

**2002 No. 268**

**PENSIONS**

**The Stakeholder Pension Schemes (Amendment No. 2)  
Regulations (Northern Ireland) 2002**

*Made* - - - - - *9th August 2002*

*Coming into operation* *9th September 2002*

The Department for Social Development, in exercise of the powers conferred by Articles 3(1)(b) and 73(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(a), and now vested in it(b), 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 Stakeholder Pension Schemes (Amendment No. 2) Regulations (Northern Ireland) 2002 and shall come into operation on 9th September 2002.

(2) In these Regulations any reference to a numbered regulation is a reference to the regulation bearing that number in the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000(c).

**Amendment of regulation 1**

2. In regulation 1(4) (citation, commencement and interpretation) for “regulations 4(3) and 11(4)” there shall be substituted “regulation 4(3)”.

**Amendment of regulation 11**

3.—(1) Regulation 11(d) (requirement for manager of schemes not established under a trust to appoint a reporting accountant) shall be amended in accordance with paragraphs (2) to (6).

(2) For paragraph (4) there shall be substituted the following paragraph –

“(4) A person is eligible for appointment as the reporting accountant only if he is eligible under Article 28 of the Companies (Northern Ireland) Order 1990 (eligibility for appointment)(e) for appointment as a company auditor.”

(3) In paragraph (6) for “within one month of his receiving” there shall be substituted “by the end of one month beginning with the date he received”.

(4) In paragraph (7) the words “(including where he resigns solely or partly because he is required to do so by paragraph (7A))” shall be omitted.

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(a) S.I. 1999/3147 (N.I. 11)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) S.R. 2000 No. 262; relevant amending regulations are S.R. 2001 No. 119 and S.R. 2002 No. 216

(d) Regulation 11 was amended by regulation 7 of S.R. 2001 No. 119

(e) S.I. 1990/593 (N.I. 5)

- (5) In paragraph (7A)(a) –
- (a) for “not satisfying the conditions” there shall be substituted “not or no longer being a person who satisfies the condition”;
- (b) for sub-paragraph (c) there shall be substituted the following sub-paragraph –  
 “(c) he shall resign (with immediate effect) by notice in writing immediately he becomes aware that he is ineligible;”;
- (c) in sub-paragraph (e) the words –
- (i) “notwithstanding sub-paragraph (c),”;
- (ii) “are or”, and
- (iii) “, or should reasonably be or become aware,”,  
 shall be omitted.
- (6) For paragraphs (8) and (9)(b) there shall be substituted the following paragraphs –
- “(8) Except in cases falling within paragraph (9), where the reporting accountant is removed by the trustees or manager or resigns or dies, the trustees or manager shall appoint, in accordance with this regulation, another reporting accountant –
- (a) as soon as is required in order to ensure that the provisions of regulation 12(2)(b) and (8) are complied with, and
- (b) in any event, by the end of 3 months beginning with the date of that removal, resignation or death.
- (9) Where under paragraph (7A) the reporting accountant resigns with immediate effect or is removed, the trustees or manager shall appoint, in accordance with this regulation, another reporting accountant –
- (a) as soon as is required in order to ensure that the provisions of regulation 12(2)(b) and (8) are complied with, and
- (b) in any event, by the end of one month beginning with the date of that resignation or removal.”.

#### **Amendment of regulation 12**

4. For regulation 12(c) (requirement for annual declaration) there shall be substituted the following regulation –

##### **“Requirement for declaration by trustees or manager**

**12.**—(1) For the purposes of Article 3(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Subject to paragraph (11), the trustees or manager of the scheme shall, no later than the end of 6 months beginning with each reporting date –

- (a) make a declaration in writing signed by the trustees or manager containing the statements set out in paragraph (5) in relation to the reporting period or, in so far as they are unable to make those statements, containing a statement explaining why they are unable to do so, and
- (b) obtain from the reporting accountant the statement specified in paragraph (7) or, in so far as the reporting accountant is unable to make that statement, a statement from the reporting accountant explaining why he is unable to do so.

(3) Subject to paragraph (10), in this regulation “reporting date” means –

- (a) in the case of the first reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date on which the scheme is registered under Article 4, and

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(a) Paragraph (7A) was inserted by regulation 7(8) of S.R. 2001 No. 119

(b) Paragraph (9) was inserted by regulation 7(10) of S.R. 2001 No. 119

(c) Regulation 12 was amended by regulation 8 of S.R. 2001 No. 119 and regulation 2(3) of S.R. 2002 No. 216

- (b) in the case of each subsequent reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date immediately following the previous reporting date.
- (4) Subject to paragraph (10), in this regulation “reporting period” means –
  - (a) in the case of the first reporting period, the period beginning on the date of registration of the scheme under Article 4 and ending on the first reporting date;
  - (b) in the case of subsequent reporting periods, the period beginning on the date immediately following the previous reporting date and ending on the reporting date.
- (5) The statements specified in paragraph (2)(a) shall be –
  - (a) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that –
    - (i) regulations 13 and 14(a) have been complied with in relation to the scheme;
    - (ii) transactions for the purposes of the scheme in securities, property or other assets have occurred at a fair market value;
    - (iii) the value of members’ rights has been determined in accordance with the provisions in the instruments establishing the scheme, and
    - (iv) adequate records have been maintained for the purposes of providing to members the statement required by regulation 18(2)(b);
  - (b) a statement describing the process that the trustees or manager have or has undertaken in order to arrive at the opinion expressed in the statement described in sub-paragraph (a);
  - (c) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that the scheme has complied with the conditions in Article 3(1), apart from those conditions that are covered by the statement in sub-paragraph (a), and
  - (d) a statement which explains that –
    - (i) regulations 13 and 14 impose limits on the amount of charges and deductions which may be made by a stakeholder pension scheme and on the manner in which charges may be made by such a scheme, and
    - (ii) regulation 18(2) requires a stakeholder pension scheme to provide an annual benefit statement to each member.
- (6) The trustees or manager shall provide the reporting accountant with documentation to demonstrate that the process described in the statement in paragraph (5)(b) has taken place.
- (7) The statement specified in paragraph (2)(b) shall be a statement that –
  - (a) the reporting accountant has been provided with documentation as required by paragraph (6), and
  - (b) nothing has come to the attention of the reporting accountant that is inconsistent with the statement made in paragraph (5)(b).
- (8) The trustees or manager shall make available to members and beneficiaries of the scheme on request the declaration made by the trustees or manager and the statement obtained from the reporting accountant in accordance with paragraph (2).
- (9) If the statement to be obtained by the trustees or manager under paragraph (2)(b) is obtained from the reporting accountant acting as such while ineligible in contravention of regulation 11(7A)(a) –
  - (a) the trustees or manager shall not be regarded as having complied with paragraph (2)(b), and
  - (b) for the purposes of paragraph (8), the statement from the reporting accountant shall not be regarded as obtained in accordance with paragraph (2)(b).
- (10) Where a scheme is registered under Article 4 on or before 6th April 2001 –

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(a) Regulation 13 was amended by regulation 9, and regulation 14 was amended by regulation 10, of S.R. 2001 No. 119  
 (b) Regulation 18(2) was substituted by regulation 13(2) of S.R. 2001 No. 119

- (a) the first reporting date shall be 5th April 2002, and
- (b) the first reporting period shall be the period beginning on 6th April 2001 and ending on 5th April 2002.

(11) Where the reporting date is on or before 30th September 2002 the trustees or manager of the scheme shall make the declaration specified in paragraph (2)(a) and obtain the statement specified in paragraph (2)(b) from the reporting accountant –

- (a) on or before 31st December 2002, or
- (b) by the end of 6 months beginning with the reporting date, whichever is later.”.

