in earlier sub-paragraphs before those mentioned in later sub-paragraphs, and
- (ii) where the amounts of the liabilities mentioned in one of those sub-paragraphs cannot be satisfied in full, those amounts must be satisfied in the same proportions, and”;

(b) after paragraph (5) there shall be inserted the following paragraph—

“(5A) For the purposes of paragraph (5)(c) and (ca), the reference to Article 73(3) of the Order is to that Article as modified by paragraphs (3) to (5) of regulation 3 of the

⁽¹⁶⁾ Section 105 was amended by Article 55 of the Pensions (Northern Ireland) Order 1995 and section 106 is amended by Article 53(4) of that Order

Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(17) (whether or not the transitional period mentioned in paragraph (2) of that regulation has expired).”.

(10) In regulation 52 after paragraph (1) there shall be inserted the following paragraph—

“(1A) On an application made to it for that purpose, the Department may, in any particular case or class of case, extend the period within which a premium must be paid under paragraph (1)—

- (a) if it is satisfied that the circumstances are such that payment of the premium could not reasonably be required to be made within that period, by a period not exceeding 6 months, and
- (b) if it is satisfied that to require earlier payment would be prejudicial to the interests of the earner in respect of whom the premium is payable or of the generality of the members of the scheme, by such further period as it considers reasonable.”.

(11) In regulation 55 for the words from “an earner’s employment” to “earner’s guaranteed minimum)” there shall be substituted “the employment of any earner who has a guaranteed minimum under section 10 of the Act in relation to a pension provided by the scheme it must include a rule to the effect that”.

(12) In regulation 60—

- (a) in paragraph (3) for “paragraph (1)(c)” there shall be substituted “paragraph (1)(b)”; and
- (b) in paragraph (4) for “paragraph (1)(b)” and “paragraph (1)(c)” there shall be substituted respectively “paragraph (1)(a)” and “paragraph (1)(b)”.

(13) In regulation 72—

(a) for paragraph (2) there shall be substituted the following paragraph—

“(2) The liabilities referred to in paragraph (1) are the liabilities mentioned in subparagraphs (a) to (e) of Article 73(3) of the Order (as modified by paragraphs (3) to (5) of regulation 3 of the Occupational Pension Scheme (Winding Up) Regulations (Northern Ireland) 1996).”;

- (b) in paragraph (3) the words “Subject to paragraphs (4) and (5),” shall be omitted; and
- (c) paragraphs (4) and (5) shall be omitted.

(14) In regulation 77—

(a) in paragraph (3) at the end there shall be added “immediately before the principal appointed day”; and

(b) for paragraph (4) there shall be substituted the following paragraphs—

“(4) Where a contracting-out certificate for a scheme to which this regulation applies (“the second certificate”) is issued after the principal appointed day but not later than 31st January 1998 (or such later date as the Department may in its discretion permit in any particular case), then the contracting-out certificate in force immediately before the principal appointed day (“the first certificate”) shall be deemed to continue in effect during the period beginning with the principal appointed day and ending with the time when the second certificate is issued or 31st January 1998 if it is earlier.

(5) Paragraph (4) does not apply if the first certificate was cancelled or surrendered before the end of that period.

(6) Paragraph (4) is without prejudice to the powers in regulations 8(2)(d) and 47(2) (retrospective effect of issue and cancellation of certificates).”.

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(15) After regulation 77 there shall be inserted the following regulation—

“Former requirements for consent for alterations of rules

77A. Where any provision of a scheme provides that any alteration of the rules of the scheme, to which section 33(1) of the Act applied immediately before the principal appointed day, requires, or is void if made without, the consent of the Occupational Pensions Board, to the extent that it so provides it shall cease to have effect.”

Amendment of the Protected Rights (Transfer Payment) Regulations

6.—(1) The Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996⁽¹⁸⁾ shall be amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 1(2)—

- (a) in the definition of “overseas scheme” at the end there shall be added “by virtue of section 48(1)”; and
- (b) for the definition of “section 5(2B) rights” there shall be substituted the following definition—

““section 5(2B) rights” are—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a scheme contracted-out by virtue of section 5(2B), so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day, and
- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—
 - (i) such rights as are referred to in paragraph (a) under another scheme contracted-out by virtue of section 5(2B), or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of contracted-out employment on or after the principal appointed day;”.

