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STATUTORY RULES OF NORTHERN IRELAND

2008 No. 178

PENSIONS

**The Occupational Pension Schemes
(Employer Debt: Apportionment Arrangements) (Amendment)
Regulations (Northern Ireland) 2008**

Made - - - - 17th April 2008

Coming into operation - 18th April 2008

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 68(2)(e), 75(5), 75A(1) to (8) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(a) and now vested in it(b).

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Employer Debt: Apportionment Arrangements) (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 18th April 2008.

Amendment of the Occupational Pension Schemes (Employer Debt) Regulations

2.—(1) The Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005(c) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation) in the definition of “scheme apportionment arrangement”(d) for paragraph (f) substitute—

“(f) each of the following persons consents to—

- (i) the trustees or managers, and either
- (ii) where the circumstances referred to in paragraph (b) apply, any remaining employer to whom all or part of the amount that would have been the employer’s liability share is being apportioned, or
- (iii) where the circumstances referred to in paragraph (b) do not apply, the employer, and”.

(a) S.I. 1995/3213 (N.I. 22); Article 75 was amended by Article 248 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and is modified by S.R. 2005 No. 168; Article 75A was inserted by Article 249 of that Order
(b) See Article 8(b) of S.R. 1999 No. 481
(c) S.R. 2005 No. 168; relevant amending Regulations are S.R. 2008 No. 132
(d) The definition of “scheme apportionment arrangement” was inserted by regulation 4(2)(j) of S.R. 2008 No. 132

(3) In regulation 7A(1)(a) (regulated apportionment arrangements) for sub-paragraph (b) substitute—

“(b) where an assessment period has not already commenced, each of the following persons agrees to the arrangement—

- (i) the trustees of the scheme, and either
- (ii) where the employer’s liability share is increased, the employer, or
- (iii) where the employer’s liability share is reduced, any remaining employer to whom all or part of the amount that would have been the employer’s liability share is being apportioned;”.

(4) In regulation 16(2)(b) (modification of schemes: apportionment of Article 75 debts) for “regulation 6(2)” substitute “regulation 6(2)(a) or (b)”.

(5) In paragraph 1(1)(ii) of Schedule 1A(c) (withdrawal arrangements and approved withdrawal arrangements)—

- (a) for “the Authority issues” substitute “the Authority issue”;
- (b) for “the Authority considers” substitute “the Authority consider”.

Sealed with the Official Seal of the Department for Social Development on 17th April 2008

(L.S.)

John O’Neill

A senior officer of the Department for Social Development

(a) Regulation 7A was substituted by regulation 8 of S.R. 2008 No. 132
(b) Regulation 16 was substituted by regulation 12 of S.R. 2008 No. 132
(c) Schedule 1A was substituted by Schedule 2 to S.R. 2008 No. 132

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005 (“the 2005 Regulations”) which make provision where debts arise under Article 75 of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) in respect of occupational pension schemes.

The 2005 Regulations were amended by the Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations (Northern Ireland) 2008 (S.R. 2008 No. 132) (“the 2008 Regulations”) which came into operation on 6th April 2008. These Regulations correct an omission from the 2008 Regulations, amend a cross-reference with a view to clarifying its intention and make minor grammatical corrections.

Regulation 2(2) amends the definition of “scheme apportionment arrangement” in regulation 2(1) of the 2005 Regulations to provide that the employer, or in an applicable case any employer to whom all or part of the employer’s liability has been apportioned, must consent to the arrangement.

Regulation 2(3) inserts the same provision for the agreement of those employers in the case of a regulated apportionment arrangement in respect of a scheme in relation to which the Pension Protection Fund assessment period has not yet commenced, by amending regulation 7A(1)(b) of the 2005 Regulations (which is where the requirement for the trustees’ agreement to the arrangement is found).

Regulation 2(4) amends regulation 16(2) of the 2005 Regulations by replacing the reference to “regulation 6(2)” with a reference to “regulation 6(2)(a) or (b)”, to clarify that regulation 16 permits a modification to scheme rules for the purposes of enabling a scheme apportionment arrangement or a regulated apportionment arrangement.

Regulation 2(5) makes minor grammatical corrections to Schedule 1A to the 2005 Regulations.

As these Regulations 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 to consult under Article 117(1) of the 1995 Order does not apply by virtue of paragraph (2)(e) of that Article.