STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART IX

MISCELLANEOUS AND SUPPLEMENTARY

Regulations and orders

Breach of regulations

286. The following provisions of the 1995 Order apply to regulations under this Order as if they were regulations made by virtue of Part II of that Order—

(a) Article 10(3) to (9) (power to impose civil penalties for contravention of regulations under Part II of that Order);

(b) Article 113 (power to provide for contravention of regulations under that Part to be criminal offence).

Orders and regulations (general provisions)

287.—(1) Any power conferred by this Order to make regulations or an order—

(a) if it is expressed to be exercisable for alternative purposes, may be exercised in relation to the same case for any or all of those purposes, and

(b) if it is conferred for the purposes of any one provision of this Order, is without prejudice to any power to make regulations or an order for the purposes of any other provision.

(2) A power conferred by this Order to make regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.

(3) Any power conferred by this Order to make regulations or an order also includes power to make such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations or order to be expedient.

(4) Regulations may, for the purposes of or in connection with the coming into operation of any provisions of this Order, make any such provision as could be made by virtue of Article 1(6) by an order bringing those provisions into operation.

Assembly etc. control of orders and regulations

288.—(1) Subject to the following provisions of this Article—

(a) any orders made under this Order by a Northern Ireland department, and

(b) any regulations made under this Order,

are subject to negative resolution.

(2) Orders and regulations to which this paragraph applies—

(a) must be laid before the Assembly after being made; and

(b) take effect on such date as may be specified in the order or regulations, but (without prejudice to the validity of anything done thereunder or to the making of a new order or new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the order or regulations are approved by a resolution of the Assembly.

(3) Paragraph (2) applies to—

(a) regulations under Article 2(5)(b) (power to extend meaning of employer);

(b) regulations under Article 103(1) or (3) (administration levy in respect of expenditure relating to the Board);

(c) regulations under Article 151 (modification of Chapter 3 of Part III where liabilities discharged during the assessment period);

(d) regulations under Article 157 (the initial levy);

(e) regulations under Article 158 (pension protection levies);

(f) an order or regulations under Article 191 (the PPF Ombudsman);

(g) regulations under Article 192 (reference of reviewable matter to the PPF Ombudsman);

(h) regulations under Article 193 (investigation by PPF Ombudsman of complaints of maladministration);

(i) regulations under Article 214 (combined pension forecasts);

(j) regulations under Article 215 (information and advice to employees);

(k) an order under Article 220(1) (power to provide for minimum fraction of member-nominated trustees or directors to be one-half);

(l) regulations which make provision by virtue of Article 238(2)(f) (power to make amendments etc. to certain statutory provisions);

(m) regulations which make provision by virtue of Article 286(b) (power to provide for contravention of regulations to be criminal offence);

(n) an order under Article 290(2) (power to make consequential amendments to statutory provisions);

(o) an order under paragraph 24(8) of Schedule 6 (power to vary percentage of periodic compensation that can be commuted); or

(p) an order under paragraph 30(1) of that Schedule (power to vary percentage paid as compensation from the Pension Protection Fund).

(4) Paragraph (1) does not apply to—

(a) an order under Article 1 (title and commencement);

(b) an order under Article 86(7) (commencement of code of practice);

(c) an order under Article 110(2) (schemes winding up before day appointed by order not eligible schemes for purposes of Part III); or

(d) an order under Article 165(10) (order appointing day after which losses of non-trust schemes are relevant for fraud compensation purposes).

(5) This paragraph applies to any regulations or orders made under this Order which—

(a) but for paragraph (6), would be subject to negative resolution, and

(b) are contained in a statutory rule which includes any regulations or order subject to the confirmatory procedure.

(6) Any regulations or orders to which paragraph (5) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.

(7) Orders made under this Order by a Minister of the Crown are subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946 (c. 36) applies accordingly.

(8) In this Article "the confirmatory procedure" means the procedure described in paragraph (2).

Consultations about regulations

289.—(1) Before the Department makes any regulations by virtue of this Order (other than Part VIII), the Department must consult such persons as it considers appropriate.

(2) Paragraph (1) does not apply—

(a) to regulations made for the purpose only of consolidating other regulations revoked by those regulations,

(b) in a case where it appears to the Department that by reason of urgency consultation is inexpedient,

(c) to regulations made before the end of the period of six months beginning with the coming into operation of the provision of this Order by virtue of which the regulations are made,

(d) to regulations which—

(i) state that they only make provision consequential upon a specified statutory provision, and

(ii) are made before the end of the period of six months beginning with the coming into operation of that statutory provision, or

(e) to regulations making only provision corresponding to provision contained in regulations made by the Secretary of State in relation to Great Britain.