(3) In regulation 4(e) at the end there shall be added “on or after the principal appointed day”.

Amendment of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations

7.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996⁽¹⁹⁾ shall be amended in accordance with sub-paragraphs (2) to (11).

(2) In regulation 6(1) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) except for the purposes of Article 60(2) to (7), the amount of any increase in value to which paragraph 6 of Schedule 4 applies.”.

(3) In regulation 7—

- (a) in paragraph (2) at the beginning there shall be inserted “Subject to paragraph (8A),”; and

⁽¹⁸⁾ S.R. 1996 No. 509

⁽¹⁹⁾ S.R. 1996 No. 570, to which there are amendments not relevant to these regulations

- (b) after paragraph (8) there shall be inserted the following paragraph—
- “(8A) The amount of the liabilities of the scheme in respect of any money purchase benefits shall be calculated in accordance with the guidance given in GN 27.”.
- (4) In regulation 10(3)(a) for the words from “the date” to the end there shall be substituted “the effective date of the last minimum funding valuation;”.
- (5) In regulation 17—
- (a) in paragraph (2) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
- “(b) in the actuary’s opinion on the date he signs the certificate of the rates of contributions shown in the schedule the value of the scheme assets is less than 100 per cent, but not less than 90 per cent, of the amount of the scheme liabilities;”;
- (b) in paragraph (3) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
- “(b) in the actuary’s opinion on the date he signs the certificate of the rates of contributions shown in the schedule the value of the scheme assets is less than 90 per cent. of the amount of the scheme liabilities;”.
- (6) In regulation 20 after paragraph (5) there shall be added the following paragraph—
- “(6) After Article 60(7) (serious underprovision) there shall be inserted—
- “(7A) In any case where—
- (a) there has been a valuation by virtue of which paragraph (2) has applied in relation to a scheme, but
- (b) the actuary of the scheme certifies at the time when he certifies the rates of contributions shown in the schedule of contributions for the scheme which is prepared or revised under Article 58(3) following the valuation that in his opinion on the date he signs the certificate—
- (i) the value of the scheme assets is no longer less than 90 per cent. of the amount of the scheme liabilities, or
- (ii) the amount by which that value is less than 90 per cent. of the amount of those liabilities (“the difference”) has decreased,
- paragraph (2) shall cease to apply or, as the case may be, paragraphs (2) and (5) shall apply as if the shortfall were the difference on that date.”.
- (7) In regulation 28(3)—
- (a) after “arises” there shall be inserted “in the case of a scheme to which Article 56 applies”; and
- (b) for “and (apart from this paragraph Article 56 would apply to the scheme then, except as provided in paragraph (5), that Article” there shall be substituted “Articles 57 to 60”.
- (8) In regulation 30—
- (a) in paragraph (1) after “to which Article 56 applies” there shall be inserted “(other than a scheme which is being wound up)”; and
- (b) in paragraph (5)(a) for the words from “the date” to the end there shall be substituted “the effective date of the last such valuation;”.
- (9) In Schedule 2 in Part I after paragraph 4 there shall be added the following paragraphs—
- “5. If, in a case where there has been a serious shortfall valuation, the actuary is of the opinion that on the date he signs the certificate there is no longer such a difference as is mentioned in Article 60(1), he shall insert the following statement after paragraph 1 of the certificate—

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“Cessation of serious shortfall in assets

1A. In my opinion an actuarial valuation for the scheme as at the date of this certificate would not show such a shortfall as is mentioned in Article 60(1) of the Pensions (Northern Ireland) Order 1995 (value of scheme assets less than 90 per cent. of amount of scheme liabilities).”.

6. If, in a case where there has been a serious shortfall valuation, the actuary is of the opinion that on the date he signs the certificate the difference mentioned in Article 60(1) has decreased, he shall insert the following statement after paragraph 1 of the certificate—

“Decrease in serious shortfall in assets

1A. In my opinion an actuarial valuation for the scheme as at the date of this certificate would show that the shortfall mentioned in Article 60(1) of the Pensions (Northern Ireland) Order 1995 (value of scheme assets less than 90 per cent. of amount of scheme liabilities) has decreased since the last actuarial valuation for the purposes of Article 57 and is now .”.

