

**2002 No. 279**

**PENSIONS**

**The Occupational Pension Schemes (Member-nominated  
Trustees and Directors) (Amendment) Regulations  
(Northern Ireland) 2002**

*Made* - - - - - *10th September 2002*

*Coming into operation* *6th October 2002*

The Department for Social Development, in exercise of the powers conferred by Articles 17(1)(c), 19(1)(c), 21(4) and (5) and 166(3) of the Pensions (Northern Ireland) Order 1995(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 Occupational Pension Schemes (Member-nominated Trustees and Directors) (Amendment) Regulations (Northern Ireland) 2002 and shall come into operation on 6th October 2002.

(2) In these Regulations any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996(c).

**Amendment of regulation 9**

**2.**—(1) Regulation 9(2)(d) (proposals by the employer for alternative arrangements under Article 17(e)) shall be amended in accordance with paragraphs (2) and (3).

(2) In sub-paragraph (a) –

(a) at the end of head (ii) the word “or” shall be omitted, and

(b) for head (iii) there shall be substituted the following heads –

“(iii) except where head (iv) applies, any time not less than 10 years after the date applicable under head (i) or, if such a notice as is mentioned in head (ii) has been given, after the date mentioned in that head, or

(iv) any time not less than 4 years after –

(aa) the date Article 16(f) first applies to the scheme, where this occurs on or after 6th October 2002, or

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(a) S.I. 1995/3213 (N.I. 22)

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

(c) S.R. 1996 No. 431; relevant amending regulations are S.R. 1997 No. 160 and S.R. 1999 No. 486

(d) Regulation 9(2) was amended by paragraph 4(7) of the Schedule to S.R. 1997 No. 160

(e) Article 17 was amended by paragraph 35 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); see also regulation 19 of, and Schedule 3 to, S.R. 1996 No. 431

(f) Article 16 was amended by paragraph 34 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; see also regulation 19 of, and Schedule 3 to, S.R. 1996 No. 431

(bb) the date mentioned in head (ii) if such a notice as is mentioned in that head is given on or after 6th October 2002;”.

(3) For sub-paragraph (c) there shall be substituted the following sub-paragraphs –

“(c) in the case of a second or subsequent notice under paragraph (1)(a) which is given in respect of a scheme to which Article 16 applies –

(i) except where head (ii) applies, any time after the expiry of the period of 10 years beginning with –

(aa) the date on which the last such notice was given to the trustees of the scheme;

(bb) the date which is the last permitted notice time falling within sub-paragraph (b)(i), or

(cc) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of regulation 20(1)(d)(ii), the date on which it did so,

whichever is the latest, or

(ii) where the latest of the following dates –

(aa) the date on which the last such notice was given to the trustees of the scheme;

(bb) the date which is the last permitted notice time falling within sub-paragraph (b)(i), or

(cc) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of regulation 20(1)(d)(ii), the date on which it did so,

occurs on or after 6th October 2002, any time after the expiry of the period of 4 years beginning with that latest date;

(d) at any other time provided that the trustees of the scheme have consented to the employer giving the notice under paragraph (1)(a) at that time.”.

### **Amendment of regulation 15**

**3.—(1)** Regulation 15(2)(a) (proposals by the employer for alternative arrangements under Article 19) shall be amended in accordance with paragraphs (2) and (3).

(2) In sub-paragraph (a) –

(a) at the end of head (ii) the word “or” shall be omitted, and

(b) for head (iii) there shall be substituted the following heads –

“(iii) except where head (iv) applies, any time not less than 10 years after the date applicable under head (i) or, if such a notice as is mentioned in head (ii) has been given, after the date mentioned in that head, or

(iv) any time not less than 4 years after –

(aa) the date Article 18(b) first applies to the company, where this occurs on or after 6th October 2002, or

(bb) the date mentioned in head (ii) if such notice as is mentioned in that head is given on or after 6th October 2002;”.

(3) For sub-paragraph (c) there shall be substituted the following sub-paragraphs –

“(c) in the case of a second or subsequent notice under paragraph (1)(a) which is given in respect of a company to which Article 18 applies –

(i) except where head (ii) applies, any time after the expiry of the period of 10 years beginning with –

(aa) the date on which the last such notice was given to the company;

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(a) Regulation 15(2) was amended by paragraph 4(8) of the Schedule to S.R. 1997 No. 160

(b) Article 18 was amended by paragraph 36 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; *see also* regulation 19 of, and Schedule 3 to, S.R. 1996 No. 431

- (bb) the date which is the last permitted notice time falling within sub-paragraph (b)(i), or
- (cc) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of regulation 20(1)(f)(ii), the date on which it did so, whichever is the latest, or
- (ii) where the latest of the following dates –
  - (aa) the date on which the last such notice was given to the company;
  - (bb) the date which is the last permitted notice time falling within sub-paragraph (b)(i), or
  - (cc) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of regulation 20(1)(f)(ii), the date on which it did so, occurs on or after 6th October 2002, any time after the expiry of the period of 4 years beginning with that latest date;
- (d) at any other time provided that the company has consented to the employer giving the notice under paragraph (1)(a) at that time.”.

