

2005 No. 467

PENSIONS

**The Protected Rights (Transfer Payment) (Amendment)
Regulations (Northern Ireland) 2005**

Made - - - - - *27th October 2005*

Coming into operation - *28th November 2005*

The Department for Social Development, in exercise of the powers conferred by sections 24(2)(b) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(a), and now vested in it(b), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Protected Rights (Transfer Payment) (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 28th November 2005.

Amendment of the Protected Rights (Transfer Payment) Regulations

2.—(1) The Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(c) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2) after the definition of “appropriate personal pension scheme” there shall be inserted the following definition—

““mixed benefit contracted-out scheme” means an occupational pension scheme to which Article 146(1) of the Pensions (Northern Ireland) Order 1995 (hybrid occupational pension schemes) applies and which is contracted-out;”;

(b) in paragraph (3) at the beginning there shall be inserted “Subject to paragraphs (5) and (6),”;

(c) after paragraph (4) there shall be added the following paragraphs—

“(5) For the purposes of these Regulations, and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(d), where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

(6) Without prejudice to any other method of service authorised under section 24 of the Interpretation Act (Northern Ireland) 1954, service of a document under these Regulations may be effected by sending the document by ordinary post.”.

(3) For regulation 2 (general) there shall be substituted the following regulation—

(a) 1993 c. 49. Section 24(2)(b) was amended by paragraph 2(2) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))

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

(c) S.R. 1996 No. 509; relevant amending regulations are S.R. 2000 No. 262

(d) 1954 c. 33 (N.I.)

“2.—(1) Effect may be given to a member’s protected rights by making a transfer payment from—

- (a) an appropriate personal pension scheme;
- (b) a money purchase contracted-out scheme;
- (c) the money purchase part of a mixed benefit contracted-out scheme, or
- (d) a scheme mentioned in sub-paragraph (a), (b) or (c) which has ceased to be a contracted-out scheme,

to a scheme specified in paragraph (2).

(2) A transfer payment in respect of protected rights may be made to either an—

- (a) appropriate personal pension scheme, or
- (b) occupational pension scheme,

in accordance with regulations 3 to 5.

(3) In these Regulations a “transfer payment” means a transfer payment such as is described in this regulation.”.

(4) For regulation 3(a) (transfer payments to money purchase contracted-out schemes and appropriate personal pension schemes) there shall be substituted the following regulation—

“Transfer payments to appropriate personal pension schemes

3. A transfer payment may be made to an appropriate personal pension scheme if—

- (a) the member consents in writing or regulation 3A applies;
- (b) the transfer payment (or, if it forms part of a larger payment giving effect to both protected rights and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 93(b) (calculation of cash equivalents), and
- (c) the transfer payment in respect of the member’s protected rights is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the member.”.

(5) After regulation 3A(c) (transfer payments from stakeholder pension schemes without the member’s consent) there shall be inserted the following regulations—

“Transfer payment to a money purchase contracted-out scheme or the money purchase part of a mixed benefit contracted-out scheme with the member’s consent

3B.—(1) A transfer payment may be made to either—

- (a) a money purchase contracted-out scheme, or
- (b) the money purchase part of a mixed benefit contracted-out scheme,

if the conditions specified in paragraph (2) are satisfied.

(2) The conditions specified in this paragraph are—

- (a) the member consents in writing;
- (b) the transfer payment (or, if it forms part of a larger payment giving effect to both protected rights and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights

(a) Regulation 3 was amended by regulation 28(2) of S.R. 2000 No. 262
(b) Section 93 was amended by paragraph 6 of Schedule 4 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 5(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
(c) Regulation 3A was inserted by regulation 28(3) of S.R. 2000 No. 262

to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 93;

- (c) the transfer payment in respect of the member's protected rights is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the member, and
- (d) either the member—
 - (i) is employed by an employer who is a contributor to the receiving scheme, or
 - (ii) has previously been a member of the receiving scheme.

Transfer payment to a money purchase contracted-out scheme or the money purchase part of a mixed benefit contracted-out scheme without the member's consent

3C.—(1) A transfer payment may be made to either—

- (a) a money purchase contracted-out scheme, or
- (b) the money purchase part of a mixed benefit contracted-out scheme,

without the member's consent if the requirements of paragraph (2) are satisfied.

(2) The requirements of this paragraph are that the conditions specified in either—

- (a) paragraphs (3) and (4), or
- (b) paragraph (8),

are satisfied.

(3) The conditions specified in this paragraph are—

- (a) the transfer payment (or, if it forms part of a larger payment giving effect to both protected rights and other rights, that part of it which gives effect to protected rights) is of an amount at least equal to the cash equivalent of the protected rights to which effect is being given, as calculated and verified in a manner consistent with regulations made under section 93;
- (b) the transfer payment in respect of the member's protected rights is applied so as to provide money purchase benefits under the receiving scheme for or in respect of the member, and
- (c) the transferring scheme is either—
 - (i) a money purchase contracted-out scheme;
 - (ii) the money purchase part of a mixed benefit contracted-out scheme, or
 - (iii) a scheme mentioned in head (i) or (ii) which has ceased to be a contracted-out scheme.

