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STATUTORY RULES OF NORTHERN IRELAND

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**2013 No. 72**

**PENSIONS**

**The Occupational and Stakeholder Pension  
Schemes (Miscellaneous Amendments)  
Regulations (Northern Ireland) 2013**

*Made* - - - - *15th March 2013*

*Coming into operation* *6th April 2013*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 8C(1), 16(1) and (2), 33(1) and (2), 69(2)(b) and (4)(b), 89(1)(a), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(1), Articles 68(2)(e) and 166(1) and (2) of the Pensions (Northern Ireland) Order 1995(2) and Articles 3(1)(b) and (5), 4(2), 5(1) and (5), 37(1) and 73(4)(a) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(3), and now vested in it(4).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 and shall come into operation on 6th April 2013.

(2) The Interpretation Act (Northern Ireland) 1954(5) shall apply to these Regulations as it applies to an Act of the Assembly.

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(1) 1993 c. 49; section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); section 16(1) was amended by paragraph 2(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and subsection (1) was amended by Article 4(5) of S.R. 2012 No. 124; section 89(1)(a) was substituted by Article 148(2) of the Pensions (Northern Ireland) Order 1995; section 178(1) was amended by Parts III and IV of Schedule 5 to that Order

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

(3) S.I. 1999/3147 (N.I. 11); Article 3(5) was amended by Article 262(3) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); Article 4(2) was amended by Article 262(5) of the Pensions (Northern Ireland) Order 2005 and paragraph 38 of Schedule 4 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)); Article 5(1) and (5) was amended by section 69(3) and (6) of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)); Article 37(1) was amended by Article 257(2) of the Pensions (Northern Ireland) Order 2005 and section 20(10) of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.))

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

(5) 1954 c. 33 (N.I.)

**Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations**

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(6) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2)(7) (interpretation) after the definition of “the Act” insert—

““European pensions institution” has the meaning given in Article 269(8) of the Pensions (Northern Ireland) Order 2005(8);”.

(3) After regulation 11A(9) (further alternative to short service benefit – transfer to an overseas arrangement) insert—

**“Further alternative to short service benefit – transfer to a European pensions institution without consent**

11B.—(1) For the purposes of section 69(2)(b) and (4)(b) (form of short service benefit and its alternatives), a scheme may, instead of providing short service benefit, provide for the transfer of the member’s accrued rights to a European pensions institution without the member’s consent where the conditions in regulation 12(2)(10) and (3)(11) are satisfied.

(2) For the purposes of paragraph (1) of this regulation, the references to “receiving scheme” in regulation 12(2), (3) and (4A)(12) are to be read as references to “receiving European pensions institution”.

(3) Where it is proposed that a member’s accrued rights are to be transferred in accordance with this regulation, information about the proposed transfer and details of the value of the rights to be transferred (including rights in respect of death in service benefits and survivors’ benefits) shall be furnished to the member not less than one month before the date on which the proposed transfer is due to take place.”.

(4) In regulation 12(2)(a) and (b) (transfer of member’s accrued rights without consent) for “apply to” substitute “relate to persons who are or have been in”.

**Amendment of the Occupational Pension Schemes (Contracting-out) Regulations**

3. In regulation 42 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(13) (alteration of rules of contracted-out schemes)—

(a) in paragraph (1)(14) after “paragraph (2)” insert “, (2ZA)”;

(b) in paragraph (2) for “section 5(2B) rights under the scheme” substitute “rights which are to accrue under the scheme in so far as such rights are attributable to an earner’s service in contracted-out employment on or after the date on which the alteration to the rules takes effect (other than rights attributable to the payment of voluntary contributions)”;

(c) after paragraph (2) insert—

(6) S.R. 1991 No. 37; relevant amending Regulations are S.R. 1992 No. 304, S.R. 1993 No. 324, S.R. 1996 No. 620, S.R. 1999 No. 378 and S.R. 2011 No. 89

(7) Regulation 1(2) was substituted by regulation 2(2) of S.R. 1996 No. 620

(8) S.I. 2005/255 (N.I. 1); the definition of “European pensions institution” was amended by regulation 5(8)(e) of S.R. 2007 No. 457

