

## 2016 No. 158

### PENSIONS

#### The Pensions (2015 Act) (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order (Northern Ireland) 2016

*Made* - - - - *14th March 2016*

*Coming into operation in accordance with Article 1*

The Department for Social Development makes the following Order in exercise of the powers conferred by sections 50 and 51(6) of the Pensions Act (Northern Ireland) 2015(a).

#### PART 1

##### General

##### **Citation and commencement**

1. This Order may be cited as the Pensions (2015 Act) (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order (Northern Ireland) 2016 and shall come into operation—

- (a) for the purposes of this Part and Part 2, on 6th April 2016;
- (b) for the purposes of Part 3, on 6th April 2017;
- (c) for the purposes of Part 4, on 6th April 2019, and
- (d) for the purposes of Part 5, on 6th April 2021.

#### PART 2

##### Amendments coming into operation on 6th April 2016

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

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 12 (transfer of member's accrued rights without consent)—

- (a) for paragraph (2)(b)(ii)(c) substitute—

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(a) 2015 c. 5 (N.I.)

(b) S.R. 1991 No. 37; relevant amending Regulations are S.R. 1992 No. 304, S.R. 1996 No. 620 and S.R. 2013 No.72

(c) Paragraph (2) was substituted by regulation 35 of S.R. 1992 No. 304 and sub-paragraph (b)(ii) was amended by regulation 2(7)(a) of S.R. 1996 No. 620 and regulation 2(4) of S.R. 2013 No. 72

- “(ii) the employers are companies or partnerships bearing a relationship to each other in one of the ways described in paragraph (2A).”;
- (b) after paragraph (2) insert—
- “(2A) The relationships between the employers referred to in paragraph (2)(b)(ii) are—
- (a) the employers are members 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(a);
- (b) the employers are—
- (i) an employer who is the principal employer for the purposes of the scheme in accordance with the scheme rules, or who is the employer who has power to act on behalf of all employers in the scheme in relation to the scheme rules, and
- (ii) an employer subject to the rules of the scheme, or
- (c) the employers are partnerships having at least half of their partners in common.”.
- (3) In regulation 24 (schemes funded by level annual premiums) after paragraph (3)(b) insert—
- “(3A) For the purposes of paragraph (3)(a), any alteration of the scheme which arises solely from the abolition of contracting-out for salary related schemes under the Pensions Act (Northern Ireland) 2015(c) does not constitute a material alteration.”.

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

**3.** In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(d) in the definition of “section 5(2B) rights”(e)—

- (a) in paragraph (a) for “contracted-out by virtue of section 5(2B) of the Act” substitute “that was a salary related contracted-out scheme(f)”;
- (b) in paragraph (b)—
- (i) after “has been made” insert “(other than a payment made in accordance with regulation 10 of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(g) (transfer payments to occupational and personal pension schemes in respect of section 5(2B) rights))”;
- (ii) after “such a scheme,” insert “whether before or after the second abolition date(h).”;
- (c) in paragraph (b)(i) for “contracted-out by virtue of section 5(2B) of the Act” substitute “that was a salary related contracted-out scheme”.

### **Amendment of the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations**

**4.** In regulation 10(2) of the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996(i) (disapplication of Article 75)—

- (a) after the definition of “approved scheme” insert—

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(a) 2006 c. 46

(b) Paragraph (3) was amended by regulation 2(14) of S.R. 1996 No. 620

(c) See Schedule 13 to the Pensions Act (Northern Ireland) 2015

(d) S.R. 1996 No. 493; relevant amending Regulations are S.R. 1997 No. 160, S.R. 1999 No. 486 and S.R. 2012 No. 124

(e) 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

(f) See section 3B of the Pension Schemes (Northern Ireland) Act 1993 (c. 49) as inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(g) S.R. 1996 No. 618; regulation 10 was substituted by regulation 7(4) of S.R. 2012 No. 120 and is amended by regulation 22(3) of S.R. 2016 No. 107

(h) See section 3A of the Pension Schemes (Northern Ireland) Act 1993 as inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(i) S.R. 1996 No. 585 to which there are amendments not relevant to this Order

- ““contracted-out” is to be construed in accordance with section 3B(2)(a) of the Pension Schemes Act (meaning of “contracted-out scheme” and “appropriate scheme” etc);”;
- (b) in the definition of “relevant lump sum retirement benefits scheme”, in paragraph (b) for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”;
- (c) after the definition of “relevant statutory scheme” insert—
  - ““the second abolition date” has the meaning given in section 176(1) of the Pension Schemes Act(b);”.

