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STATUTORY RULES OF NORTHERN IRELAND

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**2012 No. 124**

**The Pensions (2008 No. 2 Act) (Abolition of Protected Rights)  
(Consequential Provisions) Order (Northern Ireland) 2012**

**PART 2**

Amendments coming into operation immediately before, or on, 6th April 2012

**Amendment of the Insolvency (Northern Ireland) Order**

2. In Article 283 of the Insolvency (Northern Ireland) Order 1989<sup>(1)</sup> (income payments orders)—
- (a) at the end of paragraph (8)(a) omit “and”;
  - (b) omit paragraph (8)(b);
  - (c) in paragraph (9) for “and “protected rights” have” substitute “has”.

**Amendment of the Judicial Pensions and Retirement Act**

3. In Schedule 2 to the Judicial Pensions and Retirement Act 1993<sup>(2)</sup> (transfer of accrued benefits)—
- (a) in paragraph 1(1) (interpretation) omit the definition of “protected rights”<sup>(3)</sup>;
  - (b) in paragraph 6 (method of taking cash benefit)—
    - (i) in sub-paragraph (6)(a) omit “or his protected rights”;
    - (ii) in sub-paragraph (6)(b) omit “or protected rights”;
    - (iii) in sub-paragraph (7) for “protected rights or those” substitute “that”;
  - (c) in paragraph 7(2)(a)(ii) (calculation of cash equivalents) omit “or give effect to protected rights”;
  - (d) in paragraph 9(2) (option to be exercised in writing) omit “or give effect to protected rights”.

**Amendment of the Pension Schemes Act**

- 4.—(1) The Pension Schemes Act is amended in accordance with paragraphs (2) to (26).
- (2) In section 16(3) (transfer of accrued rights) for “sections 22 to 29” substitute “sections 27 and 29”.

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(1) [S.I. 1989/2405 \(N.I. 19\)](#); paragraphs (8) and (9) were added by paragraph 11(b) of Schedule 1 to the Pensions (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(N.I. 22\)](#))

(2) [1993 c. 8](#)

(3) The definition of “protected rights” was amended by paragraph 46(5)(a)(i) of Schedule 8 to the [Pension Schemes Act 1993 \(c. 48\)](#) and by paragraph 43(5)(a)(i) of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 ([c. 49](#)) and is amended by Article 4 of [S.I. 2011/1730](#)

(3) In section 27(2) (investment and resources of schemes) for “The scheme” substitute “A scheme which was an appropriate scheme or a money purchase contracted-out scheme immediately before the abolition date”(4).

(4) In section 29(5) (tax requirements to prevail over certification requirements)—

- (a) in the sidenote for “certification requirements” substitute “requirements of section 27”;
- (b) for “sections 22 to 28” substitute “section 27”.

(5) In section 33(6) (alteration of rules of contracted-out schemes)—

- (a) in subsection (1) after “rules of a” insert “salary related”;
- (b) in subsection (3) after “section to a” insert “salary related”.

(6) Omit section 34(7) (alteration of rules of appropriate schemes).

(7) In section 35 (general power to make regulations) omit “, and Part II of that Schedule as respects personal pension schemes”.

(8) In section 38A(8) (reduced rates of Class 1 contributions, and rebates)—

- (a) at the beginning of subsection (3)(9) insert “Subject to subsection (5A),”;
- (b) after subsection (5) insert—

“(5A) Where—

- (a) a payment under subsection (3) is due in respect of an earner, and
- (b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC(10) are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.”.

(9) In section 39 (payment of minimum contributions to personal pension schemes) after subsection (6) insert—

“(6A) Where—

- (a) a payment under subsection (1) is due in respect of an earner, and
- (b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.”.

(10) In section 46 (powers of Inland Revenue to approve arrangements for scheme ceasing to be certified)—

(a) in subsection (1)(11)—

- (i) omit “or a personal pension scheme”;

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(4) The definition of “abolition date” is inserted by paragraph 34(2)(a) of Schedule 4 to the [Pensions Act \(Northern Ireland\) 2008 \(c. 1 \(N.I.\)\)](#)

(5) Section 29 was amended by Article 8(5) of [S.I. 2006/745](#)

(6) Section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and amended by paragraph 13 of Schedule 1 to [S.R. 2005 No. 433](#)

(7) Section 34 was amended by paragraph 33 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, Article 132 of [S.I. 2001/3649](#) and paragraph 14 of Schedule 1 to [S.R. 2005 No. 433](#)

(8) Section 38A was inserted by Article 134(4) of the Pensions (Northern Ireland) Order 1995

(9) Subsection (3) was amended by paragraph 52(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 ([S.I. 1999/671](#))