(10) In Schedule 4 in paragraph 1(1) in the definition of “Article 60 shortfall”

- (a) after “serious shortfall valuation” there shall be inserted “(after taking Article 60(7A) into account in any case where it applies)”; and
- (b) after “the valuation” there shall be inserted “(or, in a case where Article 60(7A) applies, the date the actuary signed the certificate)”.

(11) In Schedule 5—

- (a) in paragraph 1(2)(a) for “pensionable employment under the scheme” there shall be substituted “pensionable service under the section”;
- (b) in paragraph 1 after sub-paragraph (2) there shall be inserted the following sub-paragraphs—

“(2A) For the purposes of sub-paragraphs (1) and (2), there shall be disregarded any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits; and where those sub-paragraphs apply and contributions or transfers are so made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section shall also be treated as if it were a separate scheme for the purposes of Articles 56 to 60 and these Regulations.

(2B) For the purposes of sub-paragraphs (1), (2) and (2A), there shall be disregarded any provisions of the scheme by virtue of which on the winding up of the scheme assets attributable to one section may be used for the purposes of another section.”; and

- (c) in paragraph 2(1) the words “(other than a scheme to which paragraph 1(1) or (2) applies)” shall be omitted.

Amendment of the Occupational Pension Schemes (Investment) Regulations

8. In regulation 9 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996(20) after paragraph (2) there shall be inserted the following paragraphs—

“(2A) For the purposes of paragraphs (1) and (2), there shall be disregarded any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits; and where paragraph (1) or (2) applies and contributions or transfers are so made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section

(20) S.R. 1996 No. 584

shall also be treated as if it were a separate scheme for the purposes of this Part of these Regulations (except this regulation).

(2B) For the purposes of paragraphs (1), (2) and (2A), there shall be disregarded any provisions of the scheme by virtue of which on the winding up of the scheme assets attributable to one section may be used for the purposes of another section.”

Amendment of the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations

9.—(1) The Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996(21) shall be amended in accordance with sub-paragraphs (2) to (4).

(2) In regulation 2(2) for the definition of “money purchase scheme” there shall be substituted the following definition—

““money purchase scheme” means an occupational pension scheme under which all the benefits that may be provided other than death benefits are money purchase benefits.”

(3) In regulation 4(2), after the provision inserted as paragraph (1C) of Article 75, there shall be added—

“(1D) For the purposes of paragraphs (1B) and (1C), there shall be disregarded any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits; and where paragraph (1B) or (1C) applies and contributions or transfers are so made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section shall also be treated as if it were a separate scheme for the purposes of this Article.

(1E) For the purposes of paragraphs (1B), (1C) and (1D), there shall be disregarded any provisions of the scheme by virtue of which on the winding up of the scheme assets attributable to one section may be used for the purposes of another section.”

(4) In Schedule 2 paragraph 4 shall be omitted.

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations

10.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(22) shall be amended in accordance with sub-paragraphs (2) to (7).

(2) In regulation 1(2)—

(a) in the definition of “overseas scheme”—

(i) for “one which is contracted-out within the meaning of section 3(3)” there shall be substituted “a salary related contracted-out scheme”; and

(ii) at the end there shall be added “by virtue of section 48(1)”; and

(b) for the definition of “section 5(2B) rights” there shall be substituted the following definition—

““section 5(2B) rights” are—

(a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a scheme contracted-out by virtue of section 5(2B), so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day, and

(21) S.R. 1996 No. 585

(22) S.R. 1996 No. 618

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- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—
 - (i) such rights as are referred to in paragraph (a) under another scheme contracted-out by virtue of section 5(2B), or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of contracted-out employment on or after the principal appointed day;”.

(3) In regulation 6(b) and (e) after “have taken reasonable steps to satisfy themselves” there shall be inserted “(or, if the transfer payment is from an appropriate policy, the transferring insurance company has taken reasonable steps to satisfy itself)”.

(4) In regulation 7(1)(a) the words “or from an appropriate policy” shall be omitted.

