
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 170

The Personal and Occupational Pension Schemes
(Indexation and Disclosure of Information) (Miscellaneous
Amendments) Regulations (Northern Ireland) 2005

PART 2

AMENDMENTS RELATING TO INDEXATION

Modification of Article 51 of the 1995 Order

Removal of indexation: money purchase benefits provided under a hybrid scheme

2.—(1) This regulation applies to any pension under a hybrid scheme which becomes a pension in payment on or after 6th April 2005.

(2) No increase under Article 51 of the 1995 Order⁽¹⁾ (annual increase in rate of pension) is required to be made of so much of any pension within paragraph (1) as is money purchase benefit.

(3) In this regulation –

“hybrid scheme” means an occupational pension scheme –

(a) which is not a money purchase scheme, but

(b) where some of the benefits that may be provided are money purchase benefits;

“money purchase benefits” and “money purchase scheme” have the meanings given by section 176(1) of the Pension Schemes (Northern Ireland) 1993⁽²⁾.

Indexation Regulations

Interpretation

3. In regulation 1(2) of the Indexation Regulations (interpretation) –

(a) before the definition of “appointed day” there shall be inserted the following definition –

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

(b) after the definition of “pension scheme” there shall be added the following definition –

““section 5(2B) rights” means –

(1) Article 51 was amended by section 47 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 40 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and is amended by Article 255 of the Pensions (Northern Ireland) Order 2005

(2) The definition of “money purchase scheme” was substituted by paragraph 13(a) of Schedule 4 to the Pensions (Northern Ireland) Order 1995

- (a) rights to the payment of pensions and accrued rights to pensions (other than rights attributable to voluntary contributions) under a pension scheme contracted-out by virtue of section 5(2B) of the Act⁽³⁾, so far as attributable to an earner's service in contracted-out employment on or after 6th April 1997 (including service of an earner who is not in employment at the time of the transfer or transfer payment);
- (b) where a transfer payment has been made to such a scheme, any rights arising under the scheme as a consequence of that payment which are derived directly or indirectly from –
 - (i) such rights as are referred to in paragraph (a) under another pension scheme contracted-out by virtue of section 5(2B) of the Act, or
 - (ii) protected rights under another occupational pension scheme or under a personal pension scheme attributable to payments or contributions in respect of employment on or after 6th April 1997.”.

Indexation: treatment of transfers made before 6th April 2005 from pension schemes

4. In regulation 2 of the Indexation Regulations (indexation of occupational pensions derived from the acceptance of transfer payments from pension schemes) –

- (a) for the heading there shall be substituted the following heading –

“Indexation of occupational pensions derived from the acceptance of transfers from pension schemes: transfers made before 6th April 2005”;
- (b) in paragraph (1) for “Subject to paragraph (2)” there shall be substituted “Subject to paragraphs (2) and (3)”;
- (c) after paragraph (2) there shall be added the following paragraph –

“(3) Paragraph (1) shall not apply in any case where the transfer credit referred to in that paragraph is allowed by reference to a transfer which is made on or after 6th April 2005.”.

Indexation: treatment of transfers made on or after 6th April 2005 from pension schemes

5. After regulation 2 of the Indexation Regulations there shall be inserted the following regulation –

“Indexation of occupational pensions derived from the acceptance of transfers from pension schemes: transfers made on or after 6th April 2005

2A.—(1) This regulation applies where –

- (a) a person's accrued rights to a pension payable under an occupational pension scheme (“scheme A”) to which Article 51 applies, or any part of them, derive from the allowance by the scheme of a transfer credit in respect of rights in any pension scheme (“scheme B”) of which that person has previously been a member, and
- (b) the transfer credit is allowed by reference to a transfer which is made on or after 6th April 2005.

(2) Article 51(2) and (3) shall apply to such part of the pension payable by scheme A as is attributable to any accrued rights deriving from the allowance of the transfer credit –

- (a) only to the extent that those accrued rights are –

(3) Section 5(2B) was substituted by Article 133(3) of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 38 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

- (i) section 5(2B) rights, or
 - (ii) rights (other than section 5(2B) rights) which are allowed by reference to rights in scheme B that were subject to the indexation requirement at the time of the transfer, and
- (b) as if those accrued rights were attributable to pensionable service on or after the appointed day.”.

Indexation: treatment of payments made before 6th April 2005 from insurance policies or annuity contracts

6. In regulation 3 of the Indexation Regulations (indexation of occupational pensions derived from the acceptance of payments from insurance policies or annuity contracts) –

- (a) for the heading there shall be substituted the following heading –
“Indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made before 6th April 2005”;
- (b) the existing text shall be numbered paragraph (1);
- (c) at the beginning of paragraph (1) as so numbered there shall be inserted “Subject to paragraph (2),”;
- (d) after paragraph (1) as so numbered there shall be added the following paragraph –
“(2) Paragraph (1) shall not apply in any case where the payment from the policy of insurance or annuity contract referred to in that paragraph is made on or after 6th April 2005.”.