(10) The definition of “HMRC” is inserted by paragraph 34(2)(a) of Schedule 4 to the [Pensions Act \(Northern Ireland\) 2008 \(c. 1 \(N.I.\)\)](#)

(11) Subsection (1) was amended by paragraph 37(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 60(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and Part 2 of Schedule 10 to the Pensions (No. 2) Act (Northern Ireland) 2008

- (ii) for “contracted-out or, as the case may be, an appropriate” substitute “salary related contracted-out”;
  - (iii) for paragraphs (a) and (b) substitute—
    - “(a) of earners’ accrued rights to guaranteed minimum pensions under the scheme or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day, and
    - (b) of the liability for the payment of such pensions in respect of persons who have then become entitled to receive them.”;
  - (b) in subsection (2)(12) for “contracted-out scheme or an appropriate” substitute “salary related contracted-out”;
  - (c) in subsection (4)(13)—
    - (i) omit “(other than a money purchase scheme)”;
    - (ii) for “22 to 29” substitute “27 and 29”;
    - (iii) for “39 to 41” substitute “39 and 41”;
  - (d) in subsection (6) for “which is not a money purchase contracted-out scheme” substitute “to which subsection (1) applies”.
- (11) In section 48 (supervision of schemes which have ceased to be certified)—
- (a) in subsection (1)—
    - (i) after “supervision of” insert “salary related”;
    - (ii) omit the words from “and section 50 shall apply” to the end;
  - (b) in subsection (2)(14) after “as respects any” insert “salary related”;
  - (c) in subsection (2A) omit paragraph (b);
  - (d) omit subsection (3)(15).
- (12) In section 49(3)(16) (supervision: former contracted-out schemes) omit “or (b)”.
- (13) Omit section 50(17) (supervision: former appropriate personal pension schemes).
- (14) In section 92 (further provisions concerning exercise of option under section 91)—
- (a) in subsection (2)(18)—
    - (i) in paragraph (a) omit “or his protected rights”;
    - (ii) in paragraph (b) omit “or protected”;

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- (12) Subsection (2) was amended by paragraph 60(2) and (3) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
  - (13) Subsection (4) was amended by paragraph 60(2) and (5) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
  - (14) Subsections (2)(a) and (b) and (2A) were substituted for subsection (2)(a) and (b) by paragraph 39(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and subsection (2A) was amended by Part 2 of Schedule 10 to the Pensions (No. 2) Act (Northern Ireland) 2008
  - (15) Subsection (3) was amended by paragraph 39(b) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and Part 2 of Schedule 10 to the Pensions (No. 2) Act (Northern Ireland) 2008
  - (16) Section 49(3) was substituted by paragraph 40(c) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and was amended by paragraph 61 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
  - (17) Section 50 was amended by paragraph 41 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 62 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
  - (18) Subsection (2) was amended by paragraph 53(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and is amended by paragraph 29 of Schedule 4 to the Pensions Act (Northern Ireland) 2008

(b) in subsection (3)(**19**)—

- (i) in paragraph (a) omit “or the member’s protected rights”;
- (ii) at the end of paragraph (a) omit “and”;
- (iii) omit paragraph (b).

(15) In section 95(1) (trustees’ duties after exercise of option) omit “or give effect to such protected rights”.

(16) In section 151(**20**) (requirement to give information to the Department, Secretary of State or Inland Revenue for the purposes of certain provisions) for “, section 113 and section 155 (so far as it relates to protected rights payments)” substitute “and section 113”.

(17) In section 152(1)(**21**) (information for purposes of contracting-out) for “or appropriate scheme” substitute “or a personal pension scheme which was an appropriate scheme before the abolition date”.

(18) In section 155 (inalienability of guaranteed minimum pension and protected rights payments)

- (a) in the sidenote omit “and protected rights payments”;
- (b) in subsection (1)(a) omit “or to payments giving effect to protected rights under such a scheme”;
- (c) in subsection (1)(i) and (ii) omit “or those payments”;
- (d) omit subsection (4);
- (e) for subsection (4A)(**22**) substitute—

“(4A) Where a person is entitled or prospectively entitled as is mentioned in subsection (1), no order shall be made by any court or the Enforcement of Judgments Office the effect of which would be that he would be restrained from receiving anything the assignment of which is or would be made void by that subsection.”.

(19) In section 160 (Crown employment) for subsection (2)(**23**) substitute—

“(2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of—

- (a) sections 27 and 29, so far as they relate to personal pension schemes;
- (b) sections 39 and 41;
- (c) section 44, so far as it relates to minimum contributions;
- (d) sections 113, 150 and 151, and
- (e) sections 156 and 162.”.

(20) In section 161(2)(a)(**24**) (application of certain provisions to cases with foreign element) omit “and section 155 (so far as it relates to protected rights payments).”.

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(19) Subsection (3) was amended by paragraph 53(b) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 14 of the Schedule to [S.R. 2005 No. 434](#)

(20) Section 151 was substituted by paragraph 70 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(21) Section 152 was substituted by paragraph 6 of Schedule 5 to the [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4 \(N.I.\)\)](#)

(22) Subsection (4A) was inserted by paragraph 33 of Schedule 1 to the Pensions (Northern Ireland) Order 1995

(23) Subsection (2) was amended by Part III of Schedule 5 to the Pensions (Northern Ireland) Order 1995

(24) Subsection (2)(a) was amended by paragraph 58 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(21) In section 165 (decisions and appeals), as substituted by paragraph 99 of Schedule 6 to the Social Security (Northern Ireland) Order 1998(25), in subsection (3) omit “or 50”.

(22) In section 165 (determination of questions by Department), as remaining in operation for purposes other than those specified in Article 2(1)(b) of the Social Security (1998 Order) (Commencement No. 7 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999(26), in subsection (7)(a)(27) omit “or appropriate scheme certificates”.

(23) In section 172(2)(b)(28) (general financial arrangements) for sub-paragraph (ii) substitute—  
“(ii) sections 27, 29, 113, 150 and 151;

(iii) sections 156 and 162.”.

(24) In section 176 (general interpretation)—

(a) in subsection (1) in the definition of “protected rights” at the end add “, as it had effect immediately prior to the abolition date”;

(b) in subsection (4)(29) omit—

(i) “23, 24, 25,”;

(ii) “28.”.

(25) In section 178(3)(30) (sub-delegation) omit “23(3).”.

(26) In Schedule 1 (certification regulations) omit Part II(31) (personal pension schemes).

#### **Amendment of the 1995 Order**

5.—(1) The 1995 Order is amended in accordance with paragraphs (2) to (7).

(2) In Article 51A(1)(32) (restriction on increase where annuity tied to investments)—

(a) at the end of sub-paragraph (a) insert “and”;

(b) omit sub-paragraph (b).

(3) In Article 89(7) (inalienability of occupational pension) omit “and protected rights payments”.

(4) Omit Article 146 (hybrid occupational pension schemes).

(5) Omit Article 158(33) (annual increase in rate of personal pension).

(6) Omit Article 159(34) (Article 158: supplementary).

(7) In Article 167(3)(35) (Assembly, etc. control of orders and regulations)—

(a) at the end of sub-paragraph (b) insert “or”;

(b) at the end of sub-paragraph (c) omit “or”;

(c) omit sub-paragraph (d).

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(25) [S.I. 1998/1506 \(N.I. 10\)](#); this substitution was brought into operation for certain purposes only by [S.R. 1999 No. 310 \(C. 23\)](#) and subsections (2) to (4) were subsequently substituted by Article 15(2) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(26) [S.R. 1999 No. 310 \(C. 23\)](#)

(27) Subsection (7) was added by paragraph 60(c) of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(28) Section 172(2)(b) was amended by Part III of Schedule 5 to the Pensions (Northern Ireland) Order 1995

(29) Subsection (4) was amended by Schedule 11 to the Pensions (Northern Ireland) Order 2005 ([S.I. 2005/255 \(N.I. 1\)](#)) and is amended by paragraph 34(3) of Schedule 4 to the Pensions Act (Northern Ireland) 2008

(30) Section 178(3) was amended by Part III of Schedule 5 to the Pensions (Northern Ireland) Order 1995, paragraph 31 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 27 of Schedule 10 to the Pensions (Northern Ireland) Order 2005

(31) Part II was amended by paragraph 70(e) of Schedule 3 to Pensions (Northern Ireland) Order 1995

(32) Article 51A was inserted by section 47(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(33) Article 158 was amended by Article 256(2) of the Pensions (Northern Ireland) Order 2005

(34) Article 159 was amended by Article 256(3) of the Pensions (Northern Ireland) Order 2005

(35) Article 167(3) was amended by paragraph 11 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

### Amendment of the 2005 Order

6. In Article 154 of the 2005 Order (discharge of liabilities in respect of money purchase benefits)

- (a) omit paragraph (3);
- (b) in paragraph (4) omit the definition of “protected rights”.

### Repeal and amendment of certain amending provisions of the Pensions Act (Northern Ireland) 2008 before their commencement

7.—(1) The Pensions Act (Northern Ireland) 2008 is amended in accordance with paragraphs (2) and (3).

(2) Paragraphs 7, 16, 24, 25, 30, 32, 33 and 36 of Schedule 4 (abolition of contracting-out for defined contribution pension schemes) are omitted, and are not to have any effect from the contracting-out abolition date (within the meaning of section 85(4) of the Pensions (No. 2) Act (Northern Ireland) 2008) (in spite of section 13(4) of the Pensions Act (Northern Ireland) 2008).