(5) In regulation 8(c) at the end there shall be added “on or after the principal appointed day.”.

(6) After regulation 13 there shall be inserted the following regulation—

“Modification of section 8C where transfer payments are made to salary related contracted-out schemes

13A. In section 8C any reference to the liability for, or rights to, pensions so far as attributable to service on or after the principal appointed day shall include any liability or rights arising under the scheme as a consequence of a transfer payment which are derived directly or indirectly from—

- (a) an earner’s service in contracted-out employment on or after the principal appointed day under another scheme contracted-out by virtue of section 5(2B), or
- (b) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of employment on or after the principal appointed day.”.

(7) In Schedule 2—

(a) for paragraph 1 there shall be substituted the following paragraph—

“1. Section 4(2) shall have effect as if for the definition of “guaranteed minimum pension” there were substituted—

““guaranteed minimum pension” means any pension which is provided by an occupational pension scheme—

- (a) in accordance with the requirements of sections 9 and 13, or
- (b) in compliance with the condition set out in paragraph 1 or 6 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 (or, as the case may be, in paragraph 1 or 5 of Schedule 2 to the Contracting-out (Transfer) Regulations (Northern Ireland) 1985⁽²³⁾),

to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s widow’s or widower’s guaranteed minimum, as determined for the purposes of those sections or, as the case may be, that condition;”.”;

(b) for paragraph 6 there shall be substituted the following paragraph—

(23) S.R. 1985 No. 243; paragraph 1 was amended by paragraph 2(9)(a) of Schedule 2 to S.R. 1994 No. 300 and paragraph 5 was amended by regulation 5 of S.R. 1987 No. 292 and paragraph 2(9)(c) of Schedule 2 to S.R. 1994 No. 300

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“6. Section 4(2) shall have effect as if for the definition of “guaranteed minimum pension” there were substituted—

““guaranteed minimum pension” means any pension which is provided by an occupational pension scheme—

- (a) in accordance with the requirements of sections 9 and 13, or
- (b) in compliance with the condition set out in paragraph 5 of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 (or, as the case may be, in regulation 2A(4) of the Contracting-out (Transfer) Regulations (Northern Ireland) 1985⁽²⁴⁾,

to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s widow’s or widower’s guaranteed minimum, as determined for the purposes of those sections or, as the case may be, that condition;”.

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations

11.—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996⁽²⁵⁾ shall be amended in accordance with sub-paragraphs (2) to (5).

(2) In regulation 1(2) for the definition of “salary related scheme” there shall be substituted the following definition—

““salary related scheme” has the meaning given in regulation 1A;”.

(3) After regulation 1 there shall be inserted the following regulation—

“Salary related schemes

1A. For the purposes of Chapter IV of Part IV of the Act and these Regulations an occupational pension scheme is salary related if it is not a money purchase scheme and it is not a scheme—

- (a) the only benefits provided by which (other than money purchase benefits) are death benefits; and
- (b) under the provisions of which no member has accrued rights (other than rights to money purchase benefits).”.

(4) In regulation 7(3)(b)—

- (a) the words “as being” shall be omitted;
- (b) in heads (i), (ii) and (iii) before “consistent” there shall be inserted “as being”;
- (c) in head (iv)—
 - (i) after “applies,” there shall be inserted “as providing as a minimum an amount”; and
 - (ii) for the words from “subject only” to the end there shall be substituted “subject, in any case where the cash equivalent calculation is made on an individual and not a collective basis, to any adjustments which are appropriate to take account of that fact.”.

(5) In regulation 12(2)(a) for “and 4 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985” there shall be substituted “, 4 and 5 or, in the case of a pension or accrued benefit under a relevant scheme, regulation 11 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997⁽²⁶⁾”.

