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STATUTORY RULES OF NORTHERN IRELAND

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**1997 No. 96**

**The Occupational Pension Schemes (Payments to Employers) Regulations (Northern Ireland) 1997**

Miscellaneous

**Modification of schemes**

- 11.** For the purposes of Article 69 (grounds for applying for modifications)—
- (a) a further requirement prescribed for the purposes of Article 69(3)(a) (which provides for modification of schemes for the purpose of reducing or eliminating a surplus) is that the second notice referred to in regulation 4 also advises the member of the requirement for an order under that Article;
  - (b) the prescribed requirements referred to in Article 69(3)(b) (which provides for modification of schemes for the purposes of distributing excess assets on winding up) are—
    - (i) any requirements under Article 76(3) or (4) or regulation 7 which must be satisfied before a power to distribute assets to the employer on a winding up can be exercised;
    - (ii) a requirement that the trustees are satisfied that any proposal to distribute excess assets to the employer is in the interests of the members; and
    - (iii) a requirement that the second notice referred to in regulation 7 also advises the member of the requirement for an order under Article 69(3)(b) and both the first and second notices referred to in that regulation also advise the member of the requirement referred to in sub-paragraph (ii).

**Schemes with more than one employer**

- 12.—(1)** Where a scheme in relation to which there is more than one employer is divided into 2 or more sections and the provisions of the scheme are such that—
- (a) different sections of the scheme apply to different employers or groups of employers (whether or not more than one section applies to any particular employer or groups including any particular employer);
  - (b) contributions payable to the scheme by an employer, or by a member in employment under that employer, are allocated to that employer's section (or, if more than one section applies to the employer, the section which is appropriate in respect of the employment in question); and
  - (c) a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section,

Articles 37, 76 and 77 and these Regulations shall apply as if each section of the scheme were a separate scheme.

- (2) Where—

- (a) a scheme which has been such a scheme as is mentioned in paragraph (1) is divided into 2 or more sections some or all of which apply only to members who are not in pensionable employment under the scheme; and
- (b) the provisions of the scheme have not been amended so as to prevent the conditions in paragraph (1)(a) to (c) being satisfied in relation to 2 or more sections; but
- (c) those conditions have ceased to be satisfied in relation to one or more sections (whether before or after 6th April 1997) by reason only of there being no members in pensionable service under the section and no contributions which are to be allocated to it,

Articles 37, 76 and 77 and these Regulations shall apply as if each section in relation to which those conditions have ceased to be satisfied were a separate scheme.

- (3) Where on the winding up of a scheme—
  - (a) the liabilities of the scheme are satisfied in accordance with the requirements of Article 73; and
  - (b) paragraph (1) or (2) would apply to the scheme but for the fact that undistributed assets attributable to one section (“the first section”) may be applied to another section if—
    - (i) the annual rates of pension under the first section have been increased by the appropriate percentage; and
    - (ii) in relation to that section, additional benefits have been provided or the value of any benefits has been increased within the limits referred to in regulation 10,

Articles 76 and 77 and regulations 7 to 10 shall apply as if each section of the scheme were a separate scheme.

(4) In paragraph (3)(b)(i) “annual rate”, “appropriate percentage” and “pension” have the same meaning as in Articles 76 and 77.

### **Other multi-employer schemes**

**13.** In the application of Article 37(4) to a scheme in relation to which there is more than one employer (other than a scheme to which regulation 12 applies), Article 37(4)(c) has effect with the substitution for “employer”, where it appears for the second time, of “person whom the employers nominate to act as their representative for the purposes of this sub-paragraph or, if no such nomination is made, all the employers”.

### **Exemptions**

- 14.** Articles 37 and 76 do not apply to a scheme where—
  - (a) any Minister of the Crown or government department has given a guarantee or made any other arrangements for the purpose of securing that the assets of the scheme are sufficient to meet its liabilities; or
  - (b) arrangements for the payment of any surplus or for the distribution of any excess assets on the winding up of the scheme are provided for by virtue of any enactment or are subject to the approval of any Minister of the Crown or government department.

### **Revocations and savings**

- 15.—(1)** Subject to paragraph (2), the following provisions are hereby revoked—
  - (a) the Occupational Pension Schemes (Transitional Provisions and Savings) Regulations (Northern Ireland) 1990(1);

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(1) S.R. 1990 No. 306, amended by S.R. 1991 No. 15

- (b) regulations 2 and 3 of the Occupational Pension Schemes (Modification) Regulations (Northern Ireland) 1990<sup>(2)</sup>;
- (c) the Occupational Pension Schemes (Transitional Provisions and Savings) (Amendment) Regulations (Northern Ireland) 1991<sup>(3)</sup>;
- (d) sub-paragraphs (2), (4), in so far as it relates to regulations 2(1) and 3(1) of the Occupational Pension Schemes (Modification) Regulations (Northern Ireland) 1990, and (5) of paragraph 23 of Schedule 2 to the Occupational and Personal Pension Schemes (Consequential Amendments) Regulations (Northern Ireland) 1994<sup>(4)</sup>.

(2) The provisions referred to in paragraph (1) shall continue to have effect, as if these Regulations had not been made and sections 104 and 132 of the Pension Schemes Act<sup>(5)</sup> had not been repealed, in the case of—

- (a) any payment to the employer out of funds held for the purposes of the scheme where an application to modify the scheme rules for the purposes of making that payment has been made before 6th April 1997; or
- (b) any distribution of excess assets to the employer in relation to a scheme which begins to be wound up before 6th April 1997.

(3) For the purposes of paragraph (2), the date on which a scheme begins to be wound up shall be determined in the same manner as it is determined for the purposes of any regulations made under Article 73.

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(2) [S.R. 1990 No. 379](#), amended by [S.R. 1994 No. 300](#)

(3) [S.R. 1991 No. 15](#)

(4) [S.R. 1994 No. 300](#)

(5) Sections 104 and 132 are repealed by respectively, paragraph 16 of Schedule 1 to, and Article 157 of, the Pensions (Northern Ireland) Order 1995