Indexation: treatment of payments made on or after 6th April 2005 from insurance policies or annuity contracts

7. After regulation 3 of the Indexation Regulations there shall be added the following regulation –

“Indexation of occupational pensions derived from the acceptance of payments from insurance policies and annuity contracts: transfers made on or after 6th April 2005

- 4.—(1) This regulation applies where –
- (a) a person’s accrued rights to a pension payable under an occupational pension scheme (“scheme A”) to which Article 51 applies, or any part of them, derive from the acceptance by the scheme of a payment from a policy of insurance or annuity contract in respect of rights in any pension scheme of which that person has previously been a member, and
 - (b) the payment was made on or after 6th April 2005.
- (2) Article 51(2) and (3) shall apply to such part of the pension payable by scheme A as is attributable to any accrued rights deriving from the acceptance of the payment from the policy of insurance or annuity contract –
- (a) only to the extent that those accrued rights are –
 - (i) section 5(2B) rights, or
 - (ii) rights (other than section 5(2B) rights) which are allowed by reference to rights specified in paragraph (3), and
 - (b) as if those accrued rights were attributable to pensionable service on or after the appointed day.

(3) The rights specified in this paragraph are rights to payment under the policy of insurance or annuity contract which –

- (a) were subject to provision contained in (or endorsed on) the policy or contract requiring an increase in the annual rate of payment, and
- (b) in any case where the policy or contract was entered into before 6th April 2005, would have been subject to such provision if the policy or contract had been entered into on or after that date.”.

Protected Rights Regulations

Meaning of “specified pension or annuity”

8. In regulation 1(2) of the Protected Rights Regulations (interpretation), after the definition of “section 5(2B) rights” there shall be inserted the following definition –

““specified pension or annuity” means any pension or annuity which became a pension or annuity in payment before 6th April 2005.”.

Indexation requirement limited to specified pensions or annuities

9. In regulation 4 of the Protected Rights Regulations(4) (conditions applying to pensions and annuities which give effect to protected rights) –

- (a) in paragraph (1)(b) for head (i) there shall be substituted the following heads –
 - “(i) is necessary to establish what the initial rate and the method of payment of the pension or annuity are to be;
 - (ia) is necessary to establish that, throughout the lifetime of the member, the pension or annuity shall continue to be paid at a rate which is at least equal to (but may be more than) the initial rate and which, in the case of a specified pension or annuity falling within paragraph (3) or (6) or within Article 51 or 158(5), is the rate determined in accordance with that paragraph or Article;”;
- (b) in paragraph (3) after “In the case of” there shall be inserted “a specified pension or annuity which gives effect to”;
- (c) in paragraph (6) after “In the case of” there shall be inserted “a specified pension or annuity which gives effect to”.

Removal of indexation: interim arrangements

10. In regulation 7 of the Protected Rights Regulations (payments made under interim arrangements) for paragraph (2)(6) there shall be substituted the following paragraph –

“(2) For the purposes of section 24A(5)(a)(7) (calculating the annual amount of the annuity which would have been purchasable by a person), the prescribed manner is by reference to the current published tables prepared by the Government Actuary in accordance with regulation 7(3) of the Protected Rights Regulations(8).”.

(4) Regulation 4 was amended by regulation 5(2) of [S.R. 2002 No. 109](#)
 (5) Article 158 is amended by Article 256(2) of the Pensions (Northern Ireland) Order 2005
 (6) Paragraph (2) was substituted by regulation 5(4) of [S.R. 2002 No. 109](#)
 (7) Section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995
 (8) Regulation 7(3) is substituted by regulation 5 of [S.I. 2005/704](#)

Removal of indexation: death of member before payment

11. In regulation 12 of the Protected Rights Regulations⁽⁹⁾ (death of scheme member before effect given to his protected rights) –

- (a) in paragraph (4)(b) for head (i) there shall be substituted the following heads –
 - “(i) is necessary to establish what the initial rate and the method of payment of the pension or annuity are to be;
 - (ia) is necessary to establish that, throughout the period described in paragraph (5), the pension or annuity shall continue to be paid to the widow or widower at a rate which is at least equal to (but may be more than) the initial rate and which, in the case of a specified pension or annuity falling within paragraph (6) or (8) or within Article 51 or 158, is the rate determined in accordance with that paragraph or Article.”;
- (b) in paragraph (6), after “In the case of” there shall be inserted “a specified pension or annuity which gives effect to”.

Discharge of Liability Regulations

Discharge of liability: guaranteed minimum pensions, short service benefits etc.