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

**5.—**(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(c) are amended in accordance with paragraphs (2) to (11).

(2) In regulation 1(2) (interpretation)—

- (a) in the definition of “connected employer transfer” and “connected employer transfer payment”(d)—
  - (i) omit “and in this definition “salary related contracted-out scheme” includes a scheme which was formerly a salary related contracted-out scheme”;
  - (ii) before “salary related contracted-out scheme”, in each of the remaining places where it occurs, insert “scheme that was a”;
- (b) in the definition of “overseas scheme”(e)—
  - (i) before “ salary-related contracted-out scheme” insert “scheme that was a”;
  - (ii) omit “nor one in respect of which section 49 (supervision: former contracted-out schemes) applies by virtue of section 48(1) (supervision of schemes which have ceased to be certified)”;
- (c) in the definition of “the principal appointed day”, for “3(2B)” substitute “176(1)(f)”;
- (d) in the opening words omit the definition of “salary related contracted-out scheme(g)”;
- (e) for the definition of “section 5(2B) rights”(h) substitute—
  - ““section 5(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016(i);”.

(3) In regulation 3 (transfers of guaranteed minimum pensions to salary related contracted-out schemes)—

- (a) in the heading, before “salary related” insert “schemes that were”;
- (b) in the opening words before “salary related” insert “scheme that was a”;
- (c) in paragraph (c) omit “in the case of a transfer of the accrued rights of an earner who is not in employment which is contracted-out by reference to the receiving scheme,”.

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(a) Section 3B was inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(b) The definition of “the second abolition date” was inserted by paragraph 42(2) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(c) S.R. 1996 No. 618; relevant amending provisions are S.R. 1997 No. 160, S.R. 1999 No. 486, S.R. 2007 Nos. 185 and 457 and S.R. 2012 Nos. 120 and 124

(d) The definition of “connected employer transfer” and “connected employer transfer payment” was substituted by regulation 4(2) of S.R. 2013 No. 72

(e) The definition of “overseas scheme” was substituted by regulation 6 of S.R. 2007 No. 185 and amended by regulation 8(b) of S.R. 2007 No. 457

(f) The definition of “the principal appointed day” in section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 was substituted by paragraph 42(9) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(g) See sections 3B and 176(1) of the Pension Schemes (Northern Ireland) Act 1993 as inserted and amended respectively by paragraphs 6 and 42(2) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(h) 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

(i) S.R. 2016 No. 107

(4) In regulation 5(a) (transfer payments in respect of guaranteed minimum pensions to occupational and personal pension schemes) omit “a salary related contracted-out scheme”.

(5) In regulation 7(1)(a) and (b)(b) (transfers of liability in respect of section 5(2B) rights – general)—

- (a) after “from a” insert “scheme that was a”;
- (b) omit “(or a scheme which was formerly a salary related contracted-out scheme)”.

(6) In regulation 8 (transfer payments to salary related contracted-out schemes in respect of section 5(2B) rights)—

- (a) in the heading, before “salary related” insert “schemes that were”;
- (b) in the opening words for “salary related contracted-out scheme” substitute “scheme that was a salary related contracted-out scheme which was contracted-out by virtue of section 5(2B)”;
- (c) in paragraph (c)(c) for the words from “which is contracted-out” to the end of that paragraph substitute “which was contracted-out in relation to the receiving scheme on or after the principal appointed day.”.

(7) In regulation 12 (modifications of Part III of the 1993 Act on transfers of, and transfer payments in respect of, guaranteed minimum pensions from occupational pension schemes)—

- (a) before “salary related contracted-out scheme” insert “scheme that was a”;
- (b) subject to Article 6(1), omit paragraph (a);
- (c) subject to Article 6(1), in paragraph (b) for “any other” substitute “a”.

(8) In regulation 13 (modifications of Part III of the 1993 Act on transfers from policies of insurance or annuity contracts)—

- (a) before “salary related contracted-out scheme” insert “scheme that was a”;
- (b) subject to Article 6(2), omit paragraph (a);
- (c) subject to Article 6(2), in paragraph (b) omit the words from the beginning to “to the receiving scheme.”.

(9) Omit regulation 13A(d) (modification of section 8C where transfer payments are made to salary related contracted-out schemes).

(10) In Schedule 1 (further conditions for transfers of guaranteed minimum pensions)—

- (a) for the heading to Part I substitute “Further Conditions for Transfer to a Scheme that was a Salary Related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions”;
- (b) in paragraph 2, omit sub-paragraph (a) and the “but” immediately following it;
- (c) for the heading to Part II substitute “Further Conditions for Transfer from an Appropriate Policy to a Scheme that was a Salary Related Contracted-out Scheme of Accrued Rights to Guaranteed Minimum Pensions”.

(11) In Schedule 2 (modifications of Part III of the 1993 Act)—

- (a) in paragraphs 1 and 6(e) in the definition of “guaranteed minimum pension” for “by an occupational pension scheme” substitute “by a scheme that was a salary related contracted-out scheme”;
- (b) in paragraph 2 for “is contracted-out” substitute “was contracted-out”;
- (c) subject to Article 6(1) and (2), omit paragraph 2.

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(a) Regulation 5 was substituted by regulation 7(3) of S.R. 2012 No. 120  
(b) Regulation 7(1) was amended by paragraph 10(4) of the Schedule to S.R. 1997 No. 160  
(c) Regulation 8(c) was amended by paragraph 10(5) of the Schedule to S.R. 1997 No. 160  
(d) Regulation 13A was inserted by paragraph 10(6) of the Schedule to S.R. 1997 No. 160 and amended by Article 13(3) of S.R. 2012 No. 124  
(e) Paragraphs 1 and 6 were substituted by paragraph 10(7) of the Schedule to S.R. 1997 No. 160

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

6.—(1) Regulation 12(a) and (b) of, and paragraph 2 of Schedule 2 to, the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 (modifications of Part III of the 1993 Act) continue to have effect as if the amendments made by Article 5(7)(b) and (c) and (11)(c) had not been made, in relation to a transfer of accrued rights to guaranteed minimum pensions of an earner who was in employment which was contracted-out by reference to the receiving scheme, where that transfer occurred before the second abolition date.

(2) Regulation 13(a) and (b) of, and paragraph 2 of Schedule 2 to, the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 continue to have effect as if the amendments made by Article 5(8)(b) and (c) and (11)(c) had not been made, in relation to a transfer of accrued rights to guaranteed minimum pensions from an appropriate policy where the earner was in employment which was contracted-out by reference to the receiving scheme and the transfer occurred before the second abolition date.

(3) For the purposes of this Article—

“accrued rights” has the meaning given in section 16(6) of the Pension Schemes Act(a) (transfer of accrued rights);

“appropriate policy” means a policy of insurance or an annuity contract as described in section 15(4)(b) of the Pension Schemes Act (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts);

“employment which was contracted-out” is to be construed in accordance with section 4(1)(c) of the Pension Schemes Act (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”);

“guaranteed minimum pension” has the meaning given in section 4(2)(d) of the Pension Schemes Act;

“the second abolition date” has the meaning given in section 176(1)(e) of the Pension Schemes Act.

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

7. For regulation 13(a)(ii) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(f) (extension of time limits for payment of cash equivalents) substitute—

“(ii) the scheme has ceased to be a contracted-out scheme in the 12 month period ending on the date of the application (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act (Northern Ireland) 2015 or otherwise);”.

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

8.—(1) The Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(g) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 8 (requirements to be satisfied by transferee schemes, annuities, etc.)—

(a) in paragraph (5) before “contracted-out scheme” insert “scheme that was a”;

(b) for paragraph (7)(a)(h) substitute—

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(a) Section 16(6) was amended by paragraph 7 of Schedule 1 to S.R. 2005 No. 433  
(b) Section 15(4) was amended by article 129(2) of S.I. 2001/3649 and regulation 2(3) of S.R.2007 No. 457  
(c) Section 4(1) was substituted by paragraph 7(2) of Schedule 13 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.))  
(d) Section 4(2) was amended by paragraph 7(4) of Schedule 13 to the Pensions Act (Northern Ireland) 2015 and paragraph 2 of Schedule 1 to S.R. 2005 No. 433  
(e) The definition of “the second abolition date” was inserted by paragraph 42(2) of Schedule 13 to the Pensions Act (Northern Ireland) 2015  
(f) S.R. 1996 No. 619 to which there are amendments not relevant to this Order  
(g) S.R. 1996 No. 621; relevant amending Regulations are S.R. 2000 No. 335, S.R. 2005 No. 171 and S.R. 2009 No. 115  
(h) Paragraph (7) was added by regulation 11 of S.R. 2005 No. 171 and amended by regulation 7 of S.R. 2009 No. 115

“(a) regulation 9 or 16 of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016 (payment of a lump sum instead of a pension);”.

(3) In regulation 10(3) (disapplication of Article 38) in the definition of “relevant lump sum retirement benefits scheme” in paragraph (b) for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”.

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

**9.** In regulation 1(2) (interpretation) of the Occupational Pension Schemes (Indexation) Regulations (Northern Ireland) 1997(**a**)—

- (a) omit the definition of “abolition date”(**b**);
- (b) after the definition of “appointed day” insert—

““the first abolition date” has the meaning given in section 176(1)(c) of the Act;”;
- (c) in the definition of “protected rights”(**d**) before “abolition date” insert “first”;
- (d) for the definition of “section 5(2B) rights”(**e**) substitute—

““section 5(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016;”.

### **Amendment of the Social Security (Contracting-out and Qualifying Earnings Factor) Regulations**

**10.**—(1) The Social Security (Contracting-out and Qualifying Earnings Factor) Regulations (Northern Ireland) 1997(**f**) are amended in accordance with paragraph (2).

(2) In regulation 2(2) (modification of the application of section 44(5) of the Contributions and Benefits Act)—

- (a) for “a tax week is” substitute “a tax week was”;
- (b) after “section 37”, in both places where it occurs, insert “(as it had effect before the second abolition date)”.

### **Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations**

**11.**—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(**g**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) in the definition of “relevant scheme” for “section 8C(2)” substitute “section 33A(**h**)”.

(3) In regulation 8(b) (prohibition or restriction of the discharge of liability to provide pensions under a relevant scheme: exceptions) for the words from “or Part V” to the end substitute “, regulation 45 or 46 (as it had effect at the time of approval of arrangements for the scheme ceasing to be contracted-out) of the Occupational Pension Schemes (Contracting-out) Regulations

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(a) S.R. 1997 No. 8; relevant amending provisions are S.R. 2005 No. 170 and S.R. 2012 No. 124

(b) The definition of “abolition date” was inserted by Article 16(a) of S.R. 2012 No. 124

(c) The definition of “the first abolition date” was inserted by paragraph 42(2) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(d) The definition of “protected rights” was inserted by Article 16(b) of S.R. 2012 No. 124

(e) The definition of “section 5(2B) rights” was inserted by regulation 3(b) of S.R. 2005 No. 170

(f) S.R. 1997 No. 31

(g) S.R. 1997 No. 159 to which there are amendments not relevant to this Order

(h) Section 33A was inserted by paragraph 25 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(Northern Ireland) 1996(a), or regulation 6, 8 or 11 of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016 apply”.

(4) In regulation 9(3) (circumstances in which liability to provide pensions under a relevant scheme may be discharged), for “is to cease” substitute “has ceased”.

(5) In regulation 11(3)(e)(i) (conditions on which liability to provide pensions under a relevant scheme may be discharged) for “section 8C(1) (transfer, commutation, etc.)” substitute “section 33A(1) (transfer of liabilities etc.: schemes contracted-out after 6 April 1997)”.

#### **Amendment of the Pensions (1995 Order) (Commencement No. 8) Order**

**12.** In Article 4 of the Pensions (1995 Order) (Commencement No. 8) Order (Northern Ireland) 1997(b) (termination of contracted-out or appropriate scheme status and state scheme premiums) omit paragraph (1).

#### **Amendment of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations**

**13.—**(1) The Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998(c) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) for the definition of “section 5(2B) rights” substitute—

““section 5(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016;”.

