

SCHEDULE 1

Regulation 11(3)

OCCUPATIONAL PENSION SCHEMES

Interpretation

1.—(1) In this Schedule –

“active member”, “deferred member”, “managers”, “pensioner member” and “trustees or managers”, in relation to an occupational pension scheme, have the meanings given by Article 121(1) of the Pensions (Northern Ireland) Order 1995(1) as at 2nd December 2003;

“member” means any active member, deferred member or pensioner member;

“non-discrimination rule” means the rule in paragraph 2;

“occupational pension scheme” has the same meaning as in the Pension Schemes Act (Northern Ireland) 1993(2) as at 2nd December 2003;

“prospective member”, in relation to an occupational pension scheme, means any person who, under the terms of his employment or the rules of the scheme or both –

- (a) is able, at his own option, to become a member of the scheme,
- (b) shall become so able if he continues in the same employment for a sufficient period of time,
- (c) shall be admitted to it automatically unless he makes an election not to become a member, or
- (d) may be admitted to it subject to the consent of his employer.

(2) In paragraph 6 (procedure in industrial tribunals), “employer”, in relation to an occupational pension scheme, has the meaning given by Article 121(1) of the Pensions (Northern Ireland) Order 1995 as at 2nd December 2003.

(3) Any term used in regulation 11 (trustees and managers of occupational pension schemes) and in this Schedule shall have the same meaning in that regulation as it has in this Schedule.

Non-discrimination rule

2. Every occupational pension scheme shall be treated as including a provision (“the non-discrimination rule”) containing a requirement that the trustees or managers of the scheme refrain from doing any act which is unlawful by virtue of regulation 11.

3. The other provisions of the scheme are to have effect subject to the non-discrimination rule.

4. The trustees or managers of an occupational pension scheme may –

- (a) if they do not (apart from this paragraph) have power to make such alterations to the scheme as may be required to secure conformity with the non-discrimination rule, or
- (b) if they have such power but the procedure for doing so –
 - (i) is liable to be unduly complex or protracted, or
 - (ii) involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty,

by resolution make such alterations to the scheme.

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

(2) 1993 c. 49

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

5. Alterations made by a resolution such as is referred to in paragraph 4 may have effect in relation to a period before the alterations are made (but may not have effect in relation to any time before 2nd December 2003).

Procedure in industrial tribunals

6. Where under regulation 34 (jurisdiction of industrial tribunals) a member or prospective member of an occupational pension scheme presents to an employment tribunal a complaint that the trustees or managers of the scheme –

- (a) have committed against him an act which is unlawful by virtue of regulation 11 (trustees and managers of occupational pension schemes) or 23 (relationships which have come to an end); or
- (b) are by virtue of regulation 24 (liability of employers and principals) or 25 (aiding unlawful acts) to be treated as having committed against him such an act,

the employer in relation to the scheme shall, for the purposes of the rules governing procedure, be treated as a party and be entitled to appear and be heard in accordance with those rules.

Remedies in industrial tribunals

7.—(1) This paragraph applies where –

- (a) under regulation 34 (jurisdiction of industrial tribunals) a member or prospective member of an occupational pension scheme (“the complainant”) presents to an industrial tribunal a complaint against the trustees or managers of the scheme or his employer;
- (b) the complainant is not a pensioner member of the scheme;
- (c) the complaint relates to the terms on which persons become members of the scheme, or the terms on which members of the scheme are treated; and
- (d) the tribunal finds the complaint to be well-founded.

(2) Where this paragraph applies, the industrial tribunal may, without prejudice to the generality of its power under regulation 36(1)(a) (power to make order declaring rights of complainant and respondent), make an order declaring that the complainant has a right –

- (a) where the complaint relates to the terms on which persons become members of the scheme, to be admitted to the scheme;
- (b) where the complaint relates to the terms on which members of the scheme are treated, to membership of the scheme without discrimination.

(3) An order under sub-paragraph (2) –

- (a) may be made in respect of such period as is specified in the order (but may not be made in respect of any time before 2nd December 2003);
- (b) may make such provision as the industrial tribunal considers appropriate as to the terms on which, or the capacity in which, the complainant is to enjoy such admission or membership.

(4) Where this paragraph applies, the industrial tribunal may not make an order for compensation under regulation 36(1)(b), whether in relation to arrears of benefits or otherwise, except –

- (a) for injury to feelings;
- (b) by virtue of regulation 36(3).