#### **Amendment of regulation 15**

5.—(1) Regulation 15(a) (requirement for trustees or manager to satisfy certain conditions in relation to with-profit funds) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (3)(c) for “stakeholder pension scheme’s reporting accountant to make the statement mentioned in regulation 12(5)(a)(i) so far as that statement relates to regulation 12(2)(d)(ii)” there shall be substituted “trustees or manager to make the declaration mentioned in regulation 12(2)(a)”.

(3) In paragraph (4)(b) for “at least annually to the reporting accountant and, as the case may be, to the auditor of the scheme” there shall be substituted “to the auditor of the scheme if requested by the auditor, trustees or manager”.

#### **Revocations**

6. The following regulations are hereby revoked –

- (a) regulation 8 of the Stakeholder Pension Schemes (Amendment No. 2) Regulations (Northern Ireland) 2001(b);
- (b) regulation 2(3) of the Stakeholder Pension Schemes (Amendment) Regulations (Northern Ireland) 2002(c).

Sealed with the Official Seal of the Department for Social Development on 9th August 2002.

(L.S.)

*John O’Neill*  
Senior Officer of the Department for Social Development

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(a) Regulation 15 was amended by regulation 11 of S.R. 2001 No. 119  
(b) S.R. 2001 No. 119  
(c) S.R. 2002 No. 216

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations.)*

These Regulations amend regulations 1, 11, 12 and 15 of the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000 (“the principal Regulations”). Regulation 11 of the principal Regulations requires the trustees or manager of a stakeholder scheme to appoint a reporting accountant and sets out the eligibility requirements for appointment as a reporting accountant. Regulation 12 of the principal Regulations provides for an annual declaration as to the arrangements made by the trustees or manager of a stakeholder scheme for ensuring the proper administration of the scheme and for those trustees or that manager to obtain statements from the scheme’s reporting accountant as to the reasonableness of the declaration. Regulation 15 of the principal Regulations sets out the conditions for the assets of a scheme to be invested in with-profits funds.

Regulation 1 provides for citation, commencement and interpretation. Regulation 2 makes a consequential amendment.

Regulation 3(2) removes certain eligibility requirements for appointment as a reporting accountant. Regulation 3(3) to (6) clarifies the drafting of regulation 11.

Regulation 4 substitutes regulation 12. Regulation 12(2) requires the trustees or manager of the scheme to make a declaration and obtain a reporting accountant’s statement within 6 months of the reporting date. Regulation 12(3) sets out how the reporting date is to be calculated. Regulation 12(4) sets out how the reporting period is to be calculated. Regulation 12(5) sets out the statements to be made by the trustees or manager in their declaration. Regulation 12(6) requires the trustees or manager to provide the reporting accountant with supporting documentation. Regulation 12(7) sets out the statement to be obtained by the trustees or manager from the reporting accountant. Regulation 12(8) requires the trustees or manager to send copies of the declaration and reporting accountant’s statement to members and beneficiaries on request. Regulation 12(9) provides that any statement obtained from a reporting accountant who is ineligible for such an appointment will not be regarded as satisfying the requirements of regulation 12(2)(b) or (8). Regulation 12(10) and (11) makes transitional provision relating to the time limits for the trustees or manager of the scheme to make their declaration and obtain a statement from the reporting accountant and to the determination of the reporting date and reporting period for schemes registered prior to or on 6th April 2001.

Regulation 5(2) amends regulation 15(3)(c) to require an insurance company managing with-profits funds for a scheme to pass various certificates to the trustees or manager. Regulation 5(3) removes the requirement for the certificate from the appointed actuary to the insurance company to be sent to the reporting accountant and allows the auditor, trustees or manager to require that the certificate be sent to the auditor.

Regulation 6 makes consequential revocations.

An assessment of the cost to business of these Regulations is detailed in a Regulatory Impact Assessment, copies of which have been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Room 5, Block 5, Stormont Estate, Upper Newtownards Road, Belfast BT4 3SJ.

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