(3) In regulation 2 (determination of the amount required for restoring State scheme rights) for “contracted-out occupational pension scheme which is being wound up” substitute “scheme which was a contracted-out occupational pension scheme and which started to wind up before the second abolition date(d)”.

(4) In regulation 3(3)(a) and (b)(e) (method of calculation where no election to pay a contributions equivalent premium may be made) for “the scheme being such a scheme” substitute “the scheme having been such a scheme”.

#### **Amendment of the Occupational Pension Schemes (Validation of Rule Alterations) Regulations**

**14.—**(1) The Occupational Pension Schemes (Validation of Rule Alterations) Regulations (Northern Ireland) 1998(f) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) omit the definition of “contracted-out scheme”.

(3) In regulation 2 (validation of rule alterations made before 6th April 1997)—

(a) in paragraph (1)(a) for “contracted-out scheme” substitute “scheme, which was at the time of the alteration a contracted-out scheme;”;

(b) in paragraph (2) for “a contracted-out” substitute “such a”.

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(a) S.R. 1996 No. 493. Regulation 45 was amended by regulation 3(3) of S.R. 1997 No. 162, paragraph 15 of Schedule 2 to S.R. 2005 No. 433, regulation 6(15) of S.R. 2012 No. 120 and Article 12(9) of S.R. 2012 No. 124. Regulation 46 was amended by regulation 3(4) of S.R. 1997 No. 162 and Article 12(10) of S.R. 2012 No. 124

(b) S.R. 1997 No. 192 (C. 10)

(c) S.R. 1998 No. 208; relevant amending provisions are S.I. 2005/891

(d) See section 3A of the Pension Schemes (Northern Ireland) Act 1993 as inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(e) Regulation 3(3) was inserted by regulation 3(4) of S.I. 2005/891

(f) S.R. 1998 No. 267; relevant amending provisions are Article 3(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

### **Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations**

**15.** For the heading immediately before paragraph 6 of Schedule 1 to the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999<sup>(a)</sup> (decisions against which no appeal lies) substitute “Schemes that were contracted-out pension schemes”.

### **Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations**

**16.—**(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000<sup>(b)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “base rate” insert—

““contracted-out” is to be construed in accordance with section 3B(2)(c) (meaning of “contracted-out scheme and “appropriate scheme” etc);”;

(b) for the definition of “section 5(2B) rights” substitute—

““section 5(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016;”.

(3) In regulation 3(a) (circumstances in which an application for an extension of the implementation period may be made) for sub-paragraph (ii) substitute—

“(ii) the scheme has ceased to be a contracted-out scheme in the 12 month period ending on the date of the application (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act (Northern Ireland) 2015 or otherwise);”.

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

**17.—**(1) The Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000<sup>(d)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) omit the definition of “salary related contracted-out scheme”.

(3) In regulation 26(a) (extension of time limits for payment of cash equivalents) for sub-paragraph (ii) substitute—

“(ii) the scheme has ceased to be a contracted-out scheme in the 12-month period ending on the date of the application (whether by virtue of the abolition of contracting-out for salary related schemes under the Pensions Act (Northern Ireland) 2015 or otherwise);”.

### **Amendment of the Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions) Regulations**

**18.** In regulation 2(2) of the Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions) Regulations (Northern Ireland) 2000<sup>(e)</sup> (modification or the application of section 44(5A) of the 1992 Act)—

(a) for “is reduced”, in both places where it occurs, substitute “was reduced”;

(b) after “section 37”, in both places where it occurs, insert “(as it then had effect)”.

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(a) S.R. 1999 No. 162

(b) S.R. 2000 No. 145 to which there are amendments not relevant to this Order

(c) Section 3B was inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(d) S.R. 2000 No. 146 to which there are amendments not relevant to this Order

(e) S.R. 2000 No. 360

### **Amendment of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations**

**19.**—(1) The Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations (Northern Ireland) 2001(a) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the 1994 Regulations” insert—

““appropriate personal pension scheme” means an appropriate scheme within the meaning of section 3B(6) of the Pensions Act;”;

(b) for the definition of “contributions equivalent premium” substitute—

““contributions equivalent premium” has the meaning given in section 176(1)(b) of the Pensions Act;”;

(c) after the definition of “contributions equivalent premium” insert—

““money purchase contracted-out scheme” has the meaning given in section 3B(5) of the Pensions Act;”;

(d) after the definition of “non-contracted-out employment” insert—

““salary related contracted-out scheme” has the meaning given in section 3B(4) of the Pensions Act;”.

(3) Omit regulation 1(3).

(4) In regulation 2(a) (calculation of additional pension where contributions equivalent premium paid or treated as paid) after “regulations made thereunder” insert “(as they then had effect)”.

### **Amendment of the Transfer of Employment (Pension Protection) Regulations**

**20.** In regulation 2(1) of the Transfer of Employment (Pension Protection) Regulations (Northern Ireland) 2005(c) (requirements where the transferee’s pension scheme is not a money purchase scheme) for “235(2)(c)(ii)” substitute “235(2)(c)”.

### **Amendment of the Pension Protection Fund (Entry Rules) Regulations**

**21.** In regulation 2 of the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005(d) (schemes which are not eligible schemes)—

(a) in paragraph (1)(g)(ii) for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”;

(b) after paragraph (8)(e) add—

“(9) In this regulation—

“contracted-out” is to be construed in accordance with section 3B(2) of the Pension Schemes Act;

“the second abolition date” has the meaning given in section 176(1) of the Pension Schemes Act.”.

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(a) S.R. 2001 No. 440 to which there are amendments not relevant to this Order

(b) The definition of “contributions equivalent premium” was amended by paragraph 66 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 42(6) of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(c) S.R. 2005 No. 94; the heading to regulation 2 was amended by regulation 4(3) of S.R. 2014 No. 93

(d) S.R. 2005 No. 126; relevant amending Regulations are S.R. 2005 No. 364

(e) Paragraph (8) was added by regulation 2(3)(d) of S.R. 2005 No. 364

### **Amendment of the Occupational Pension Schemes (Employer Debt) Regulations**

**22.** In regulation 4 of the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005(a) (schemes to which Article 75 does not apply)—

- (a) in paragraph (1)(f)(ii) for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”;
- (b) after paragraph (2) add—
  - “(3) In this regulation—
    - “contracted-out” is to be construed in accordance with section 3B(2) of the Pension Schemes Act;
    - “the second abolition date” has the meaning given in section 176(1) of the Pension Schemes Act.”.

### **Amendment of the Occupational Pension Schemes (Winding up, etc.) Regulations**

**23.** In regulation 3 of the Occupational Pension Schemes (Winding up, etc.) Regulations (Northern Ireland) 2005(b) (schemes to which Article 73 of the 1995 Order does not apply)—

- (a) in paragraph (1)(f)(ii) for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”;
- (b) after paragraph (2) add—
  - “(3) In this regulation—
    - “contracted-out” is to be construed in accordance with section 3B(2) of the Pension Schemes Act;
    - “the second abolition date” has the meaning given in section 176(1) of the Pension Schemes Act.”.

### **Amendment of the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations**

**24.** In regulation 2 of the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations (Northern Ireland) 2005(c) (prescribed schemes)—

- (a) the provisions of the regulation shall become paragraph (1) of the regulation;
- (b) in paragraph (1) in sub-paragraph (g)(ii) for “is not contracted-out” substitute “was not contracted-out at any time before the second abolition date”;
- (c) after paragraph (1) add—
  - “(2) In this regulation—
    - “contracted-out” is to be construed in accordance with section 3B(2) of the Pension Schemes Act;
    - “the second abolition date” has the meaning given in section 176(1) of the Pension Schemes Act.”.

