
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 620

PENSIONS

**The Personal and Occupational Pension Schemes
(Preservation of Benefit and Perpetuities)
(Amendment) Regulations (Northern Ireland) 1996**

Made - - - - 31st December 1996

Coming into operation 6th April 1997

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 67(6), 69(2) and (4), 70(8), 73(5)(c) and (6), 78(1), 109(1), 149(2)(c), 159(6), 161(5), 164(1) and (4) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(1) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Preservation of Benefit and Perpetuities) (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1997.

(2) The Interpretation Act (Northern Ireland) 1954(2) shall apply to these Regulations as it applies to a Measure of the Assembly.

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

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(3) shall be amended in accordance with paragraphs (2) to (18).

(2) For regulation 1(2)(4) (interpretation) there shall be substituted—

“(2) In these regulations—

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

“scheme” means an occupational pension scheme.”.

(1) 1993 c. 49; section 159(6) was amended by paragraph 14 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22)) and section 164 was substituted by Article 151(1) of that Order
(2) 1954 c. 33 (N.I.)
(3) S.R.1991 No. 37; relevant amending regulations are S.R. 1992 No. 304, S.R. 1993 No. 324, S.R. 1994 No. 300 and S.R. 1995 No. 441
(4) Regulation 1(2) was amended by paragraph 26(2) of Schedule 2 to S.R. 1994 No. 300

(3) In regulation 5(1)(5) (short service benefit in lump sum form) the words from “or any other circumstances” to the end shall be omitted.

(4) Regulation 7(3) and (4)(6) (alternatives to short service benefit) shall be omitted.

(5) In regulation 9(5)(c)(7) (bought out benefits) for “the Board” there shall be substituted “the trustees or managers of the scheme”.

(6) After regulation 11 (value of alternatives to short service benefit) there shall be inserted—

“Further alternative to short service benefit — transfer to an overseas arrangement

11A.—(1) For the purposes of section 69(2) of the Act (alternatives to short service benefit) a scheme may, instead of providing short service benefit, provide for the member’s accrued rights to be transferred, if the member consents, to an overseas arrangement.

(2) For the purposes of paragraph (1) “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 scheme; and

(c) is administered wholly or primarily outside the United Kingdom.”.

(7) In regulation 12(8) (transfer of member’s accrued rights without consent)—

(a) in paragraph (2)(b)(ii) for the words from “any of” to the end there shall be substituted “regulation 64(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(9) (meaning of “connected employer”)”, and

(b) after paragraph (4A) there shall be inserted—

“(4B) Where it is proposed that a member’s accrued rights are to be transferred in accordance with this regulation, information about the proposed transfer and details of the value of the rights to be transferred (including rights in respect of death in service benefits and survivors’ benefits) shall be furnished to the member not less than one month before the proposed transfer is due to take place.”

(8) In regulation 13(10) (benefits attributable to waiting periods)—

(a) in paragraphs (1)(b) and (2)(c) “, in the Board’s opinion,” shall be omitted;

(b) in paragraph (3) for the words from “the Board” to the end there shall be substituted “the waiting period does not exceed 2 years.”.

(9) Regulation 14(4)(11) (computation of benefit — money purchase benefits) shall be omitted.

(10) After regulation 14 there shall be inserted—

“Circumstances in which uniform accrual does not apply — money purchase benefits

14A.—(1) In the case of a scheme providing money purchase benefits, section 70 of the Act (computation of short service benefit) applies with the following modifications.

(5) Regulation 5(1) was amended by paragraph 26(6) of Schedule 2 to S.R. 1994 No. 300

(6) Regulation 7(3) was amended by paragraph 26(10) of Schedule 2 to S.R. 1994 No. 300

(7) Regulation 9(5) was amended by paragraph 26(13) of Schedule 2 to S.R. 1994 No. 300

(8) Regulation 12 was amended by regulation 35 of S.R. 1992 No. 304, regulation 2 of S.R. 1993 No. 324, paragraph 26(16) of Schedule 2 to S.R. 1994 No. 300 and regulation 3(4) of S.R. 1995 No. 441

(9) S.R. 1996 No. 493

(10) Regulation 13(3) was amended by paragraph 26(7) of Schedule 2 to S.R. 1994 No. 300

(11) Regulation 14(4) was amended by paragraph 26(17) of Schedule 2 to S.R. 1994 No. 300

(2) In subsection (6) after “it must” there shall be inserted “, subject to subsection (6A),” and after subsection (6) there shall be inserted—

“(6A) If the requirement set out in subsection (6B) is satisfied in relation to a scheme, so much of any money purchase benefits provided by the scheme as would otherwise be required to be computed in accordance with subsection (6) must be computed in accordance with subsection (1).