12. In regulation 5 of the Discharge of Liability Regulations (other requirements applying to policies of insurance and annuity contracts) –

- (a) the existing text shall be numbered paragraph (1);
- (b) in paragraph (1) as so numbered for sub-paragraph (b) there shall be substituted the following sub-paragraph –
 - “(b) that the policy or contract contains, or is endorsed with, terms so as to provide for such increase (if any) in the payments under the policy or contract as is required by paragraph (2);”;
- (c) after paragraph (1) as so numbered there shall be added the following paragraph –
 - “(2) For the purposes of paragraph (1)(b) –
 - (a) an increase is required if Articles 51 and 52, and regulations made under those Articles, would apply to payments under the policy or contract if those payments were benefits payable under an occupational pension scheme (and for this purpose, the provisions of the Order shall be construed in accordance with regulation 11(6)(a) to (d)), and
 - (b) such an increase shall be payable at the same rate, and to the same extent, as would be required under those provisions.”.

Discharge of liability: pensions under a relevant scheme

13. In regulation 11 of the Discharge of Liability Regulations⁽¹⁰⁾ (conditions on which liability to provide pensions under a relevant scheme may be discharged) –

- (a) in paragraph (3) –
 - (i) for sub-paragraph (c) there shall be substituted the following sub-paragraph –
 - “(c) payments to a beneficiary, or to his widow or widower, under the policy or contract which derive from a pension or accrued rights under

⁽⁹⁾ Regulation 12 was amended by regulation 5(6) of [S.R. 2002 No. 109](#)

⁽¹⁰⁾ Regulation 11 was amended by regulation 13 of [S.R. 1999 No. 486](#)

the relevant scheme shall be subject to such increase (if any) as is required by paragraph (4A);”, and

- (ii) sub-paragraph (e)(ii) shall be omitted;
- (b) after paragraph (4) there shall be inserted the following paragraph –
 - “(4A) For the purposes of paragraph (3)(c) –
 - (a) an increase is required if Articles 51 and 52, and regulations made under those Articles, would apply to payments under the policy or contract if those payments were benefits payable under an occupational pension scheme, and
 - (b) such an increase shall be payable at the same rate, and to the same extent, as would be required under those provisions.”;
 - (c) in paragraph (6) for “For the purposes of paragraph (3)(e)” there shall be substituted “For the purposes of paragraphs (3)(e) and (4A)”.

Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations

Indexation: treatment of salary-related death benefits in certain schemes

14. In regulation 2 of the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1997⁽¹¹⁾ (occupational pension schemes providing salary-related death benefits) –

- (a) the existing text shall be numbered paragraph (1);
- (b) after paragraph (1) as so numbered there shall be added the following paragraph –
 - “(2) But paragraph (1) does not apply in relation to the provision by an occupational pension scheme of a pension to which regulation 2 of the Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Miscellaneous Amendments) Regulations (Northern Ireland) 2005 applies (removal of indexation: money purchase benefits provided under a hybrid occupational pension scheme).”.

Pension Credit Benefit Regulations

Indexation: changes to maximum percentage

15. In regulation 32 of the Pension Credit Benefit Regulations (increase of relevant pension) –

- (a) in paragraph (1) for sub-paragraph (b) there shall be substituted the following sub-paragraph –
 - “(b) the maximum percentage.”;
- (b) in paragraph (2) after the definition of “appropriate percentage” there shall be inserted the following definitions –
 - ““maximum percentage” means –
 - (a) 5 per cent. in a case where –
 - (i) the pension is in payment before 6th April 2005, or
 - (ii) the pension is not in payment before 6th April 2005 but the entitlement to the relevant pension credit arose before that day, and

- (b) 2.5 per cent. in a case where the entitlement to the relevant pension credit arises on or after 6th April 2005;

“relevant pension credit” means the pension credit to which eligible pension credit rights are (directly or indirectly) attributable;”.

Eligible pension credit rights

16. For regulation 35 of the Pension Credit Benefit Regulations (definition of eligible pension credit rights) there shall be substituted the following regulation –

“Definition of eligible pension credit rights

35.—(1) For the purposes of Article 37(3) of the 1999 Order⁽¹²⁾, pension credit rights are eligible if they fall within paragraph (2) and are not excluded by paragraph (3).

(2) Pension credit rights are within this paragraph if –

- (a) they are derived from rights attributable to pensionable service on or after 6th April 1997 of the member whose pension rights were the subject of a pension sharing order or provision, or
- (b) they are safeguarded rights.

(3) Excluded pension credit rights are –

- (a) rights to pensions which are money purchase benefits and which become pensions in payment on or after 6th April 2005, or
- (b) rights derived from additional voluntary contributions.”.

(12) Article 37 is amended by Article 257 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))