(9) Regulation 11A was inserted by regulation 2(6) of S.R. 1996 No. 620

(10) Paragraph (2) was substituted by regulation 35 of S.R. 1992 No. 304 and amended by regulation 2(7)(a) of S.R. 1996 No. 620

(11) Paragraph (3) was substituted by regulation 3(2)(a) of S.R. 2011 No. 89

(12) Paragraph (4A) was substituted by regulation 2(a) of S.R. 1993 No. 324 and amended by regulation 2(b) of S.R. 1999 No. 378 and regulation 3(2)(c) of S.R. 2011 No. 89

(13) S.R. 1996 No. 493; relevant amending provisions are S.R. 1997 No. 160, S.R. 1999 No. 486 and S.R. 2012 Nos. 120 and 124

(14) Paragraphs (1) and (2) were substituted by paragraph 5(8) of the Schedule to S.R. 1997 No. 160 and paragraph (1) was amended by regulation 6(13)(a) of S.R. 2012 No. 120

“(2ZA) The rules of a salary related contracted-out scheme cannot be altered in relation to any section 5(2B) rights(15) under the scheme unless—

- (a) following the alteration, the scheme provides benefits, for the member and for that member’s widow, widower or surviving civil partner, in respect of the period of pensionable service to which the alteration relates and in which the member’s employment was contracted-out under section 5(2B)(16) of the Act (requirements for certification of schemes: general) which are at least equal to the benefits that would be provided by a reference scheme (within the meaning of section 8B(2)(17) of the Act);
- (b) the alteration is one to which Article 67(18) of the Order (the subsisting rights provisions) does not apply;
- (c) the alteration is one which is not a protected modification or a detrimental modification within the meaning given in Article 67A of the Order (the subsisting rights provisions: interpretation), or
- (d) if the alteration is a detrimental modification within the meaning of Article 67A of the Order, the actuarial equivalence requirements provided for in Articles 67C and 67D of the Order (the actuarial equivalence requirements and further provisions) are met in relation to the proposed modification of those rights.

(2ZB) In the case of alterations falling within paragraph (2ZA)(c) or (d), but not falling within paragraph (2ZA)(a) or (b)—

- (a) subject to sub-paragraph (b) of this paragraph, the altered scheme must provide for a pension to be paid to the member’s widow, widower or surviving civil partner in respect of the period in which the member’s employment was contracted-out under section 5(2B) of the Act (“the relevant survivor’s post-1997 pension”) which is at least as generous, either as regards the amount of the pension or as regards the circumstances in which it shall be paid, as it would have been before the alteration;
- (b) in relation to a member who is an active member of the scheme immediately before the alteration takes effect, the requirement in sub-paragraph (a) of this paragraph shall be deemed to be satisfied if the relevant survivor’s post-1997 pension which the scheme would provide in respect of the member if the member left pensionable service immediately after the alteration is at least as generous as the relevant survivor’s post-1997 pension which the scheme would have provided in respect of the member had the member left service immediately before the alteration.

(2ZC) In paragraph (2ZB)(b) “active member” means a person who is in pensionable service under the scheme.”.

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(15) The definition of “section 5(2B) rights” was substituted by paragraph 5(2) of the Schedule to [S.R. 1997 No. 160](#) and amended by regulation 4(2)(b) of [S.R. 1999 No. 486](#) and Article 12(2)(b) of [S.R. 2012 No. 124](#)

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

(17) Section 8B was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 and amended by regulation 2 of [S.R. 1997 No. 162](#), paragraph 4 of Schedule 1 to [S.R. 2005 No. 433](#), paragraph 33 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 and paragraph 9 of Schedule 7 to the Pensions (No. 2) Act (Northern Ireland) 2008

(18) Articles 67 to 67I were substituted for Article 67 by Article 239 of the Pensions (Northern Ireland) Order 2005 and Article 67D was amended by paragraph 5 of Schedule 5 to the Pensions Act (Northern Ireland) 2008

**Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations**

4.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(19) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of ““connected employer transfer” and “connected employer transfer payment””(20) substitute—

““connected employer transfer” and “connected employer transfer payment” mean respectively a transfer of guaranteed minimum pensions from a salary related contracted-out scheme to a salary related contracted-out scheme and a transfer payment in respect of section 5(2B) rights(21) from a salary related contracted-out scheme to a salary related contracted-out scheme where either—

- (a) the transferring scheme and the receiving scheme relate to persons who are or have been in employment with the same employer, or
- (b) the transferring scheme and receiving scheme relate to persons who are or have been in employment with different employers, and the earner or person concerned is one of a group of persons in respect of whom transfers or transfer payments are being made from the transferring scheme to the receiving scheme and either—
  - (i) the transfer or transfer payment is a consequence of a financial transaction between the employers, or
  - (ii) each of the employers is one of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006(22),

and in this definition “salary related contracted-out scheme” includes a scheme which was formerly a salary related contracted-out scheme..”.

(3) In regulations 4 (connected employer transfers of guaranteed minimum pensions), 7(2)(b) (transfers of liability in respect of section 5(2B) rights: general ) and 9 (connected employer transfer payments ) omit “to a salary related contracted-out scheme”.

**Amendment of the Occupational Pension Schemes (Transfer Values) Regulations**

5. In regulation 2 of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(23) (pre-1986 leavers)—

- (a) the existing provision shall be numbered paragraph (1);
- (b) in paragraph (1)(b), for “the rate of inflation as measured by the retail prices index” substitute “a rate that maintains the value of pensions or other benefits by reference to the rise in the general level of prices”;
- (c) after paragraph (1) add—

“(2) For the purposes of paragraph (1)(b), “a rate that maintains the value of pensions or other benefits by reference to the rise in the general level of prices” shall be construed in accordance with regulation 2(b) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(24) (pre-1986 leavers).”.

(19) S.R. 1996 No. 618; relevant amending provisions are S.R. 1997 No. 160, S.R. 1999 No. 486, S.I. 2006/744, S.R. 2009 No. 115 and S.R. 2012 No. 124

(20) The definition of ““connected employer transfer” and “connected employer transfer payment”” was amended by Article 29 of S.I. 2006/744 and regulation 5 of S.R. 2009 No. 115

(21) The definition of “section 5(2B) rights” was substituted by paragraph 10(2)(b) of the Schedule to S.R. 1997 No. 160 and amended by regulation 8 of S.R. 1999 No. 486 and Article 13(2)(b) of S.R. 2012 No. 124

(22) 2006 c. 46

(23) S.R. 1996 No. 619

(24) S.I. 1996/1847; regulation 2(b) was amended by regulation 6 of S.I. 2013/459

### **Amendment of the Occupational Pension Schemes (Winding Up) Regulations**

6. In regulation 6(4) of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996<sup>(25)</sup> (arrangements for discharge of liabilities under Article 74)—

- (a) after “regulation” insert “11B or”;
- (b) before “transfer of member’s” insert “further alternative to short service benefit – transfer to a European pensions institution and”.

### **Amendment of the Pension Sharing (Pension Credit Benefit) Regulations**

7. For regulation 32 of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000<sup>(26)</sup> (increase of relevant pension) substitute—

#### **“Increase of relevant pension**

**32.—**(1) Subject to regulations 33 and 34, a relevant pension shall be increased each year by either—

- (a) the appropriate percentage, or
- (b) where the rules of an occupational pension scheme require the relevant pension to be increased at intervals of not more than 12 months, the relevant percentage.

(2) A relevant pension shall not be increased under paragraph (1) if, under the rules of the occupational pension scheme, it is for the time being increased, and since the relevant date has always been increased, at intervals of not more than 12 months by at least—

- (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules of the scheme, or
- (b) if lower, the default percentage for that period.

(3) In paragraph (2) “the relevant date” means—

- (a) 1st January 2011 or, if later, the date on which the relevant pension became a pension in payment, or
- (b) if the relevant pension was transferred to the occupational pension scheme from another occupational pension scheme as a pension in payment after 1st January 2011, the date of the transfer.

(4) If the relevant pension was transferred to the occupational pension scheme as mentioned in paragraph (3)(b), paragraph (2) does not apply to the relevant pension unless, immediately before the transfer, paragraph (2) (read with this paragraph if relevant) applied to the relevant pension by reference to the scheme from which it was transferred.

(5) In this regulation the default percentage for a period is the percentage for that period which corresponds to—

- (a) 5 per cent. per annum in a case where—
  - (i) the relevant pension is in payment before 6th April 2005, or
  - (ii) the relevant pension is not in payment before 6th April 2005 but the entitlement to the relevant pension credit arose before that day;
- (b) 2.5 per cent. per annum in a case where the entitlement to the relevant pension credit arises on or after 6th April 2005.

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<sup>(25)</sup> S.R. 1996 No. 621 to which there are amendments not relevant to these Regulations

<sup>(26)</sup> S.R. 2000 No. 146; regulation 32 was amended by regulation 15 of S.R. 2005 No. 170

(6) This regulation does not apply to a relevant pension provided to give effect to eligible pension credit rights of a member under a qualifying occupational pension scheme which—

- (a) is a cash balance benefit, and
- (b) first comes into payment on or after 6th April 2013.

(7) In this regulation—

“appropriate percentage” means—

- (a) in a case where entitlement to the relevant pension credit arose before 6th April 2005, the higher revaluation percentage, and
- (b) in a case where entitlement to the relevant pension credit arose on or after 6th April 2005, the lower revaluation percentage,

for the latest revaluation period specified in the order under paragraph 2 of Schedule 2(27) to the Act (methods of revaluing accrued pension benefits) which is in operation at the time of the increase (expressions used in this definition having the same meaning as in that paragraph);

“cash balance benefit” has the same meaning as in Article 51ZB(28);

“consumer prices index” means—

- (a) the general index of consumer prices (for all items) published by the Statistics Board(29), or
- (b) where that index is not published for a month, any substituted index or figures published by the Board;

“relevant percentage” means—

- (a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules of the scheme, or
- (b) if lower, the default percentage for that period;

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board.”.

### **Amendment of the Stakeholder Pension Schemes Regulations**

**8.—**(1) The Stakeholder Pension Schemes Regulations (Northern Ireland) 2000(30) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (manner of establishment) for paragraphs (2)(31) and (3) substitute—

- “(2) The manager of the scheme must be a person who is mentioned in section 154(1) (b) of the Finance Act 2004(32) (persons by whom registered pension scheme may be established).”.

(27) Schedule 2 was amended by paragraphs 1 to 3 of Schedule 1 to the Pensions (No. 2) Act (Northern Ireland) 2008 and section 20(4) to (6) of the Pensions Act (Northern Ireland) 2012; *see also* section 80 as amended by Part III of Schedule 5 to the Pensions (Northern Ireland) Order 1995, Article 258 of the Pensions (Northern Ireland) Order 2005, section 20(1) to (3) of the Pensions Act (Northern Ireland) 2012 and paragraph 13 of the Schedule to S.R. 2005 No. 434

(28) Article 51ZB was inserted by section 21(4) of the Pensions Act (Northern Ireland) 2012

(29) The Statistics Board was established by section 1 of the Statistics and Registration Service Act 2007 (c. 18)

(30) S.R. 2000 No. 262; relevant amending Regulations are S.R. 2001 Nos. 13 and 119

(31) Paragraphs (2) and (3) were substituted for paragraph (2) by regulation 2 of S.R. 2001 No. 13

(32) 2004 c. 12; section 154(1) was substituted by paragraph 2(2) of Schedule 20 to the Finance Act 2007 (c. 11)

- (3) In regulation 14(5)(33) (charges etc. – permitted reductions in members’ rights)—
- (a) at the end of sub-paragraph (f) add “and”;
  - (b) at the end of sub-paragraph (g) omit “and”.
- (4) In regulation 24(34) (payroll deduction of contributions)—
- (a) in paragraphs (1) and (2)(b) omit “make or”;
  - (b) in paragraph (2) for “make, vary or cease”, in each place where it occurs, substitute “vary”;
  - (c) in paragraphs (2)(c)(i) and (2B)(d)(i) omit “if that further request is made within 6 months of the employee requesting that the deductions cease”;
  - (d) in paragraphs (2)(c)(ii) and (2B)(d)(ii) after “the employee may” insert “be able to”.
  - (e) in paragraph (3)—
    - (i) at the end of sub-paragraph (a)(ii) omit “and”;
    - (ii) omit sub-paragraph (b);
  - (f) omit paragraph (4);
  - (g) after paragraph (5) insert—

