
EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations relate to the payment of compensation to occupational pension schemes by the Pensions Compensation Board (“the Board”), as provided for under Articles 79 to 83 (“the compensation provisions”) of the Pensions (Northern Ireland) Order 1995 (“the Order”).

Regulation 1 provides for the citation, commencement and interpretation of the Regulations.

Regulation 2 provides for exemptions to the compensation provisions.

Article 79(1) of the Order specifies the conditions which must be met for a scheme to establish eligibility for compensation. Article 79(1)(c) of the Order provides that the value of the scheme assets must have been reduced and that there must be reasonable grounds for believing that the reduction is attributable to an act or omission constituting a prescribed offence. Regulation 3 provides that the prescribed offence is one involving dishonesty.

Regulation 4 sets out who may make an application for compensation.

Article 81(3) of the Order provides that the amount of compensation must not exceed, firstly, 90 per cent. of the reduction falling within Article 79(1)(c) of the Order at the application date (“the shortfall”) together with interest on the shortfall at the prescribed rate for the prescribed period, and secondly, in the case of a salary-related scheme, the amount required to restore the scheme to a funding level of 90 per cent. at the date after which the Board determine further recoveries of value are unlikely to be made without disproportionate cost or within a reasonable time. Regulation 5 provides that the total amount of compensation paid shall equal whichever is the lower of those amounts, and makes provision as to the manner in which such amounts are to be calculated.

Regulation 6 concerns payments made in anticipation of a final payment of compensation. It specifies the liabilities which a scheme must be unable to meet, either fully or in part, before anticipatory payments can be made; lays down criteria by reference to which such payments are to be calculated; and prescribes the circumstances in which such payments may not be recovered.

Regulations 7 to 10 provide for modification of the compensation provisions, where some but not all the benefits that a scheme provides are money purchase benefits (regulation 7), where a scheme applies to earners in employments under different employers (regulation 8), where only part of a scheme is approved for tax exemption purposes (regulation 9), and where all the benefits that a scheme provides (other than death benefits) are money purchase benefits (regulation 10).

These Regulations are made under Articles 56(3), 79(1)(c) and (2), 80(1), 81(2) and (3)(a), 82(1)(b) to (3), 84, 122(2) and 166(1) to (3) of the Order. The Pensions (1995 Order) (Commencement No. 2) Order (Northern Ireland) 1996 (S.R. 1996 No. 91 (C. 4)) provides for the coming into operation of Article 56, for the purpose only of authorising the making of regulations, and Article 166, in so far as it was not already in operation, on 6th April 1996. The Pensions (1995 Order) (Commencement No. 4) Order (Northern Ireland) 1996 (S.R. 1996 No. 307 (C. 18)) provides for the coming into operation of Article 79(1)(c) and (2), 80(1), 81(2) and (3)(a), 82(1)(b), (2) and (3) and 84, for the purpose only of authorising the making of regulations, on 23rd July 1996. The Pensions (1995 Order) (Commencement No. 5) Order (Northern Ireland) 1996 (S.R. 1996 No. 534 (C. 25)) provides for the coming into operation of Article 122(2), in so far as it was not already in operation, on 19th November 1996.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great

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Britain, the requirement for consultation under Article 117(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.