

**2016 No. 144**

**PENSIONS**

**The Occupational and Personal Pension Schemes  
(Modification of Schemes and Miscellaneous Amendments)  
Regulations (Northern Ireland) 2016**

*Made* - - - - *10th March 2016*

*Coming into operation* - *6th April 2016*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by section 33(1) and (2) of the Pension Schemes (Northern Ireland) Act 1993(a), Article 68(2)(e) of the Pensions (Northern Ireland) Order 1995(b), and now vested in it(c), and Article 236(1) of the Pensions (Northern Ireland) Order 2005(d).

**Citation and commencement**

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Modification of Schemes and Miscellaneous Amendments) Regulations (Northern Ireland) 2016 and shall come into operation on 6th April 2016.

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

2. After regulation 7B of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006(e) (amendment of schemes for adjustment measure) insert—

**“Modification of schemes: revaluation of guaranteed minimum pensions**

**7C.—**(1) The trustees of a trust scheme may by resolution passed before 6th April 2017 modify the scheme for the purposes of—

- (a) revaluing earnings factors for the purposes of section 10(f) of the Pension Schemes Act (earner’s guaranteed minimum) in accordance with section 12(2) of that Act (revaluation of earnings factors for purposes of section 10: early leavers etc.) as substituted by paragraph 16 of Schedule 13 to the Pensions Act (Northern Ireland) 2015, and

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(a) 1993 c. 49; section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and subsections (1) and (2) were substituted by paragraph 24 of Schedule 13 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.))

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

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

(d) S.I. 2005/255 (N.I. 1)

(e) S.R. 2006 No. 149; regulation 7B was inserted by regulation 13(2) of S.R. 2015 No. 309

(f) Section 10 was amended by paragraph 20 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 41 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and is amended by paragraph 15 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

- (b) where the scheme contains a rule or provision that would require or permit the increases referred to in section 12(3)(a) of the Pension Schemes Act to be applied to an earner whose service in contracted-out employment ceased on the second abolition date with effect from a relevant year before the last service tax year, disapplying that rule or provision to the extent that it does not require or permit such increases.
- (2) Modifications made by resolution under paragraph (1)—
- (a) must only have effect from 6th April 2016 or such later date as may be specified, and
  - (b) may have effect from a date before the resolution is passed.
- (3) In this regulation—
- “contracted-out employment” has the meaning given in section 4(b) of the Pension Schemes Act;
  - “earnings factors” has the meaning given in section 176(1) of the Pension Schemes Act;
  - “last service tax year” has the meaning given in section 12(2) of the Pension Schemes Act as substituted by paragraph 16 of Schedule 13 to the Pensions Act (Northern Ireland) 2015;
  - “relevant year” has the meaning given in section 12(5)(c) of the Pension Schemes Act;
  - “the second abolition date” has the meaning given in section 3A(d) of the Pension Schemes Act.”.

**Amendment of the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations**

3. In regulation 10(1) of the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006(e) (listed changes: exclusions) after sub-paragraph (aa) insert—

- “(ab) is made for either or both of the purposes referred to in regulation 7C(1) of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 (modification of schemes: revaluation of guaranteed minimum pensions);”.

**Amendment of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations**

4. In regulation 11 of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016(f) (alteration of scheme rules)—

- (a) omit “would not”;
- (b) for paragraphs (a) and (b) substitute—
  - “(a) would not—

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(a) Section 12(3) was amended by paragraph 21(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(b) Section 4 was amended by paragraph 37 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, paragraph 3 of Schedule 4, and Part 7 of Schedule 6, to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)), paragraph 8 of Schedule 7 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)) and paragraph 2 of Schedule 1 to S.R. 2005 No. 433 and is amended by paragraph 7 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(c) The definition of “relevant year” was substituted by paragraph 3 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(d) Section 3A is inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(e) S.R. 2006 No. 48; sub-paragraph (aa) was inserted by regulation 13(1) of S.R. 2015 No. 309

(f) S.R. 2016 No. 107

- (i) affect any of the matters dealt with in Part 3(a) of the 1993 Act (schemes that were contracted-out etc. and effects on members' state scheme rights), or any regulations made under that Part, that relate to guaranteed minimum pensions, in a manner that would or might adversely affect any entitlement or accrued rights of any member of the scheme acquired before the alteration takes effect;
  - (ii) affect any of the matters dealt with in sections 83 to 88(b) of the 1993 Act (protection of increases in guaranteed minimum pensions) or sections 105 and 106(c) of the 1993 Act (annual increases of guaranteed minimum pensions) or any matters dealt with in regulations made under any of those provisions, or
- (b) is made for either or both of the purposes referred to in regulation 7C(1) of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 (modification of schemes: revaluation of guaranteed minimum pensions).”.

Sealed with the Official Seal of the Department for Social Development on 10th March 2016

(L.S.)

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

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- (a) The heading for Part 3 is amended by paragraph 3 of Schedule 13 to the Pensions Act (Northern Ireland) 2015
  - (b) Section 83 was amended by paragraph 28 of Schedule 4 to the Pensions Act (Northern Ireland) 2008 and paragraph 18 of Schedule 1 to S.R. 2005 No. 433. Section 84 was amended by paragraph 19 of Schedule 1 to S.R. 2005 No. 433. Section 85 was amended by paragraph 20 of Schedule 1 to S.R. 2005 No. 433. Section 86 was amended by paragraph 21 of Schedule 1 to S.R. 2005 No. 433
  - (c) Section 105 was amended by Article 55 of the Pensions (Northern Ireland) Order 1995 and paragraph 22 of Schedule 1 to S.R. 2005 No. 433. Section 106 was amended by Article 53(4) of the Pensions (Northern Ireland) Order 1995 and paragraph 23 of Schedule 1 to S.R. 2005 No. 433

## EXPLANATORY NOTE

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

These Regulations make changes to regulations as a consequence of provisions contained within Schedule 13 to the Pensions Act (Northern Ireland) 2015 (“the 2015 Act”) which abolishes contracting-out for salary related occupational pension schemes from 6th April 2016, known as “the second abolition date”.

Regulation 2 amends the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 to provide a power for such schemes to modify their scheme rules to take account of changes made to section 12(2) of the Pension Schemes (Northern Ireland) Act 1993 by Schedule 13 to the 2015 Act. Schemes may use this power to make changes to have effect from the second abolition date.

Regulation 3 provides that changes made using the power provided for in regulation 2 are not “listed changes” for the purposes of the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006.

Regulation 4 amends the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016 so that changes made using the power provided for in regulation 2 is a permitted change to scheme rules which govern guaranteed minimum pensions.

As these Regulations, in so far as they are made under the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) and the Pensions (Northern Ireland) Order 2005 (“the 2005 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 289(2)(e) of the 2005 Order.

An assessment of the impact of the abolition of contracting-out is included in the Regulatory Impact Assessment which accompanied the Pensions Act (Northern Ireland) 2015, a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of that Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA or from the website: <https://www.dsdni.gov.uk/articles/pension-information>.

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