

2004 No. 187

PENSIONS

**The Occupational Pension Schemes (Winding Up)
(Amendment) Regulations (Northern Ireland) 2004**

Made - - - - - *21st April 2004*

Coming into operation *10th May 2004*

The Department for Social Development, in exercise of the powers conferred by sections 93(1) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(a) and Articles 73(7), 121(8) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(b), and now vested in it(c), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Winding Up) (Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 10th May 2004.

(2) In these Regulations –

“the Winding Up Regulations” means the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(d);

“the transitional period” has the meaning given in regulation 3(2) of the Winding Up Regulations.

(3) For the purposes of these Regulations the time when a scheme begins to be wound up shall be determined in accordance with regulation 2 of the Winding Up Regulations.

(4) The revocations made by regulation 2 and the amendments of the Winding Up Regulations made by regulation 3 have effect only in relation to occupational pension schemes which begin to be wound up on or after the date on which these Regulations come into operation and before the end of the transitional period.

(5) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an Act of the Assembly.

Revocations

2. In relation to such schemes as are mentioned in regulation 1(4) the following regulations are hereby revoked –

(a) 1993 c. 49
(b) S.I. 1995/3213 (N.I. 22); Article 121(8) was inserted by section 45(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)
(c) See Article 8(b) of S.R. 1999 No. 481
(d) S.R. 1996 No. 621; relevant amending regulations are S.R. 1999 No. 486 and S.R. 2000 No. 335
(e) 1954 c. 33 (N.I.)

- (a) regulation 3(5) of the Winding Up Regulations(a);
- (b) regulation 4(3) of the Pension Sharing (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2000(b),

and accordingly Article 73(3)(c) of the Pensions (Northern Ireland) Order 1995 has effect as amended only by Article 35(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(c).

Amendment of the Winding Up Regulations

3. In relation to such schemes as are mentioned in regulation 1(4), regulation 3 of the Winding Up Regulations(d) (modification of Article 73) shall be amended in accordance with paragraphs (a) to (d) –

- (a) in paragraph (1) for sub-paragraph (b) there shall be substituted the following sub-paragraph –
 - “(b) in the case of a scheme which begins to be wound up on or after 10th May 2004 and before the expiry of the transitional period, subject to the modifications in paragraphs (5A) to (6);”;
- (b) after paragraph (4) there shall be inserted the following paragraph –
 - “(5A) In sub-paragraph (d) of Article 73(3) for “(b) and (c)” there shall be substituted “(aa) and (b)”.
 - (5B) After that sub-paragraph there shall be inserted –
 - “(e) any liability for increases to pensions referred to in sub-paragraph (c),”.
- (c) for paragraph (6) there shall be substituted the following paragraph –
 - “(6) In the words following sub-paragraph (e) of Article 73(3) (as inserted by paragraph (5B)) for “sub-paragraphs (b) to (d)” there shall be substituted “sub-paragraphs (aa) to (e)”.
- (d) for paragraph (8) there shall be substituted the following paragraph –
 - “(8) In the case of any scheme to which Article 73(3) applies with the modifications mentioned in paragraphs (5A) to (6), regulation 7(3)(b)(iv) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(e) has effect with the substitution for “(d)” of “(e)”.

Sealed with the Official Seal of the Department for Social Development on 21st April 2004.

(L.S.)

John O'Neill

Senior Officer of the Department for Social Development

(a) Regulation 3(5) was amended by regulation 4(3) of S.R. 2000 No. 335
(b) S.R. 2000 No. 335, to which there are amendments not relevant to these regulations
(c) S.I. 1999/3147 (N.I. 11)
(d) Regulation 3 was amended by regulation 9 of S.R. 1999 No. 486 and regulation 4(3) of S.R. 2000 No. 335
(e) S.R. 1996 No. 619; regulation 7(3)(b) was amended by paragraph 11(4) of the Schedule to S.R. 1997 No. 160

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make certain revocations and amend regulation 3 of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996 (“the Winding Up Regulations”) in relation to salary related occupational pension schemes which begin to be wound up on or after the date on which these Regulations come into operation (“the commencement date”) and before the end of the transitional period, which is defined in the Winding Up Regulations.

Regulation 3 of the Winding Up Regulations modifies Article 73(3) of the Pensions (Northern Ireland) Order 1995 (“the Order”), which sets out the priority order in which the assets of a scheme are to be applied, when it is wound up, towards satisfying the liabilities in respect of pensions and other benefits.

Regulation 1 provides for citation, commencement, interpretation and application.

In relation to schemes which begin to be wound up on or after the commencement date and before the end of the transitional period, regulation 2 revokes regulation 3(5) of the Winding Up Regulations and regulation 4(3) of the Pension Sharing (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2000 which amended regulation 3(5) of the Winding Up Regulations.

Regulation 3 amends regulation 3 of the Winding Up Regulations. Paragraph (a) makes the changes to the priority order apply to schemes which begin to be wound up on or after the commencement date and before the end of the transitional period. Paragraph (b) amends the priority order. Paragraphs (c) and (d) make consequential amendments.

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

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