(4) The conditions specified in this paragraph are—

- (a) subject to paragraph (7), the trustees have sent a notice to the member at his last known postal address or electronic mail address in relation to the proposed transfer;
- (b) a period of at least three months has elapsed from the date of the notice;
- (c) the trustees have not received written notification within that period that the member objects to the transfer, and
- (d) the transferring scheme and the receiving scheme bear a relationship to each other such as is described in regulation 12(2) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991^(a) (transfer of member's accrued rights without consent).

(5) In paragraph (4)(a), "notice" means a notice in writing stating—

^(a) S.R.1991 No. 37; regulation 12(2) was substituted by regulation 35 of S.R. 1992 No. 304 and amended by regulation 2(7)(a) of S.R. 1996 No. 620

- (a) the names and addresses of the—
 - (i) transferring scheme, and
 - (ii) receiving scheme;
 - (b) the name of the person in the—
 - (i) transferring scheme, and
 - (ii) receiving scheme,
 that a member may contact for further information;
 - (c) the value of the rights which are to be transferred;
 - (d) the nature of the rights which are to be transferred, and
 - (e) that—
 - (i) the member has the right to object to the proposed transfer of his protected rights by sending a written notice to that effect to the trustees of the transferring scheme, and
 - (ii) the trustees of the transferring scheme may transfer that member's protected rights unless they receive that written notification of his objection to the proposed transfer within three months from the date of the notice.
- (6) For the purposes of paragraph (4)—
- (a) where the trustees of the transferring scheme are notified of a delivery failure of a notice sent by electronic mail to a member for the purposes of paragraph (4)(a), the trustees shall send a further notice to the member's last known postal address unless he is an excluded person, and
 - (b) the date of the notice for the purposes of paragraph (4)(b) shall be the date of the second notice.
- (7) The trustees of a transferring scheme may transfer the protected rights of an excluded person without sending a notice to him.
- (8) The conditions specified in this paragraph are—
- (a) the requirements of paragraphs (3) and (4)(d) are complied with;
 - (b) the relevant actuary certifies to the trustees of the transferring scheme that the transfer credits to be acquired for each member under the receiving scheme in respect of his protected rights are, broadly, no less favourable than the rights to be transferred;
 - (c) where it is proposed that a member's protected rights are to be transferred in accordance with this paragraph, information about the proposed transfer and details of the value of the rights to be transferred shall be furnished to the member at least one month before the proposed transfer is due to take place, unless the member is an excluded person.
- (9) Where in response to either a notice issued under paragraph (4) or information furnished under paragraph (8)(c) a member consents in writing to the transfer of his protected rights under the scheme, the trustees of the scheme may give effect to the protected rights of that member by making a transfer payment in accordance with this regulation. However, the trustees shall not give effect to the protected rights of that member by making a transfer payment in accordance with regulation 3B.
- (10) In this regulation—
- “the relevant actuary” has the meaning given by regulation 12(5) of the Occupational Pension Schemes (Preservation of Benefits) Regulations (Northern Ireland) 1991(a);

(a) Regulation 12(5) was substituted by regulation 2(c) of S.R. 1999 No. 378

“excluded person” means a member whose present address is not known to the trustees and in respect of whom correspondence sent by the trustees to his last address known to the trustees has been returned;

“transfer credits” means rights allowed to a member under the rules of a receiving scheme by reference to a transfer payment to that scheme of his protected rights from a transferring scheme.”.

Revocation

3. Regulation 28(2) of the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000(a) is hereby revoked.

Sealed with the Official Seal of the Department for Social Development on 27th October 2005.



John O'Neill
A senior officer of the Department for Social Development

(a) S.R. 2000 No. 262

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996 (“the principal Regulations”).

Regulation 1 provides for citation and commencement.

Regulation 2 amends the principal Regulations. In particular—

paragraph (2) makes provision in relation to interpretation;

paragraph (3) substitutes regulation 2 to include among the schemes that may give effect to a member’s protected rights by making a transfer payment to an appropriate personal pension scheme or an occupational pension scheme, the money purchase part of a mixed benefit contracted-out scheme and a scheme which has ceased to be the money purchase part of a mixed benefit contracted-out scheme;

paragraph (4) substitutes regulation 3 so that it no longer applies to transfer payments to money purchase contracted-out schemes. The effect of regulation 3 as substituted is that it applies to transfer payments to appropriate personal pension schemes only;

paragraph (5) inserts regulations 3B and 3C in order to provide for transfer payments to be made to a money purchase contracted-out scheme or the money purchase part of a mixed benefit contracted-out scheme. Regulation 3B provides for transfers with a member’s consent, while regulation 3C provides for transfers without a member’s consent.

Regulation 3 makes a consequential revocation.

An assessment of the cost to business of these Regulations is detailed in a Regulatory Impact Assessment, copies of which have been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA