

2013 No. 213

PENSIONS

**The Pension Protection Fund and Occupational Pension
Schemes (Miscellaneous Amendments) Regulations
(Northern Ireland) 2013**

Made - - - - *29th August 2013*

Coming into operation - *1st October 2013*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 68(2)(e) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(a), and now vested in it(b), and paragraph 25A(1) of Schedule 6 to the Pensions (Northern Ireland) Order 2005(c).

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 and shall come into operation on 1st October 2013.

Amendment of the Pension Protection Fund (Compensation) Regulations

2. In regulation 2C of the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005(d) (conditions subject to which periodic and lump sum compensation can be postponed) for paragraph (3) substitute—

“(3) The second condition is that the person must not have received or be receiving—

- (a) his pension (including any lump sum entitlement) under the scheme;
- (b) any periodic compensation in respect of his rights under the scheme, or
- (c) any lump sum compensation in respect of his rights under the scheme.”.

(a) S.I. 1995/3213 (N.I. 22)
(b) See Article 8(b) of S.R. 1999 No. 481
(c) S.I. 2005/255 (N.I. 1); paragraph 25A was substituted by paragraph 22 of Schedule 4 to the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.))
(d) S.R. 2005 No. 149; regulation 2C was inserted by regulation 7(4) of S.R. 2013 No. 95

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

3. After regulation 8 of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006(a) (modification of schemes: prescribed schemes) insert—

“Modification of schemes: reduction in the rate of pension

8A.—(1) The trustees of a scheme which, as at 5th April 2010, permits or otherwise provides for a reduction in the rate of pension taking effect upon a member reaching a specified age, not less than 60 and not more than 65, may by resolution modify the scheme for the purposes of permitting or otherwise providing instead for a reduction, of an equal or differing amount, in the rate of such a member’s pension to take effect at any time during the first permitted period.

(2) The trustees of a scheme which, as at 5th April 2010, permits or otherwise provides for a reduction in the rate of pension taking effect upon a member reaching the age of entitlement to state retirement pension, may by resolution modify the scheme for the purposes of permitting or otherwise providing instead for a reduction, of an equal or differing amount, in the rate of such a member’s pension to take effect at any time during the second permitted period.

(3) Any modification made under paragraph (2) must have no effect in respect of a pension in payment at the date such modification is made.

(4) A modification under paragraph (1) or (2) may not be made by the trustees unless it is reasonable in consequence of changes to the age at which members reach pensionable age in accordance with paragraph 1(b) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (rules for determining pensionable age).

(5) A modification under paragraph (1) or (2) may not be made unless—

- (a) the employer in relation to the scheme consents, or
- (b) in the case of a scheme where there is more than one employer—
 - (i) a person nominated by the employers, or otherwise in accordance with the scheme rules, to act as the employers’ representative (the “nominee”) consents, or
 - (ii) where there is no such nominee, all of the employers in relation to the scheme consent other than any employer who has waived his right to give such consent.

(6) In this regulation—

“the first permitted period” means the period beginning with the day on which a member reaches the age of 60 and ending with the day on which a member reaches pensionable age in accordance with paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995;

“the second permitted period” means the period beginning with the day on which a member reaches the age of 60 and ending with the day on which a member reaches the age of 65.”.

Sealed with the Official Seal of the Department for Social Development on 29th August 2013

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) S.R. 2006 No. 149 to which there are amendments not relevant to these Regulations
(b) Paragraph 1 was amended by paragraph 28 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), paragraph 8 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)), paragraph 4 of Schedule 3 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) (as amended by paragraph 6 of Schedule 1 to the Pensions Act (Northern Ireland) 2012) and section 1 of the Pensions Act (Northern Ireland) 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations clarify one of the eligibility conditions which must be satisfied to enable the postponement of a payment of compensation from the Board of the Pension Protection Fund. They also allow trustees to modify their scheme rules by way of resolution, for the purposes of altering the amount and timing of a reduction in the rate of a pension provided for under pre-existing scheme rules.

Regulation 2 substitutes regulation 2C(3) of the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005, which sets out one of the conditions that must be satisfied in order for a person to be eligible to postpone payment of compensation due in respect of an occupational pension scheme from the Board of the Pension Protection Fund. The condition is that the person must not have received any pension under, or compensation in respect of, that scheme. Substituted paragraph (3) clarifies this condition.

Regulation 3 inserts regulation 8A into the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 to give trustees the option to modify, by resolution, existing scheme rules which, as at 5th April 2010, provide for a reduction in the amount of pension upon a member reaching either the age of entitlement to state retirement pension or a specified age of not less than 60 and not more than 65. Regulation 8A allows trustees to alter the amount and timing of such a reduction. However, no pension in payment can be affected by a modification to scheme rules which, prior to that modification, allow for a reduction in the rate of pension upon a member reaching the age of entitlement to state retirement pension. Trustees may only make a modification to scheme rules which is reasonable in consequence of changes to the age at which members reach the age of entitlement to state retirement pension, for example, where without a modification to its rules the scheme could incur significant, unanticipated costs or members might face financial hardship. A modification may only be made to scheme rules where provisions requiring the consent of any employer in relation to the scheme have been complied with.

The Pensions (2012 Act) (Commencement No. 3) Order (Northern Ireland) 2013 (S.R. 2013 No. 83 (C. 5)) provides for the coming into operation of paragraph 22 of Schedule 4 to the Pensions Act (Northern Ireland) 2012, which substitutes paragraph 25A of Schedule 6 to the Pensions (Northern Ireland) Order 2005, one of the enabling provisions under which these Regulations are made, on 27th March 2013.

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 to consult under Article 117(1) of the Pensions (Northern Ireland) Order 1995 and Article 289(1) of the Pensions (Northern Ireland) Order 2005 does not apply by virtue of paragraph (2)(e) of each of those Articles.

An assessment of the impact of the postponement of pension compensation is included in the Regulatory Impact Assessment which accompanied the Pensions Act (Northern Ireland) 2012, a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of that 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 or from the website: <http://www.dsdni.gov.uk/index/ssa/ssani-publications/ssani-pensions-publications.htm>.

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