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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 618**

**The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996**

**Part I**

**General**

**Citation, commencement and interpretation**

**1.—(1)** These Regulations may be cited as the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1997.

**(2)** In these Regulations—

“the 1985 Regulations” means the Contracting-out (Transfer) Regulations (Northern Ireland) 1985(1);

“the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993;

“accrued rights”, for the purposes of Parts II and IV, has the meaning given to that expression in section 16(6);

“appropriate personal pension scheme” shall be construed in accordance with section 3(2);

“appropriate policy” means a policy of insurance or an annuity contract such as is described in section 15(4);

“appropriately secured” has the meaning given to that expression in section 15(3);

“connected employer transfer” and “connected employer transfer payment” mean respectively a transfer of guaranteed minimum pensions from a salary related contracted-out scheme to a salary related contracted-out scheme and a transfer payment in respect of section 5(2B) rights from a salary related contracted-out scheme to a salary related contracted-out scheme where either—

- (a)** the transferring scheme and the receiving scheme apply to employment with the same employer, or
- (b)** the transferring scheme and the receiving scheme apply to employment with different employers, the earner or person concerned is one of a group of persons in respect of whom transfers or transfer payments are being made from the transferring scheme to the receiving scheme, and either—
  - (i)** the transfer or transfer payment is a consequence of a financial transaction between the employers;

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**(1)** [S.R. 1985 No. 243](#), as amended by [S.R. 1985 No. 259](#), [S.R. 1986 Nos. 57 and 342](#), [S.R. 1987 Nos. 277 and 292](#), [S.R. 1988 No. 108](#) and [S.R. 1994 No. 300](#)

**(2)** Section 3 is amended by Article 133(1) of, and paragraph 15 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995

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- (ii) each of the employers is one of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986(3), or
- (iii) the employers are associated employers within the meaning of section 590A(3) and (4) of the Income and Corporation Taxes Act 1988(4);

“earner” includes an earner who is not in employment at the time of the transfer or transfer payment;

“money purchase contracted-out scheme” means an occupational pension scheme which is contracted-out by virtue of satisfying section 5(3)(5);

“overseas arrangement” means a scheme or arrangement, other than an occupational pension scheme, which—

- (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to, or in respect of, earners;
- (b) is not an appropriate personal pension scheme, and
- (c) is administered wholly or primarily outside the United Kingdom;

“overseas scheme” means an occupational pension scheme which is administered wholly or primarily outside the United Kingdom but does not include one which is contracted-out within the meaning of section 3(3) nor one in respect of which section 49(6) applies;

“the principal appointed day” has the meaning given to that expression in section 3(2B)(7);

“salary related contracted-out scheme” means an occupational pension scheme which is contracted-out by virtue of satisfying section 5(2)(8);

“scheme” means an occupational pension scheme or a personal pension scheme;

“section 5(2B) rights” are—

- (a) rights (other than rights attributable to voluntary contributions within the meaning of section 107) which are attributable to an earner’s service on or after the principal appointed day in employment which is contracted-out in accordance with section 5(2B), and
- (b) where a transfer payment has been made to a salary related contracted-out scheme in respect of rights mentioned in paragraph (a) or of post-97 protected rights (as defined in regulation 1(2) of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(9)), any rights arising under that scheme as a consequence of that payment, or, where only part of it was made in respect of such rights, of that part of it;

“trustees”, in relation to a scheme which is not set up or established under a trust, means the managers of the scheme.

(3) The Interpretation Act (Northern Ireland) 1954(10) shall apply to these Regulations as it applies to a Measure of the Assembly.

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(3) S.I.1986/1032 (N.I. 6); Articles 4 and 4A were substituted for Article 4 by Article 62(1) of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))

(4) 1988 c. 1; section 590A was inserted by paragraph 4 of Schedule 6 to the Finance Act 1989 (c. 26). See also paragraph 18(2) of Schedule 6 to that Act

(5) Section 5(3) is amended by Article 133(4) of, and paragraph 17 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995

(6) Section 49 applies to occupational pension schemes by virtue of section 48(1) of the Pension Schemes (Northern Ireland) Act 1993. Section 49 is amended by paragraph 40 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(7) Section 3(2B) was inserted by Article 133(1) of the Pensions (Northern Ireland) Order 1995

(8) Section 5(2) to (2C) was substituted for section 5(2) by Article 133(3) of the Pensions (Northern Ireland) Order 1995

(9) S.R. 1996 No. 509.

(10) 1954 c. 33 (N.I.)

(4) In these Regulations any reference to a numbered section is a reference to the section of the 1993 Act bearing that number.