### **Amendment of the Occupational Pension Schemes (Cross-border Activities) Regulations**

**25.** In paragraph 5 of Schedule 2 to the Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005(d) (modifications of pensions legislation, and relevant legal requirements for the purposes of Article 269) in Table 4—

- (a) omit the entry relating to “Sections 5 and 6”;

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(a) S.R. 2005 No. 168 to which there are amendments not relevant to this Order

(b) S.R. 2005 No. 171 to which there are amendments not relevant to this Order

(c) S.R. 2005 No. 173 to which there are amendments not relevant to this Order

(d) S.R. 2005 No. 581



(a) after the definition of “contracted-out(a)” insert—

““guaranteed minimum pension” has the meaning given in section 4(2)(b) (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”);

“HMRC” means the Commissioners for Her Majesty’s Revenue and Customs;”;

(b) after the definition of “Regulatory Authority”(c) insert—

““scheme reconciliation service” means the service set up by HMRC which allows schemes to compare the scheme’s records of members who have been contracted-out, and the value of members’ guaranteed minimum pensions, with HMRC’s records of the same, with a view to removing any errors in the scheme’s or HMRC’s records;

“the second abolition date” has the meaning given in section 176(1);”.

(3) In regulation 3(a) (circumstances in which an application for an extension of the implementation period may be made) for sub-paragraph (ii)(d) substitute—

“(ii) the scheme ceased to be a contracted-out scheme in the 12-month period ending on the second abolition date, and the trustees or managers of the scheme are seeking to reach an agreement with HMRC as to the scheme’s liabilities for guaranteed minimum pensions or section 5(2B) rights of members through the scheme reconciliation service but such agreement has not yet been reached;”.

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

**29.—**(1) The Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 are amended in accordance with paragraph (2).

(2) In regulation 26 (extension of time limits for payment of cash equivalents)—

(a) the provisions of the regulation shall become paragraph (1);

(b) in paragraph (1) for sub-paragraph (a)(ii)(e) substitute—

“(ii) the scheme ceased to be a contracted-out scheme in the 12 month period ending on the second abolition date, and the trustees or managers have not yet reached an agreement with Her Majesty’s Revenue and Customs (HMRC) as to the scheme’s liabilities for guaranteed minimum pensions or section 5(2B) rights;”.

(c) after paragraph (1) add—

“(2) In this regulation—

“scheme reconciliation service” means the service set up by HMRC which allows schemes to compare the scheme’s records of members who have been contracted-out, and the value of members’ guaranteed minimum pensions, with HMRC’s records of the same, with a view to removing any errors in the scheme’s or HMRC’s records;

“section 5(2B) rights” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016(f).”.

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(a) The definition of “contracted-out” is inserted by Article 16(2)(a) of this Order  
(b) Section 4(2) was amended by paragraph 7(4) of Schedule 13 to the Pensions Act (Northern Ireland) 2015  
(c) The definition of “Regulatory Authority” was amended by regulation 13 of S.R. 2009 No. 115  
(d) Regulation 3(a)(ii) is substituted by Article 16(3) of this Order  
(e) Sub-paragraph (a)(ii) is substituted by Article 17(3) of this Order  
(f) S.R. 2016 No. 107

## **Amendment of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations**

**30.** In Schedule 2 to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(**a**) (basic information) omit paragraph 12.

## **PART 4**

Revocations coming into operation on 6th April 2019

### **Revocations**

**31.** The Occupational Pension Schemes (Modification of the Pension Schemes (Northern Ireland) Act 1993) Regulations (Northern Ireland) 1998(**b**) and the Occupational Pension Schemes (Validation of Rule Alterations) Regulations (Northern Ireland) 1998(**c**) are revoked.

## **PART 5**

Amendments coming into operation on 6th April 2021

### **Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations**

**32.**—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997 are amended in accordance with paragraphs (2) and (3).

(2) In regulation 9(**d**) (circumstances in which liability to provide pensions under a relevant scheme may be discharged)—

- (a) in paragraph (1) omit “or (3)”;
- (b) omit paragraph (3).

(3) In regulation 11(1) (conditions on which liability to provide pensions under a relevant scheme may be discharged) after “regulation 9(2)(b)” omit “and (3)”.

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

**33.**—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 are amended in accordance with paragraph (2).

(2) Omit regulation 13(1)(a)(ii)(**e**) (extension of time limits for payment of cash equivalents).

### **Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations**

**34.**—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000 are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) omit the definitions of “contracted-out”, “guaranteed minimum pension”, “HMRC” and “the second abolition date”(**f**).

(3) Omit regulation 3(a)(ii)(**g**).