(24) Regulation 2A was inserted by regulation 4 of [S.R. 1987 No. 277](#) and amended by paragraph 2(4) to (6) of Schedule 2 to [S.R. 1994 No. 300](#)

(25) [S.R. 1996 No. 619](#)

(26) [S.R. 1997 No. 159](#)

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Amendment of the Occupational Pension Schemes (Winding Up) Regulations

12. In regulation 12 of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996⁽²⁷⁾ for paragraphs (1) and (2) there shall be substituted the following paragraph—

“(1) Where Article 56 applies to a scheme as if different parts of the scheme were separate schemes and a part of such a scheme is being wound up (whether or not any other parts are being wound up), Articles 73 and 74 shall also so apply—

- (a) taking references in those Articles to the assets of the scheme as references only to those assets treated for the purposes of Article 56 as assets of that part; and
- (b) taking references in those Articles to the liabilities of the scheme, or any particular description of liabilities as references only to such liabilities of the scheme or, as the case may be, of that description, as are treated for the purposes of Article 56 as liabilities of that part.”.

Amendment of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations

13. In regulation 1(2) of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1997⁽²⁸⁾ for the definition of “administrator” there shall be substituted the following definition—

““administrator”—

- (a) in relation to an occupational pension scheme, means any person concerned with the administration of the scheme, other than a person responsible for the management of the scheme (as defined in section 142(3) of the Act⁽²⁹⁾ for the purposes of Part X of the Act), and
- (b) in relation to a personal pension scheme, means any person concerned with the administration of the scheme, other than—
 - (i) a person responsible for the management of the scheme (as defined in section 142(3A) of the Act for the purposes of Part X of that Act); or
 - (ii) a person who is or has been the employer of any member who is or has been an employed earner;”.

Amendment of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations

14.—(1) The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997⁽³⁰⁾ shall be amended in accordance with sub-paragraphs (2) to (4).

(2) In regulation 1(2)—

- (a) in the definition of “ear-marked scheme” for “which is a money purchase scheme under which all the benefits” there shall be substituted “under which all the benefits other than death benefits are money purchase benefits and all the benefits”; and
- (b) for the definition of “money purchase scheme” there shall be substituted—

““money purchase benefits” has the same meaning as in section 176(1) of the Pension Schemes Act;”.

⁽²⁷⁾ S.R. 1996 No. 621

⁽²⁸⁾ S.R. 1997 No. 39

⁽²⁹⁾ Section 142 was amended by Article 153(2) and (3) of the Pensions (Northern Ireland) Order 1995

⁽³⁰⁾ S.R. 1997 No. 40

(3) In regulation 4 the existing provision shall be numbered as paragraph (1) and after that paragraph there shall be added the following paragraph—

“(2) Where there is no schedule of contributions or payment schedule in relation to the whole or part of the scheme year, the auditor’s statement about contributions shall contain—

- (a) a statement as to whether or not in his opinion contributions payable to the scheme during that year or that part have been paid in accordance with the scheme rules or contracts under which they were payable, and (where appropriate) with the recommendation of the actuary; and
- (b) if the statement under sub-paragraph (a) is negative or qualified, a statement of the reasons.”.

(4) In the Schedule in paragraph 2 after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) Where the assets—

- (a) are invested only for the purposes of securing additional money purchase benefits derived from voluntary contributions to which section 107 of the Pension Schemes Act applies; and
- (b) are specifically allocated to the provision of additional benefits for particular members or other persons in respect of particular members (or both),

a note that heads (a) and (b) apply must be included in the statement, but that entry need not include the market value or an estimate of value of those assets.”.

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations

15.—(1) The Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997⁽³¹⁾ shall be amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 1(2) for the definition of “section 5(2B) rights” there shall be substituted the following definition—

““section 5(2B) rights” are—

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a scheme contracted-out by virtue of section 5(2B), so far as attributable to an earner’s service in contracted-out employment on or after the principal appointed day; and
- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from—
 - (i) such rights as are referred to in paragraph (a) under another scheme contracted-out by virtue of section 5(2B); or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of contracted-out employment on or after the principal appointed day.”.

(3) In regulation 3—

- (a) in paragraph (b) for “secured in the circumstances and subject to the conditions prescribed in regulations made under section 8C(1)(b)” there shall be substituted “appropriately secured by a transaction to which Part III of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997 applies”; and

(31) S.R. 1997 No. 56

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- (b) in paragraph (e) for “regulation 14(3) of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988” there shall be substituted “regulation 12(5) of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997(32)”.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

16.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(33) shall be amended in accordance with sub-paragraphs (2) to (5).

