

**2001 No. 138**

**PENSIONS**

**The Occupational Pension Schemes (Pensions Compensation Provisions) (Amendment) Regulations (Northern Ireland) 2001**

*Made* . . . . . 29th March 2001

*Coming into operation* . . . . . 23rd April 2001

The Department for Social Development, in exercise of the powers conferred by Articles 56(3), 79(2A)(a), 81(2) and (3)(a), 82(2), 84, 116, 122(2) and 166(2) and (3) of the Pensions (Northern Ireland) Order 1995(a) and now vested in it(b), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

*Citation, commencement and interpretation*

**1.**—(1) These Regulations may be cited as the Occupational Pension Schemes (Pensions Compensation Provisions) (Amendment) Regulations (Northern Ireland) 2001 and shall come into operation on 23rd April 2001.

(2) In these Regulations—

“the principal Regulations” means the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations (Northern Ireland) 1997(c).

*Amendment of the principal Regulations*

**2.**—(1) The principal Regulations shall be amended in accordance with paragraphs (2) to (5).

(2) After regulation 3 (relevant offences) there shall be inserted—

*“Protected liabilities — prescribed class of members*

**3A.** For the purposes of Article 79(2A)(a) (protected liabilities to include liabilities in respect of members of prescribed class) the prescribed class of members shall comprise those members who fall within the “switch-over period”, as defined in regulation 7(10) of the Occupational Pension Schemes (Minimum Funding and Actuarial Valuations) Regulations (Northern Ireland) 1996(d).”.

(3) In regulation 5 (amount of compensation)—

(a) in paragraph (3), there shall be omitted “90 per cent. of”;

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(a) S.I. 1995/3213 (N.I. 22); Article 79(2A)(a) was inserted by Article 16(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); Article 81(3)(a) was amended by Article 16(4) of that Order; *see also* Article 79(7)

(b) *See* Article 8(b) of S.R. 1999 No. 481

(c) S.R. 1997 No. 141, amended by S.R. 1999 No. 233

(d) S.R. 1996 No. 570; regulation 7(10) was substituted by regulation 3(4)(f) of S.R. 2000 No. 335

- (b) in paragraph (5) for “90 per cent. of liabilities” there shall be substituted “the aggregate of the protected liabilities”, and
- (c) in paragraph (6) for sub-paragraph (a) there shall be substituted—  
“(a) the prescribed rate of interest shall be the base rate plus 2 per cent.”;
- (4) In regulation 6(5) (calculation of payments made in anticipation), for sub-paragraph (d) there shall be substituted—  
“(d) so as not to exceed the aggregate of the protected liabilities.”.
- (5) In regulation 10 (modifications for money purchase schemes)—
- (a) in paragraph (1)(a)—
- (i) in head (i), in the modification to Article 79(1), there shall be omitted “90 per cent. of”, and
- (ii) for head (ii) there shall be substituted—  
“(ii) in Article 81(3) for sub-paragraph (b) there were substituted the following sub-paragraph—  
“(b) in the case of a money purchase scheme, must not exceed 90 per cent. of the difference between—  
(i) the value of the assets of the scheme immediately before the reduction falling within Article 79(1)(c), and  
(ii) their value immediately after that reduction,  
as reported by the auditor, where that difference is adjusted so as to take account of subsequent alterations in their value (if any) which occur prior to the settlement date, including any alterations which would have occurred if that reduction had not taken place.”;”;
- (b) in paragraph (1)(b)—
- (i) for the words from “these Regulations” to “following paragraph—” there shall be substituted “these Regulations shall have effect as if—  
(i) in regulation 5 for paragraph (5) there were substituted—”
- (ii) in the modification to regulation 5(5) of the principal regulations—  
(aa) for “90 per cent. of their pre-loss value” there shall be substituted “the aggregate of the protected liabilities”, and  
(bb) for “ $T \times 90\% - V$ ” there shall be substituted “ $(T - V) \times 90\%$ ”, and
- (iii) at the end there shall be added—  
“(ii) for sub-paragraph (d) of regulation 6(5) there were substituted—  
(d) so as not to exceed 90 per cent. of the shortfall at the application date.”;
- (c) in paragraph (2)(a)—

- (i) in head (i), in the modification to Article 79(1), there shall be omitted “90 per cent. of”, and
  - (ii) for head (iv) there shall be substituted—
    - “(iv) in Article 81(3) for sub-paragraph (b) there were substituted the following sub-paragraph—
      - “(b) in case of an ear-marked scheme, must not exceed 90 per cent. of the difference between—
        - (i) the value of the assets of the scheme immediately before the reduction falling within Article 79(1)(c), and
        - (ii) their value immediately after that reduction,
- (d) in paragraph (2)(b), in the modification to regulation 5(5) of the principal regulations—
  - (i) for “90 per cent. of their pre-loss value” there shall be substituted “the aggregate of the protected liabilities”, and
  - (ii) for “ $(T + S) \times 90\% - V$ ” there shall be substituted “ $(T + S - V) \times 90\%$ ”.

Sealed with the Official Seal of the Department for Social Development  
on 29th March 2001.

(L.S.)

*John O'Neill*  
Senior Officer of the Department for  
Social Development

## EXPLANATORY NOTE

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

These Regulations amend the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations (Northern Ireland) 1997 (“the 1997 Regulations”) which make provision in relation to the payment of compensation, by the Pensions Compensation Board under Articles 79 to 83 (“the compensation provisions”) of the Pensions (Northern Ireland) Order 1995 (“the Order”), to occupational pension schemes whose assets have been reduced in value as a result of certain acts or omissions. These amendments are made in consequence of changes made to the compensation provisions by Article 16 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (“the 1999 Order”) in connection with the criteria which must be met when an occupational pension scheme seeks compensation from the Board, and with the maximum amount of compensation payable.

In particular, the 1997 Regulations are amended to specify the class of members in respect of whom liabilities of the scheme are included among the liabilities by reference to which “the protection level” is calculated under Article 79(2A) of the Order (regulation 2(2)), and to remove the 90 per cent. limit by reference to which the maximum amount of compensation, and the amount of interest and of payments made in anticipation, are calculated (regulation 2(3) and (4)). Equivalent amendments are also made in regulation 10 of the 1997 Regulations, which modifies Articles 79 and 81 of the Order, and other provisions of those Regulations, in their application to money purchase schemes and “ear-marked schemes” (where money purchase benefits may be provided) (regulation 2(5)).

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain, the requirement for consultation under Article 117(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.

Articles 79(2A)(a) and 81(3)(a) of the Order, some of the enabling provisions under which these regulations are made, were inserted and amended respectively by Article 16(2) and (4) of the 1999 Order. Article 2 of the Welfare Reform and Pensions (1999 Order) (Commencement No. 8) Order (Northern Ireland) 2001 (S.R. 2001 No. 137 (C. 7)) provides for the coming into operation of Article 16 of the 1999 Order, in so far as not already in operation, on 23rd April 2001.

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