STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART VI

OCCUPATIONAL AND PERSONAL PENSION SCHEMES: MISCELLANEOUS PROVISIONS

Consultation by employers

Consultation by employers: occupational pension schemes

236.—(1) Regulations may require any prescribed person who is the employer in relation to an occupational pension scheme and who—

(a) proposes to make a prescribed decision in relation to the scheme, or

(b) has been notified by the trustees or managers of the scheme that they propose to make a prescribed decision in relation to the scheme,

to consult prescribed persons in the prescribed manner before the decision is made.

(2) Regulations may require the trustees or managers of an occupational pension scheme not to make a prescribed decision in relation to the scheme unless—

(a) they have notified the employer of the proposed decision, and

(b) they are satisfied that the employer has undertaken any consultation required by virtue of paragraph (1).

(3) The validity of any decision made in relation to an occupational pension scheme is not affected by any failure to comply with regulations under this Article.

(4) Article 238 contains further provisions about regulations under this Article.

Consultation by employers: personal pension schemes

237.—(1) Regulations may require any prescribed person who—

(a) is the employer in relation to a personal pension scheme where direct payment arrangements exist in respect of one or more members of the scheme who are his employees, and

(b) proposes to make a prescribed decision affecting the application of the direct payment arrangements in relation to those employees,

to consult prescribed persons in the prescribed manner before he makes the decision.

(2) The validity of any decision prescribed for the purposes of paragraph (1)(b) is not affected by any failure to comply with regulations under this Article.

(3) Article 238 contains further provisions about regulations under this Article.

Further provisions about regulations relating to consultation

238.—(1) In this Article "consultation regulations" means regulations under Article 236 or 237.

(2) Consultation regulations may—

(a) make provision about the time to be allowed for consultation;

(b) prescribe the information which must be provided to the persons who are required to be consulted;

(c) confer a discretion on the employer in prescribed cases as to the persons who are to be consulted;

(d) make provision about the representatives the employees may have for the purposes of the regulations and the methods by which those representatives are to be selected;

(e) require or authorise the holding of ballots;

(f) amend, apply with or without modifications, or make provision similar to, any provision of the Employment Rights (Northern Ireland) Order 1996 (NI 16) (including, in particular, Parts VI, XI and XV), the Industrial Tribunals (Northern Ireland) Order 1996 (NI 18) or the Trade Union and Labour Relations (Northern Ireland) Order 1995 (NI 12);

(g) enable any requirement for consultation imposed by the regulations to be waived or relaxed by order of the Regulator;

(h) require the employer to communicate to the trustees and managers of the scheme any representations received by the employer in response to any consultation required by the regulations.

(3) Persons on whom obligations are imposed by consultation regulations, either as employers or as the trustees or managers of occupational pension schemes, must, if so required by the Regulator, provide information to the Regulator about the action taken by them for the purpose of complying with the regulations.

(4) Consultation regulations may make provision as to—

(a) the information to be provided under paragraph (3);

(b) the form and manner in which the information is to be provided;

(c) the period within which the information is to be provided.

(5) Nothing in consultation regulations is to be regarded as affecting any duty to consult arising otherwise than under the regulations.