(6B) The requirement is that, when calculated in relation to a hypothetical member who, at any given age and when in receipt of any given salary from the relevant employment equal to any of the indicative salaries specified in subsection (6C)(b), begins to accrue money purchase benefits in the scheme and continues to do so for a period ending before he attains normal pension age and comprising any given number of years (but not less than 2)—

- (a) in the case of at least 90 per cent. of such hypothetical members the amount of the fund (“F”) which the member could have been expected to accumulate at the end of the period is equal to or more than an amount (“G¹”) calculated in accordance with subsection (6C)(d) and corresponding to a proportion of the fund (“G”) which he could have been expected to accumulate had he continued to accrue money purchase benefits until normal pension age, and
- (b) in the case of all such hypothetical members, F is not less than 90 per cent. of G¹.

(6C) For the purposes of determining whether the requirement set out in subsection (6B) is satisfied—

- (a) F and G shall be calculated in accordance with the contribution structure provided for in the scheme rules, applying the following actuarial assumptions—
 - (i) a rate of gross investment return of 8 per cent. per annum;
 - (ii) a rate of salary escalation of 5¾ per cent. per annum up to normal pension age;
 - (iii) where it is necessary to predict the rate of future price inflation (for example where the contributions structure of the scheme is related to the lower or upper earnings limits) a rate of future price inflation of 3¾ per cent. per annum;
- (b) indicative salaries are—
 - (i) ¾ of the upper earnings limit in force for the date on which the calculation is made;
 - (ii) 1½ times that limit, and
 - (iii) except in cases where more than 90 per cent. of members accruing money purchase benefits in the scheme earn below 3 times that limit, 3 times that limit;
- (c) in calculating F and G there may be disregarded—
 - (i) so much of any benefit as derives from the payment of minimum payments or payments under section 38A(3) of the Act(12) (age-related rebates), and
 - (ii) where a scheme provides for members to have the option to increase their contributions after attaining a specified age or completing a specified period of service, so much of any benefit as would accrue at a higher rate if a member exercised that option;
- (d) G¹ shall be calculated in accordance with the following formula—

$$G^1 = G \times (N/NS) \times (1/1.08)^{(NS-N)} \times (1.0375/1.0575)^{(NS-N)}$$

where—

N = the number of years in the period referred to in subsection (6B), and

NS = the number of years from the date on which that period commences to the date on which the member attains normal pension age.

(6D) Where a scheme has differing contribution structures each of which relates to a specific category of member (not being a category defined by age or length of service) subsections (6A) to (6C) shall apply to each such category as though the members falling within it were members of a separate scheme.””

(11) In regulation 16(3) (computation of benefit — uniform accrual) for “the Board” there shall be substituted “they”.

(12) Regulation 18(13) (commutation of benefit) is hereby revoked.

(13) In regulation 20(14) (deductions from short service benefit)—

(a) in paragraph (2) the words from “The basis for” to the end shall be omitted;

(b) paragraph (3) shall be omitted.

(14) In regulation 24(3)(a) (schemes funded by level annual premiums) “, in the Board’s opinion,” shall be omitted.

(15) In regulation 25(4)(a) (schemes with an overseas element) “, in the Board’s opinion,” shall be omitted.

(16) Regulation 26(15) (transfers to overseas schemes) is hereby revoked.

(17) In regulation 27(2) (specific provisions to be included in scheme rules)—

(a) for “may be treated by the Board” there shall be substituted “shall be treated”;

(b) in sub-paragraph (b) for the words from the beginning to “members of the scheme” there shall be substituted “members and prospective members have been notified”.

(18) After regulation 27 there shall be inserted—

“Information to be furnished to early leavers

27A.—(1) The trustees or managers of any scheme shall furnish in writing the information specified in paragraph (2)—

(a) as of course to any person as soon as practicable and, in any event, within 2 months after he or his employer has notified the trustees that his pensionable service has terminated; and

(b) to any member or prospective member on request (not being a request made less than 12 months after the last occasion on which such information was furnished to him) as soon as practicable and, in any event, within 2 months after he requests it.

(2) The information referred to in paragraph (1) is information as to the rights and options (if any) available to a member whose pensionable service terminates before he attains normal pension age.

(3) The trustees or managers of any scheme must furnish in writing the information specified in paragraph (4) on request (not being a request made—

(a) after such information has already been furnished to the same person in a case where the information was that no refund of contributions would be available in any circumstances; or

(13) Regulation 18 was amended by paragraph 26(19) of Schedule 2 to [S.R. 1994 No. 300](#)

(14) Regulation 20 was amended by paragraph 26(20) of Schedule 2 to [S.R. 1994 No. 300](#)

(15) Regulation 26 was amended by paragraph 26(24) of Schedule 2 to [S.R. 1994 No. 300](#)

- (b) less than 12 months after the last occasion on which such information was furnished to the same person, in any other case),

to any person who has paid contributions to the scheme which have not been refunded, as soon as practicable and, in any event, within 2 months after he requests it.

(4) The information referred to in paragraph (3) is information as to whether a refund of contributions is available or would be available in any circumstances, and in either case, an estimate of the amount of the refund and an explanation of the method of calculating it.

Offence and penalties

27B. Where a person fails, without reasonable excuse, to comply with any requirement imposed on him by regulation 12(4B) (requirement to provide information regarding a transfer of accrued rights without consent) or 27A, the Occupational Pensions Regulatory Authority may require him to pay, within 28 days a penalty which—

- (a) in the case of an individual, shall not exceed £1,000, and
(b) in any other case, shall not exceed £10,000.”.

Amendment of the Personal and Occupational Pension Schemes (Perpetuities) Regulations

3. In regulation 4 of the Personal and Occupational Pension Schemes (Perpetuities) Regulations (Northern Ireland) 1990(16) (schemes that cease to qualify under section 159 of the Act) for “Occupational Pensions Board consider” there shall be substituted “Department considers”.

Transitional arrangements — application of uniform accrual to money purchase benefits

4. Where, prior to the coming into operation of the amendments made by regulation 2(9) and (10), short service benefit which would otherwise have been required to be computed in accordance with uniform accrual has been computed on the same basis as long service benefit, in accordance with a determination of the Occupational Pensions Board under regulation 14(4) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991, then, until such time as there is a change in the rules of the scheme affecting the rate at which benefits accrue, the scheme may continue to compute short service benefit on that basis.

Revocations

5. In paragraph 26 of Schedule 2 to the Occupational and Personal Pension Schemes (Consequential Amendments) Regulations (Northern Ireland) 1994(17) sub-paragraphs (2), (10), (19), (20) and (24) are hereby revoked.

(16) S.R. 1990 No. 204; amended by S.R. 1994 No. 300

(17) S.R. 1994 No. 300

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 31st December 1996.

L.S.

John O'Neill
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991 (“the Preservation Regulations”) and the Personal and Occupational Pension Schemes (Perpetuities) Regulations (Northern Ireland) 1990 (“the Perpetuities Regulations”).

Regulation 2 amends the Preservation Regulations—

paragraphs (3) to (5), (8), (9), (11) and (12) to (17) provide for the removal of the provision for the Occupational Pensions Board (“OPB”), which is being dissolved, to exercise discretion in certain cases;

paragraph (6) provides for the transfer of rights to an overseas arrangement to be an alternative to short service benefit;

paragraph (10) introduces a test to determine whether uniform accrual is to be applied to money purchase benefits;

paragraphs (7) and (18) insert requirements (formerly in the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986 (S.R. 1986 No. 225)) for members to be furnished with information in relation to any transfer of accrued rights without consent or in relation to rights on termination of pensionable service. Paragraph (18) also imposes a civil penalty for failure to comply with the requirements to provide such information.

Regulation 3 amends regulation 4 of the Perpetuities Regulations in relation to the extension of the time limit under that regulation, by substituting a reference to the Department for the reference to the OPB.

Regulation 4 is a transitional provision relating to cases where the OPB have given their approval under regulation 14(4) of the Preservation Regulations for uniform accrual not to be applied in relation to the computation of money purchase benefits.

Regulation 5 makes consequential revocations.