- 
- (a) S.R. 2014 No. 79 to which there are amendments not relevant to this Order
  - (b) S.R. 1998 No. 227
  - (c) S.R. 1998 No. 267
  - (d) Regulation 9 is amended by Article 11(4) of this Order
  - (e) Regulation 13(1)(a)(ii) is substituted by Article 27(2)(b) of this Order
  - (f) The definitions are inserted by Articles 16(2) and 28(2) of this Order
  - (g) Regulation 3(a)(ii) is substituted by Article 28(3) of this Order

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

**35.**—(1) The Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 are amended in accordance with paragraph (2).

(2) Omit regulation 26(1)(a)(ii)(a).

Sealed with the Official Seal of the Department for Social Development on 14th March 2016

(L.S.)

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

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(a) Regulation 26(1)(a)(ii) is substituted by Article 29(2)(b) of this Order

## EXPLANATORY NOTE

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

This Order makes consequential amendments in connection with provision made by the Pensions Act (Northern Ireland) 2015 (“the 2015 Act”).

The 2015 Act creates a new State Pension for people reaching pensionable age after 5th April 2016. The new pension will be a single pension replacing the current two-tier system of basic pension and additional pension. As it will no longer be possible to accrue rights to additional pension, the 2015 Act abolishes the option of contracting-out of the additional pension. Although contracting-out is abolished from 6th April 2016 (“the second abolition date”), a number of provisions need to remain on a transitional basis, for example, to facilitate the winding up of the contracting-out system. Schedule 13 to the 2015 Act makes amendments to existing primary legislation to abolish contracting-out of the additional state pension for salary related pension schemes. This Order makes consequential amendments to subordinate legislation.

In particular, references to a salary related contracted-out scheme are amended to refer to a scheme that was a salary related contracted-out scheme. This term is defined in section 3B of the Pension Schemes (Northern Ireland) Act 1993 (“the 1993 Act”), as inserted by the 2015 Act. The Order also amends references to provisions of the 1993 Act which are repealed by the 2015 Act and to the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996, which are revoked and replaced (subject to savings) by the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016.

Article 2(3) amends regulation 24 of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991 to clarify that a salary related scheme ceasing to contract-out on the second abolition date does not constitute a “material alteration” of the scheme for the purposes of that regulation.

Article 3 amends the definition of “section 5(2B) rights” in the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 to take account of the changes to the transfer provisions made by Article 5.

Article 5 omits certain provisions of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 relating to transfers and transfer payments of pension rights between schemes which are both contracted-out. These provisions continue to have effect under Article 6 in relation to transfers which occurred before the second abolition date.

Article 14 amends the Occupational Pension Schemes (Validation of Rule Alterations) Regulations (Northern Ireland) 1998 from 6th April 2016 to allow the regulations to apply to schemes that were contracted-out at the time the rule alteration was made. Article 31 then revokes those regulations from 6th April 2019, along with the Occupational Pension Schemes (Modification of the Pension Schemes (Northern Ireland) Act 1993) Regulations (Northern Ireland) 1998.

Article 25 amends the Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005 to amend references to contracting-out legislation in the list of legislation that a European pensions institution is required to comply with if it accepts contributions from a UK employer.

Article 26 amends the Employers’ Duties (Registration and Compliance) Regulations (Northern Ireland) 2010 to require that the contracting-out certificate (which was evidence that the scheme met the relevant quality standards in relation to automatic enrolment before the second abolition date) be kept for a period of 6 years after the second abolition date.

Articles 27, 28 and 29 amend respectively the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996, the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000 and the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 to allow for the time for relevant payments to be paid to be extended by the Pensions Regulator where the scheme is still seeking to reach an agreement with

HMRC, following the abolition of contracting-out, as to the scheme's liabilities for guaranteed minimum pensions and section 5(2B) rights through what is known as the Scheme Reconciliation Service. These provisions are then omitted from 6th April 2021 by Articles 33, 34 and 35 respectively.

Article 30 removes the requirement in the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 for schemes to provide information as to what employment is contracted-out employment under the scheme, from 6th April 2017.

An assessment of the impact of the abolition of contracting-out is included in the Regulatory Impact Assessment which accompanied the 2015 Act, 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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£6.00

NI2016031416 03/2016 19585

<http://www.legislation.gov.uk/id/nistr/2016/158>

ISBN 978-0-33-800485-7



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