(3) In Part 2 of Schedule 4 (further amendments) (which is not yet in operation)—

- (a) omit paragraph 54 (which would have amended section 46 of the Pension Schemes Act);
- (b) in paragraph 55 (which amends section 160 of the Pension Schemes Act) for the words from “in paragraph (b)” to the end substitute “omit paragraph (b).”;
- (c) in paragraph 58(3), in the text to be substituted in paragraph 5(1) of Schedule 1 to the Pension Schemes Act—
  - (i) omit “34.”;
  - (ii) omit “(except as they apply to personal pension schemes, the members of such schemes or rights in respect of them)”.

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

8.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987<sup>(36)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 4(6)<sup>(37)</sup> (basic information about the scheme) for “, 11, 12 or 13” substitute “or 11”.

(3) In regulation 5 (information to be made available to individuals)—

- (a) in paragraph (3)<sup>(38)</sup>—
  - (i) omit “Whether or not the scheme is or has been an appropriate scheme.”;
  - (ii) omit “who has no protected rights under the scheme”;
- (b) omit paragraph (4).

(4) In Schedule 1 (basic information about the scheme) omit paragraphs 9<sup>(39)</sup>, 12 and 13.

(5) In Schedule 2 (information to be made available to individuals)—

- (a) in paragraph 2 for sub-paragraph (1) substitute—
 

“(1) As at a specified date, the value of the member’s accrued rights under the scheme.”;

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<sup>(36)</sup> S.R. 1987 No. 288; relevant amending Regulations are S.R. 1988 No. 107, S.R. 1992 No. 304, S.R. 1996 No. 95, S.R. 1997 No. 160, S.R. 2003 No. 256, S.R. 2007 No. 185 and S.R. 2012 No. 120

<sup>(37)</sup> Regulation 4(6) was amended by regulation 6(b) of S.R. 1988 No. 107 and regulation 19 of S.R. 1992 No. 304

<sup>(38)</sup> Paragraph (3) was amended by regulation 6(c) of S.R. 1988 No. 107 and regulation 20(b) of S.R. 1992 No. 304

<sup>(39)</sup> Paragraph 9 was substituted by regulation 2(4)(a) of S.R. 2003 No. 256

- (b) omit paragraph 4(40);
- (c) in paragraph 5(41) omit the words from “, including, where the scheme is an appropriate scheme” to the end;
- (d) for paragraph 8 substitute—

“8. An account of the amount by which the member’s accrued rights have been reduced, and of the arrangements which have been made by the scheme, or are open to the member, to restore the value of his accrued rights under the scheme.”;
- (e) in paragraph 9 after sub-paragraph (2)(42) add—

“(3) A statement that explains the member’s protected rights will become ordinary scheme rights under pensions legislation from the date that the scheme ceased to be an appropriate scheme, and that where the member is married or has a civil partner, there is no longer a statutory requirement for the scheme to provide a survivor’s pension or annuity.”;
- (f) omit paragraphs 10(43) and 11.

#### **Amendment of the Personal Pension Schemes (Transfer Values) Regulations**

**9.—(1)** The Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987(44) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 1(2) (interpretation) omit the definition of “protected rights”(45).
- (3) In regulation 2(1)(46) (requirements to be satisfied) omit sub-paragraph (b).

#### **Amendment of the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations**

**10.—(1)** The Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations (Northern Ireland) 1987(47) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 3 (guaranteed minimum pension to which earner’s widow, widower or surviving civil partner is treated as entitled after minimum contributions have been paid) for paragraph (1)(48) substitute—

“(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum contributions have been paid in respect of an earner, section 42 shall, in the circumstances specified in paragraph (2), have effect in relation to the earner’s widow, widower or surviving civil partner, as if the widow, widower or surviving civil partner were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate described in regulation 2(2).”.

(3) In regulation 5 (guaranteed minimum pension to which earner’s widow, widower, or surviving civil partner is treated as entitled after minimum payments have been made) for paragraph (1)(49) substitute—

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(40) Paragraph 4 was amended by Article 2(5) of S.R. 2009 No. 113

(41) Paragraph 5 was amended by regulation 2(b) of S.R. 2007 No. 185

(42) Sub-paragraph (2) is added by regulation 4(7)(c)(ii) of S.R. 2012 No. 120

(43) Paragraph 10 was amended by paragraph 1(5) of the Schedule to S.R. 1997 No. 160

(44) S.R. 1987 No. 290; relevant amending provisions are S.R. 1994 No. 300 and S.I. 2006/744

(45) The definition of “protected rights” was amended by paragraph 15(2)(f) of Schedule 2 to S.R. 1994 No. 300