(2) In regulation 1(2)—

- (a) after the definition of “business days” there shall be inserted the following definition—
 ““money purchase scheme” means a pension scheme under which all the benefits that may be provided other than death benefits are money purchase benefits;”;

(b) after the definition of “relevant benefits” there shall be inserted the following definition—

““relevant ear-marked scheme” means an occupational pension scheme—

- (a) which is a money purchase scheme;
- (b) under which all the benefits are secured by one or more contracts of insurance or annuity contracts specifically allocated to the provision of benefits to or in respect of individual members;
- (c) all the members of which are trustees; and
- (d) under the provisions of which decisions to be made by the trustees must be unanimous or unanimous if any trustees who are not members are disregarded;”.

(3) In regulation 3(1)—

- (a) in sub-paragraph (h) for “occupational money purchase small self-administered schemes” there shall be substituted “money purchase schemes which are small self-administered schemes and”; and

(b) after sub-paragraph (h) there shall be inserted the following sub-paragraph—

“(hh) relevant ear-marked schemes;”.

(4) In regulation 16 for “the prescribed period” to the end there shall be substituted—

“the prescribed period—

- (a) in the case of minimum payments which are to be made in accordance with regulation 32(1) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(34), is the period mentioned in that regulation; and
- (b) otherwise, is 19 days commencing on the day after the end of the month in which the amount is deducted from the earnings in question.”.

(5) In regulation 17 for “(h)” there shall be substituted “(i)”.

Amendment of the Occupational Pension Schemes (Payments to Employers) Regulations

17.—(1) The Occupational Pension Schemes (Payments to Employers) Regulations (Northern Ireland) 1997(35) shall be amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 12—

(32) S.R. 1997 No. 139

(33) S.R. 1997 No. 94

(34) S.R. 1996 No. 493

(35) S.R. 1997 No. 96

(a) in paragraph (2)(a) for “pensionable employment under the scheme” there shall be substituted “pensionable service under the section”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) For the purposes of paragraphs (1) and (2), there shall be disregarded any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits; and where paragraph (1) or (2) applies and contributions or transfers are so made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section shall also be treated as if it were a separate scheme for the purposes of Articles 37, 76 and 77 and these Regulations.”.

(3) In regulation 13 the words “(other than a scheme to which regulation 12 applies)” shall be omitted.

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

18.—(1) The Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 1997(**36**) shall be amended in accordance with sub-paragraphs (2) and (3).

(2) After regulation 2 there shall be inserted the following regulation—

“Treatment of schemes for contracting-out purposes

2A. For the purposes of Article 69(3)(c) (modification of a scheme for the purpose of enabling it to be so treated that an employment to which it applies may be contracted-out employment by reference to it) the prescribed period is the period of two years beginning with 6th April 1997.”.

(3) In regulation 8 for “3, 4 or 5” there shall be substituted “3 or 4”.

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations

19.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(**37**) shall be amended in accordance with sub-paragraphs (2) to (8).

(2) In regulation 1(2)—

(a) after the definition of “member” there shall be inserted the following definition—

““mixed benefit contracted-out scheme” has the meaning given by regulation 1(2) of the Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations (Northern Ireland) 1997(**38**);”;

(b) in the definition of “money purchase scheme” after “provided” there shall be inserted “other than death benefits”; and

(c) the definition of “multi-employer scheme” shall be omitted.

(3) In regulation 2(2) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) the only benefits provided by which are death benefits;”.

(4) In regulation 5—

(a) after paragraph (5) there shall be inserted the following paragraph—

“(5A) Where—

(36) S.R. 1997 No. 97

(37) S.R. 1997 No. 98

(38) S.R. 1997 No. 95

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- (a) an occupational pension scheme is contracted-out by virtue of regulations made under Article 146; and
- (b) under the rules of the scheme an earner's service in contracted-out employment will cease to qualify him for benefits under one part of the scheme but begin to qualify him for benefits under another part of the scheme,

the information mentioned in paragraph 6A of Schedule 2 shall be furnished to him before or within two months after the date on which his service begins to qualify him for the benefits under the other part of the scheme.”;