#### **Amendment of regulation 20**

**4.—(1)** Regulation 20(1)(a) (cessation of approval of appropriate rules and alternative arrangements) shall be amended in accordance with paragraphs (2) and (3).

(2) For sub-paragraph (a) there shall be substituted the following sub-paragraph –

“(a) at the expiry of –

- (i) except where head (ii) applies, the period of 10 years beginning with the date on which the rules or arrangements were treated as approved under paragraph 8(b) or, as the case may be, paragraph 9 of Schedule 1, or
- (ii) where, in the case of an approval of arrangements under Article 17 or 19, the employer gives notice in accordance with regulation 9(1)(a) or 15(1)(a) on or after 6th October 2002, the period of 4 years beginning with the date on which the arrangements were treated as approved under paragraph 8 or, as the case may be, paragraph 9 of Schedule 1;”.

(3) For sub-paragraph (b) there shall be substituted the following sub-paragraph –

“(b) on the date on which fresh rules or arrangements are treated as approved under paragraph 8 or, as the case may be, paragraph 9 of Schedule 1;”.

#### **Amendment of Schedule 3**

**5.** In Schedule 3(c) (modifications of the Pensions (Northern Ireland) Order 1995 and these Regulations) in paragraph 3(3) –

(a) in head (a)(i) for “a permitted notice” there shall be substituted “any”;

(b) for heads (b) and (c) there shall be substituted the following heads –

“(b) paragraph (2) shall be omitted;

(c) for paragraph (3) there shall be substituted the following paragraph –

“(3) In paragraph (1) the “approval period”, in relation to alternative arrangements, means, the period of 6 months beginning with the date on which notice is given under Schedule 1.”;

(d) paragraph (4) shall be omitted.”.

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(a) Regulation 20(1) was amended by paragraph 4(10) of the Schedule to S.R. 1997 No. 160  
 (b) Paragraph 8 was amended by paragraph 4(12)(b) and (c) of the Schedule to S.R. 1997 No. 160  
 (c) Paragraph 3 of Schedule 3 was amended by paragraph 4(14) of the Schedule to S.R. 1997 No. 160 and regulation 3 of S.R. 1999 No. 486

Sealed with the Official Seal of the Department for Social Development on 10th September 2002.

(L.S.)

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

## **EXPLANATORY NOTE**

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

These Regulations further amend the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 1996 (“the principal Regulations”) which concern the selection and appointment of member-nominated trustees and directors under Articles 16 to 21 of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”).

The purpose of the Regulations is to extend the approval of alternative arrangements for selecting the trustees or directors of a scheme, and of appropriate rules for that same purpose, so that the approval ceases after a period of 10 years rather than 6 years. Where an employer seeks fresh approval of alternative arrangements on or after 6th October 2002 that approval will cease after 4 years.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 amends regulation 9(2)(a) and (c) of the principal Regulations by substituting definitions of “permitted notice time”. These amendments are consequential upon the amendments made to regulation 20(1)(a) of the principal Regulations by these Regulations. Regulation 2 further amends regulation 9(2) by inserting sub-paragraph (d). This enables an employer who intends to propose alternative arrangements for selecting the trustees of the scheme to give notice of his intention at any time other than the permitted notice times described in regulation 9(2)(a) to (c), provided that the trustees have consented to the employer giving the notice at that time.

Regulation 3 makes similar amendments to regulation 15 of the principal Regulations with regard to the employer giving notice to the company in respect of proposing alternative arrangements concerning the selection of directors.

Regulation 4 amends regulation 20(1) of the principal Regulations by substituting sub-paragraphs (a) and (b). Under regulation 20(1)(a)(i) the approval of appropriate rules or alternative arrangements ceases to have effect upon the expiry of 10 years beginning with the date the rules or arrangements were treated as approved, rather than upon the expiry of 6 years. Under regulation 20(1)(a)(ii) the approval of alternative arrangements ceases to have effect upon the expiry of 4 years, where the employer gives notice in accordance with regulation 9(1)(a) or 15(1)(a) on or after 6th October 2002. Under regulation 20(1)(b) the approval of appropriate rules or alternative arrangements ceases to have effect on the date on which fresh rules or arrangements are treated as approved.

Regulation 5 amends paragraph 3 of Schedule 3 to the principal Regulations to modify regulation 15 in its application to cases where an Article 18 company is the employer. In such cases alternative arrangements may be proposed at any time.

As these Regulations, in so far as they are made under Part II of the 1995 Order, make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement for consultation under Article 117(1) of the 1995 Order does not apply by virtue of paragraph (2)(e) of that Article.

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