“(5A) Where an employer has withdrawn his designation of a stakeholder pension scheme that has been designated by him for the purposes of Article 5(2)(35) for reasons beyond his control, the employer must immediately cease deducting contributions from the employee’s remuneration and notify the employee in writing as soon as is practicable that designation of that scheme has been withdrawn and deduction of contributions has ceased.

(5B) Where an employer—

    - (a) is notified that a stakeholder pension scheme that has been designated by the employer for the purposes of Article 5(2) has commenced winding up, or
    - (b) withdraws designation of a stakeholder pension scheme that has been designated by the employer for the purposes of Article 5(2) for reasons beyond the employer’s control,

the employer need not comply with the requirement in Article 5(5)(36).”;
  - (h) in paragraph (6) for “(2), (2B) and (3)” substitute “(2) and (2B)”;
  - (i) in paragraph (7) omit “and in regulation 25”.

### **Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations**

**9.** In regulation 3(e)(ii) of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006(37) (non-application of the subsisting rights provisions)—

- (a) after “regulation” insert “11B or”;
- (b) before “transfer of member’s” insert “further alternative to short service benefit – transfer to a European pensions institution and”.

### **Revocations**

**10.** The following provisions are revoked—

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(33) Regulation 14 was substituted by regulation 2(9) of [S.R. 2005 No. 110](#) and amended by regulation 9 of [S.R. 2007 No. 185](#)

(34) Regulation 24 was amended by regulation 16 of [S.R. 2001 No. 119](#)

(35) Article 5(2) was omitted by section 69(5) of the Pensions (No. 2) Act (Northern Ireland) 2008

(36) Article 5(5) was amended by section 69(6) of the Pensions (No. 2) Act (Northern Ireland) 2008

(37) [S.R. 2006 No. 149](#)

- (a) the definition of “the Taxes Act” in regulation 1(3) and regulations 14(5)(h), 22 and 23 of, and paragraph 2(k) of Schedule 3 to, the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000;
- (b) regulation 2 of the Stakeholder Pension Schemes (Amendment) Regulations (Northern Ireland) 2001**(38)**;
- (c) regulations 14 and 15 of the Stakeholder Pension Schemes (Amendment No. 2) Regulations (Northern Ireland) 2001**(39)**;
- (d) regulation 15 of the Personal and Occupational Pension Schemes (Indexation and Disclosure of Information) (Miscellaneous Amendments) Regulations (Northern Ireland) 2005**(40)**;
- (e) regulation 5 of the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2009**(41)**.

Sealed with the Official Seal of the Department for Social Development on 15th March 2013

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Social  
Development

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**(38)** S.R. 2001 No. 13  
**(39)** S.R. 2001 No. 119  
**(40)** S.R. 2005 No. 170  
**(41)** S.R. 2009 No. 115

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## EXPLANATORY NOTE

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

These Regulations amend the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991 (“the Preservation of Benefit Regulations”), the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (“the Contracting-out Regulations”), the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 (“the Transfer Regulations”), the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (“the Transfer Values Regulations”), the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996 (“the Winding Up Regulations”), the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 (“the Pension Credit Benefit Regulations”), the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000 (“the Stakeholder Regulations”) and the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 (“the Modification of Schemes Regulations”).

Regulation 2 amends the Preservation of Benefit Regulations—

to insert regulation 11B to provide for a further alternative to the provision of a short service benefit under section 69(2) of the Pension Schemes (Northern Ireland) Act 1993 (“the 1993 Act”), that is, the transfer of a member’s accrued rights to a European pensions institution, without the member’s consent, in accordance with the conditions set out in regulation 12 of those Regulations;

so that the conditions in regulation 12(2) that apply to transfers of a member’s rights without their consent, allow for a transferring scheme and a receiving scheme to relate both to persons who are currently employed, or who have been employed in the past, by the same employer or related employers.