(46) Regulation 2 was substituted by Article 24(2) of S.I. 2006/744

(47) S.R. 1987 No. 291; relevant amending provisions are S.R. 1994 No. 300, S.R. 1996 No. 95 and S.R. 2005 No. 433

(48) Paragraph (1) was amended by paragraph 16(4) of the Schedule to S.R. 1994 No. 300, regulation 4(2) of S.R. 1996 No. 95 and paragraph 2(b) of Schedule 2 to S.R. 2005 No. 433

(49) Paragraph (1) was amended by paragraph 16(4) of Schedule 2 to S.R. 1994 No. 300, regulation 4(3) of S.R. 1996 No. 95 and paragraph 3(b) of Schedule 2 to S.R. 2005 No. 433



“(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum payments have been paid in respect of an earner, section 42 shall, in the circumstances specified in paragraph (2), have effect in relation to the earner’s widow, widower or surviving civil partner, as if the widow, widower or surviving civil partner were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate described in regulation 4(2).”.

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

**11.** In regulation 9(6) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**50**) (bought out benefits)—

- (a) for “sub-paragraphs (a) to (d)” substitute “sub-paragraphs (b), (c) and (d)”;
- (b) omit sub-paragraph (a).

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

**12.**—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**51**) are amended in accordance with paragraphs (2) to (13).

(2) In regulation 1(2) (interpretation)—

(a) before the definition of “the Act” insert—

““abolition date” means the day appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008(**52**);”,

(b) in the definition of “section 5(2B) rights”(**53**) at the end of paragraph (b)(ii) add “, where that transfer payment was made before the abolition date”.

(3) In regulation 3(1)(c) (notices by employers of intended election) omit “the protected rights,”.

(4) In regulation 10(1)(b) (special provision with regard to elections for the issue, variation or surrender of certificates where the employment remains contracted out) omit “or to protected rights, as the case may be,”.

(5) In regulation 16(1)(**54**) (requirement to confirm relevant requirements are satisfied) omit sub-paragraph (d).

(6) In regulation 37 (circumstances in which the age-related payments are not to be paid)—

(a) after paragraph (1) insert—

“(1A) Subject to paragraph (2), where the earner is no longer a member of the scheme which before the abolition date was a money purchase contracted-out scheme, an age-related payment shall be paid—

- (a) to the trustees or managers of the scheme, if the earner has become a member of another scheme, and the scheme is able to transfer the payment to that other scheme;

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(50) S.R. 1991 No. 37; regulation 9(6) was amended by paragraph 26(12) of Schedule 2 to S.R. 1994 No. 300

(51) S.R. 1996 No. 493; relevant amending Regulations are S.R. 1997 No. 160, S.R. 1997 No. 162, S.R. 1999 No. 486, S.R. 2002 No. 109, S.R. 2009 No. 113 and S.R. 2012 No. 120

(52) 2008 c. 1 (N.I.)

(53) The definition of “section 5(2B) rights” was substituted by paragraph 5(2) of the Schedule to S.R. 1997 No. 160 and amended by regulation 4(2)(b) of S.R. 1999 No. 486

(54) Regulation 16(1) was amended by regulation 2(5) of S.R. 2002 No. 109 and is amended by regulation 6(7) of S.R. 2012 No. 120



- (b) to the trustees or managers of another scheme of which the earner is a member, if known to the Commissioners for Her Majesty's Revenue and Customs<sup>(55)</sup>, or
  - (c) in all other circumstances, to the earner.”;
- (b) in paragraph (2) after “(ways of giving effect to protected rights)” insert “as it had effect prior to the abolition date,”;
- (c) in paragraph (7) after “insurance policies)” insert “as it had effect prior to the abolition date”.
- (7) In regulation 43(1) (termination of periods of contracted-out employment) in sub-paragraphs (c), (d) and (e) for “, section 5(2B) rights or his protected rights” substitute “or section 5(2B) rights”.
- (8) In regulation 44(7) (notifications) for the words from “, any entitlement arising in respect of section 5(2B) rights” to the end substitute “and any entitlement arising in respect of section 5(2B) rights.”.
- (9) In regulation 45 (approval of arrangements for schemes ceasing to be contracted out)—
  - (a) in paragraph (2)<sup>(56)</sup> omit “or section 28A of the Act (discharge of protected rights on winding up)”;
  - (b) in paragraph (3)<sup>(57)</sup>—
    - (i) for “sub-paragraph (a) or (b), as the case may be” substitute “sub-paragraph (a)”;
    - (ii) omit sub-paragraph (b);
  - (c) omit paragraph (4).
- (10) In regulation 46 (supervision of schemes that have ceased to contract out)—
  - (a) in paragraph (1)—
    - (i) omit “or (b)”;
    - (ii) for “paragraphs (2) to (4)” substitute “paragraphs (2) and (4)”;
  - (b) omit paragraph (3);
  - (c) in paragraph (4) omit “protected rights,”.
- (11) In regulation 50(a) (member to be informed of the option to restore state scheme rights) omit “or under section 28A of the Act (discharge of protected rights on winding up: insurance policies)”.
- (12) In regulation 63(2)(aa)<sup>(58)</sup> (provision of information about guaranteed minimum pensions) omit “or protected rights”.
- (13) In regulation 68 (additional modifications relating to transfers and increases of earnings factors by 12 per cent.)—
  - (a) in paragraph (1) after “section 24(2)(b) of the Act,” insert “as they had effect prior to the abolition date,”;
  - (b) in paragraph (3) after “section 24(2) of the Act” insert “as they had effect prior to the abolition date”.