- (b) in paragraph (10) the words “Subject to paragraph (11),” shall be omitted;
- (c) paragraph (11) shall be omitted;
- (d) after paragraph (12) there shall be inserted the following paragraph—

“(12A) Where by virtue of paragraph 1 of Schedule 5 to the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996⁽³⁹⁾ (sectionalised multi-employer schemes) Article 56 applies as if a section of a scheme were a separate scheme (or, in a case where Article 56 does not apply to the scheme, if it did apply it would apply in that way), paragraphs (10) and (12) apply in a case where such a section is being wound up as they apply where the scheme as a whole is being wound up, but taking the references in those paragraphs to the scheme and its members and beneficiaries as referring only to the section and its members and beneficiaries.”; and

- (e) after paragraph (13) there shall be added the following paragraphs—

“(14) Where the trustees have commenced winding up the scheme before 6th April 1997—

- (a) paragraph (10) shall not apply; but
- (b) the trustees shall furnish all members and beneficiaries (except excluded persons) with the information mentioned in paragraph 15 of Schedule 2 at least once in every successive 12 month period beginning with that date and ending with the completion of the winding up.

(15) For the purposes of this regulation, the time when a scheme begins to be wound up shall be determined in accordance with regulation 2 of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996.”.

- (5) In regulation 6(1) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) where Article 56 applies to the scheme, a copy of the latest certificate by the actuary under the Order as to the adequacy of the contributions payable towards the scheme; and”.

- (6) In Schedule 1 after paragraph 12 there shall be inserted the following paragraph—

“12A.—(1) Without prejudice to paragraph 12, where—

- (a) the scheme is—
 - (i) a money purchase contracted-out scheme, or
 - (ii) a mixed benefit contracted-out scheme,

but is not an insured scheme (as defined in regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996⁽⁴⁰⁾);

⁽³⁹⁾ S.R. 1996 No. 570

⁽⁴⁰⁾ S.R. 1996 No. 493

- (b) the amount of assets allocated for the provision of benefits to or in respect of a member which are payable by virtue of his protected rights under the scheme or, in the case of such a scheme as is mentioned in sub-paragraph (a)(ii), under the money purchase part of the scheme, is periodically increased by an amount which is not calculated directly by reference to the investment gain actually derived from the investment of those assets by the trustees of the scheme (whether over the period to which the increase relates or a longer period), and
- (c) if the increase is calculated by reference to the investment gain from investments in which those assets could be invested, they are not actually so invested or are only so invested to an extent which would not materially affect the actual investment gain from the assets as a whole,

the information mentioned in sub-paragraph (2).

(2) The information referred to in sub-paragraph (1) is—

- (a) that the assets mentioned in sub-paragraph (1)(b) are increased in the way there mentioned;
- (b) the method used to calculate that increase, and
- (c) the reason why that method is used.

(3) For the purposes of sub-paragraph (1)(b), a mixed benefit contracted-out scheme is to be treated as if the pensions falling within Article 146(1)(b) were provided by a separate part of the scheme (“the money purchase part”).

(4) In paragraph (1)(b) and (c) references to the investment gain from investments are to both the income and capital gain derived from investing in those investments.”.

(7) In Schedule 2 after paragraph 6 there shall be inserted the following paragraph—

“6A. The date on which the earner’s service begins to qualify him for benefits under the other part of the scheme and whether his rights in respect of his service on or after that date will be rights under the part of the scheme providing such pensions as are referred to in sub-paragraph (a) or (b) of Article 146(1).”.

(9) In Schedule 3 for paragraph 16 there shall be substituted the following paragraph—

“16. Where the scheme has employer-related investments (within the meaning of Article 40(2)), a statement—

- (a) as to the percentage of the scheme’s resources invested in such investments at the end of the scheme year;
- (b) if that percentage exceeds 5 per cent, as to the percentage of the scheme’s resources which are investments to which regulation 6 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996⁽⁴¹⁾ (investments not subject to restrictions) applies; and
- (c) if any resources of the scheme are then invested in contravention of paragraph (1) of Article 40—
 - (i) as to the steps the trustees or managers have taken or propose to take to secure that the scheme complies with that Article; and
 - (ii) as to the time when any proposed steps will be taken.”.

(41) S.R. 1996 No. 584