Regulation 3 amends regulation 42 of the Contracting-out Regulations—

to set out additional requirements that apply to the amendment of scheme rules in relation to accrued contracted-out rights (section 5(2B) rights);

so that the conditions in regulation 42 apply only to the alteration of rules in relation to contracted-out rights that are to accrue in the future under the contracted-out scheme;

to insert paragraphs (2ZA) and (2ZB) which set out restrictions on the amendment of rules in relation to accrued contracted-out rights. Alterations to such rights are not allowed unless the benefits provided to members and survivors are at least as good as those provided by a reference scheme, unless Article 67 of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) does not apply or, if Article 67 does apply, the alterations are neither detrimental nor protected modifications. If an alteration is a detrimental modification, the actuarial equivalence test must be applied. In both the cases where the alteration is within the scope of Article 67, regulation 42(2ZB) requires that the level of survivors’ benefits cannot be reduced.

Regulation 4 amends the Transfer Regulations to allow connected employer transfers to take place where the transferring scheme and receiving scheme relate both to persons who are currently employed, or who have been employed in the past, by the same employer or related employers, and where either scheme is a contracted-out or a former contracted-out scheme.

Regulation 5 amends regulation 2 of the Transfer Values Regulations to change the reference to the Retail Prices Index (“RPI”) to a rise in the general level of prices. Chapter IV of the 1993 Act gives most members of occupational pension schemes rights to transfer preserved benefits – or a cash equivalent thereof – to another scheme, if that scheme is willing to accept the transfer. Exceptions to

this right are found in regulation 2 of the Transfer Values Regulations. One such exception applies to members who left schemes before 1st January 1986 if the scheme fully revalues the preserved rights.

Regulations 6 and 9 make consequential amendments to the Winding Up Regulations and the Modification of Schemes Regulations to insert references to regulation 11B of the Preservation of Benefit Regulations (as inserted by regulation 2 of these Regulations) alongside references to regulation 12 of those Regulations where appropriate.

Regulation 7 substitutes regulation 32 of the Pension Credit Benefit Regulations to permit schemes which have paid RPI-based increases to continue to do so without tracking the Consumer Prices Index (“CPI”) levels as well. The definition of “appropriate percentage” will make it clear which of the two figures in the revaluation order should be used in which circumstances. The higher percentage is appropriate where the pension was shared prior to 6th April 2005 and the lower percentage for pensions shared on or after that date. The definition of “relevant percentage” replaces a reference to the RPI with a reference to the CPI, reflecting how the requirement is prescribed for main scheme benefits in Article 51 of the 1995 Order.

Regulation 8 amends the Stakeholder Regulations consequential on—

changes made by tax legislation, and

amendments to Article 5 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (“the 1999 Order”) made by section 69 of the Pensions (No. 2) Act (Northern Ireland) 2008, and the supplementary provision made by the Pensions (2008 No. 2 Act) (Commencement No. 10 and Supplementary Provisions) Order (Northern Ireland) 2012 (“the Commencement Order”) (S.R. 2012 No. 372 (C. 35)), which removed the requirement for employers to designate a stakeholder pension scheme, deduct contributions from employees’ remuneration and pay them to the scheme, except where an employee had, before 1st October 2012, requested deductions to be made and has not withdrawn that request. New paragraphs (5A) and (5B) of regulation 24 of the Stakeholder Regulations remove the duty to deduct contributions where the employer’s designated scheme commences winding up or the employer withdraws designation of a scheme for reasons beyond the employer’s control.

The Commencement Order provides for the coming into operation of section 69 of the Pensions (No. 2) Act (Northern Ireland) 2008, which amends Article 5(1) and (5) of the 1999 Order, some of the enabling provisions under which these Regulations are made, on 1st October 2012.

Regulation 10 makes revocations.

As these Regulations, in so far as they are made under Part II of the 1995 Order and Part V of the 1999 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 does not apply by virtue of Article 117(2)(e) of the 1995 Order and Article 73(9) of the 1999 Order.