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<sup>(55)</sup> The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11); see also section 50(1) of that Act in relation to the construction of references to the Commissioners of Inland Revenue in other enactments

<sup>(56)</sup> Paragraph (2) is amended by regulation 6(15) of S.R. 2012 No. 120

<sup>(57)</sup> Paragraph (3) was amended by regulation 3(3)(a) of S.R. 1997 No. 162

<sup>(58)</sup> Sub-paragraph (aa) was inserted by regulation 2(15)(b) of S.R. 2002 No. 109 and amended by Article 3(5) of S.R. 2009 No. 113

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

**13.**—(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**59**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the 1993 Act” insert—

““abolition date” means the day appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008;”;

(b) in the definition of “section 5(2B) rights”(**60**) at the end of paragraph (b)(ii) add “where that transfer payment was made before the abolition date”.

(3) In regulation 13A(**61**) (modification of section 8C where transfer payments are made to salary related contracted-out schemes) at the end of paragraph (b) add “where that transfer payment was made before the abolition date”.

### **Amendment of the Occupational Pension Schemes (Transfer Values) Regulations**

**14.**—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(**62**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 12(1) (requirements to be met by receiving schemes, annuities and arrangements) omit sub-paragraph (c).

(3) In Schedule 1A(**63**) (reductions in initial cash equivalents) omit paragraph 9.

### **Amendment of the Occupational Pension Schemes (Winding Up) Regulations**

**15.** In the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**64**) omit regulation 9 (relationship of these Regulations and requirements under section 28A of the Act).

### **Amendment of the Occupational Pension Schemes (Indexation) Regulations**

**16.** In regulation 1(2) of the Occupational Pension Schemes (Indexation) Regulations (Northern Ireland) 1997(**65**) (interpretation)—

(a) after the definition of “the Act”(**66**) insert—

““abolition date” means the day appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008(**67**);”;

(b) after the definition of “pension scheme” insert—

““protected rights” has the meaning given in section 6(**68**) of the Act, as it had effect immediately before the abolition date;”;

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(59) S.R. 1996 No. 618; relevant amending Regulations are S.R. 1997 No. 160 and S.R. 1999 No. 486

(60) The definition of “section 5(2B) rights” was substituted by paragraph 10(2)(b) of the Schedule to S.R. 1997 No. 160 and amended by regulation 8 of S.R. 1999 No. 486

(61) Regulation 13A was inserted by paragraph 10(6) of the Schedule to S.R. 1997 No. 160

(62) S.R. 1996 No. 619; relevant amending Regulations are S.R. 2008 No. 370

(63) Schedule 1A was inserted by regulation 8 of S.R. 2008 No. 370

(64) S.R. 1996 No. 621 to which there are amendments not relevant to this Order

(65) S.R. 1997 No. 8; relevant amending provisions are S.R. 2005 No. 170 and S.I. 2006/744

(66) The definition of “the Act” was inserted by regulation 3(a) of S.R. 2005 No. 170

(67) 2008 c.1 (N.I.)

(68) Section 6 was amended by paragraph 18 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I.22)), Article 29(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11) and paragraph 23 of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29) and is repealed by Part 3 of Schedule 10 to the Pensions (No. 2) Act (Northern Ireland) 2008

- (c) in the definition of “section 5(2B) rights”(69) at the end of paragraph (b)(ii) add “where that transfer payment was made before the abolition date”.

### **Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations**

17. In regulation 12(1)(b) of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(70) (requirement for trustees to keep books and records) omit head (vii).

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

18.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(71) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) omit the definition of “mixed benefit contracted-out scheme”(72).

(3) In regulation 5 (information to be made available to individuals)—

(a) in paragraph (5ZA)(b) and (f)(73) for “paragraph 6(1)(b) of Schedule 2” substitute “paragraph 6(1) of Schedule 2”;

(b) omit paragraph (5A)(74).

(4) In Schedule 1 (basic information about the scheme) omit paragraphs 12A(75) and 14.

(5) In Schedule 2 (information to be made available to individuals)—

(a) in paragraph 6—

(i) for sub-paragraph (1) substitute—

“(1) The value of the member’s accrued rights under the scheme at a specified date.”;

(ii) in sub-paragraph (2) for “sub-paragraph (1)(a) or (b) or both” substitute “sub-paragraph (1)”;

(b) omit paragraph 6A(76);

(c) in paragraph 8 after sub-paragraph (2)(77) add—

“(3) A statement that explains that the member’s protected rights will become ordinary scheme rights under pensions legislation from the date the scheme ceased to be a money purchase contracted-out scheme, and that where the member is married or has a civil partner, there is no longer a statutory requirement for the scheme to provide a survivor’s pension or annuity.”;

(d) omit paragraph 9(78);

(e) for paragraph 10(79) substitute—

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(69) The definition of “section 5(2B) rights” was substituted by regulation 3(b) of S.R. 2005 No. 170

(70) S.R. 1997 No. 94 to which there are amendments not relevant to this Order

(71) S.R. 1997 No. 98; relevant amending provisions are S.R. 1997 No. 160, S.R. 2002 No. 410, S.R. 2009 No. 113, S.R. 2010 No. 373 and S.R. 2012 No. 120

(72) The definition of “mixed benefit contracted-out scheme” was inserted by paragraph 19(2)(a) of the Schedule to S.R. 1997 No. 160

(73) Paragraph (5ZA) was inserted by regulation 3(3)(b) of S.R. 2002 No. 410 and was amended by regulation 3(5)(b) of S.R. 2010 No. 373

(74) Paragraph (5A) was inserted by paragraph 19(4)(a) of the Schedule to S.R. 1997 No. 160

(75) Paragraph 12A was inserted by paragraph 19(6) of the Schedule to S.R. 1997 No. 160

(76) Paragraph 6A was inserted by paragraph 19(7) of the Schedule to S.R. 1997 No. 160

(77) Sub-paragraph (2) is added by regulation 8(4)(c)(iii) of S.R. 2012 No. 120

(78) Paragraph 9 was amended by Article 5(b) of S.R. 2009 No. 113

(79) Paragraph 10 was amended by Article 5(c) of S.R. 2009 No. 113

“10. An account of the amount by which the member’s accrued rights have been reduced, and of the action taken by the trustees, or which is open to the member to take, in order, so far as may be possible, to restore the value of his accrued rights under the scheme.”.

### **Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations**

**19.** In regulation 12 of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997<sup>(80)</sup> (circumstances in which minimum contributions are not to be paid)—

(a) after paragraph (1) insert—

“(1A) Subject to paragraph (2), where the earner is no longer a member of the earner’s chosen scheme, minimum contributions in respect of that earner shall be paid—

- (a) to the trustees or managers of the earner’s chosen scheme, if the earner has become a member of another scheme, and the earner’s chosen scheme is able to transfer the payment to that other scheme;
- (b) to the trustees or managers of another scheme of which the earner is a member, if known to the Commissioners of Her Majesty’s Revenue and Customs, or
- (c) in all other circumstances, to the earner.”;

(b) in paragraph (2) after “(ways of giving effect to protected rights)” insert “as it had effect prior to the abolition date”;

(c) in paragraph (3) at the end add “, except where the earner is no longer a member of that scheme, in which case the minimum contributions shall instead be paid to the earner”;

(d) in paragraph (4) at the end add “, except where the earner is no longer a member of that scheme, in which case the additional amount of minimum contributions shall instead be paid to the earner”.

### **Amendment of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations**

**20.** In regulation 1(2) of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998<sup>(81)</sup> (interpretation) in the definition of “relevant employment” for “, rights to a guaranteed minimum pension or protected rights” substitute “or rights to a guaranteed minimum pension”.

### **Amendment of the Stakeholder Pension Schemes Regulations**

**21.—**(1) The Stakeholder Pension Schemes Regulations (Northern Ireland) 2000<sup>(82)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 3 (requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes) omit paragraph (7).

(3) In regulation 13(4)<sup>(83)</sup> (expenses, commission etc. – principles) omit sub-paragraph (a).

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<sup>(80)</sup> S.R. 1997 No. 139 to which there are amendments not relevant to this Order

<sup>(81)</sup> S.R. 1998 No. 208 to which there are amendments not relevant to this Order

<sup>(82)</sup> S.R. 2000 No. 262; relevant amending Regulations are S.R. 2001 No. 119

<sup>(83)</sup> Paragraph (4) was inserted by regulation 9(3) of S.R. 2001 No. 119

### **Amendment of the Occupational and Personal Pension Schemes (Pension Liberation) Regulations**

**22.** In regulation 2(2) of the Occupational and Personal Pension Schemes (Pension Liberation) Regulations (Northern Ireland) 2005(**84**) (modification of references to “transfer” in the Pension Schemes Act) for “sections 6 and 67 (protected rights and money purchase benefits; basic principle as to short service benefit), and any regulations made under either of those sections,” substitute “section 67 (basic principle as to short service benefit) and any regulations made under that section.”.

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

**23.**—(1) The Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006(**85**) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 1(2) (interpretation) omit the definition of “protected rights”.
- (3) In regulation 3 (non-application of the subsisting rights provisions) omit paragraph (d).

### **Amendment of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations**

**24.**—(1) The Pension Protection Fund (General and Miscellaneous Amendments) Regulations (Northern Ireland) 2006(**86**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) omit the definition of “appropriate personal pension scheme”.

(3) In regulation 7 (manner of discharge of liabilities in respect of money purchase benefits)—

(a) in paragraph (1)—

(i) omit “(or in the case of protected rights, given effect to)”;

(ii) for sub-paragraph (a) substitute—

“(a) a transfer payment to a personal pension scheme or an occupational pension scheme;”;

(b) omit paragraphs (2) and (3).

(4) In regulation 8 (further provision for discharge of liabilities in respect of money purchase benefits) for paragraph (5) substitute—

“(5) Where the money purchase beneficiary dies before the Board discharges those liabilities in relation to that beneficiary, the Board shall discharge those liabilities—

- (a) where there is a widow, widower or surviving civil partner, under the rules of the scheme within the limits specified in regulation 7(1), or
- (b) where there is no widow, widower or surviving civil partner, in accordance with paragraph 15 of Schedule 29 to the 2004 Act (uncrystallised funds lump sum death benefit).”.

### **Amendment of the Employment Equality (Age) Regulations (Northern Ireland)**

**25.** In paragraph 1(6) of Schedule 1 to the Employment Equality (Age) Regulations (Northern Ireland) 2006(**87**) (interpretation)—

- (a) before the definition of “active member” insert—

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(84) S.R. 2005 No. 193; regulation 2(2) was amended by Article 9 of S.R. 2009 No. 113

(85) S.R. 2006 No. 149 to which there are amendments not relevant to this Order

(86) S.R. 2006 No. 155 to which there are amendments not relevant to this Order

(87) S.R. 2006 No. 261; relevant amending Regulations are S.R. 2006 No. 453 and S.R. 2009 No. 113

- “abolition date” means the day appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008<sup>(88)</sup>”;
- (b) for the definition of “contracted-out rights”<sup>(89)</sup> substitute—
- “contracted-out rights” are such rights under, or derived from, an occupational pension scheme as fall within the following categories—
- (a) entitlement to payment of, or accrued rights to, guaranteed minimum pensions, or
- (b) section 5(2B) rights”;
- (c) in the definition of “protected rights”<sup>(90)</sup> after “section 6 of 1993 Act” insert “as it had effect immediately prior to the abolition date”;
- (d) in paragraph (b) of the definition of “section 5(2B) rights” in sub-paragraph (ii) after “April 1997” insert “where the transfer took place before the abolition date”.

## Revocations

26. The following provisions are revoked—
- (a) the Personal Pension Schemes (Compensation) Regulations (Northern Ireland) 1988<sup>(91)</sup>;
- (b) the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996<sup>(92)</sup>;
- (c) regulations 3, 9 and 16(2) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997<sup>(93)</sup>;
- (d) the Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations (Northern Ireland) 1997<sup>(94)</sup>.

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<sup>(88)</sup> 2008 c. 1 (N.I.)

<sup>(89)</sup> The definition of “contracted-out rights” was inserted by regulation 2(3)(a)(ii)(bb) of S.R. 2006 No. 453 and amended by Article 11 of S.R. 2009 No. 113

<sup>(90)</sup> The definitions of “protected rights” and “section 5(2B) rights” were inserted by regulation 2(3)(a)(ii)(mm) of S.R. 2006 No. 453

<sup>(91)</sup> S.R. 1988 No. 449 as amended by S.R. 1994 No. 300 and S.R. 2003 No. 256

<sup>(92)</sup> S.R. 1996 No. 94 as amended by S.R. 2003 No. 256, S.I. 2006/744, S.I. 2007/829 and S.R. 2009 No. 365

<sup>(93)</sup> S.R. 1997 No. 56; relevant amending provisions are S.R. 1997 No. 160, S.R. 2002 No. 109 and S.I. 2006/744

<sup>(94)</sup> S.R. 1997 No. 95 as amended by S.R. 2009 No. 113