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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 581**

**PENSIONS**

**The Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005**

*Made - - - - 20th December 2005*

*Coming into operation 30th December 2005*

The Department for Social Development, in exercise of the powers conferred on it by Articles 2(5) (a), 263(6), 264, 265(1), (2) and (4), 267(2), 268(1), 269(8) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005<sup>(1)</sup>, and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005 and shall come into operation on 30th December 2005.

**Interpretation**

“the Order” means the Pensions (Northern Ireland) Order 2005<sup>(2)</sup> and any reference to a numbered Article is a reference to the Article of the Order bearing that number;

“accrued European rights” means—

(a) in relation to a European member of the scheme—

- (i) any rights which have accrued to or in respect of that European member to future benefits under the scheme rules, or
- (ii) any entitlement to the present payment of a pension or other benefit under the scheme rules,

to the extent that those rights or entitlement result from the periods when that European member was—

- (aa) both employed by a European employer and a qualifying person, or
- (bb) a qualifying self-employed person, and

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<sup>(1)</sup> S.I.2005/255 (N.I. 1)

<sup>(2)</sup> Part IV of the Pensions (Northern Ireland) Order 2005 is modified in its application to occupational pension schemes undertaking cross-border activities by S.R. 2005 No. 568

- (b) in relation to a European survivor, any entitlement to benefits, or right to future benefits, under the scheme rules in respect of a European member to the extent that that right or entitlement results from the periods when that European member was—
- (i) both employed by a European employer and a qualifying person, or
  - (ii) a qualifying self-employed person;

“actuarial valuation” shall be construed in accordance with Article 203 (actuarial valuations and reports), and includes an actuarial valuation obtained by the trustees or managers of a scheme for any purpose, including that of making an application under Article 264 (general authorisation to accept contributions from European employers) or 265 (approval in relation to particular European employer);

“the commencement date” is the date referred to in regulation 1;

“cross-border scheme” means a scheme which applies to European members or in relation to which there are European survivors;

“the effective date” shall be construed in accordance with Article 203(2);

“employment” includes any trade, business, profession, office or vocation and “employed” shall be construed accordingly;

“European employer” has the meaning given in regulation 3(1);

“European member” means a member of a scheme who is, or was—

- (a) a qualifying person in respect of whom contributions were made to the scheme by a European employer, or
- (b) a qualifying self-employed person who has made contributions to the scheme;

“European survivor” means a survivor of a European member of the scheme who is entitled to benefits, or has a right to future benefits, under the scheme rules in respect of that European member;

“host member State”, in relation to a European employer, has the meaning given in regulation 3(5);

“multi-employer scheme” shall be construed in accordance with Article 280(4) (modification of the Order in relation to certain categories of schemes)(3);

“new scheme” means a scheme—

- (a) which does not have any members—
  - (i) in relation to whom there are any rights which have accrued to or in respect of the members in question to future benefits under the scheme rules, or
  - (ii) who have any entitlement to the present payment of a pension or other benefit under the scheme rules, and
- (b) in relation to which there are not any survivors of any members of the scheme who are entitled to benefits, or have a right to future benefits, under the scheme rules in respect of those members;

“new section” means a section of a segregated multi-employer scheme—

- (a) which does not have any members—
  - (i) in relation to whom there are any rights which have accrued to or in respect of the members in question to future benefits under the scheme rules, or

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(3) The Pensions (Northern Ireland) Order 2005 is modified in its application to multi-employer schemes by S.R. 2005 No. 91 as amended by S.R. 2005 No. 357

- (ii) who have any entitlement to the present payment of a pension or other benefit under the scheme rules, and
- (b) in relation to which there are not any survivors of any members of the scheme who are entitled to benefits, or have a right to future benefits, under the scheme rules in respect of those members;

“notice of intention” shall be construed in accordance with Article 265(1);

“pay-as-you-go scheme” means a scheme under which there is no requirement for assets to be set aside in advance for the purpose of providing benefits under the scheme (disregarding any requirements relating to additional voluntary contributions);

“pre-23rd September 2005 scheme” means a scheme—

- (a) which—
  - (i) has its main administration in the United Kingdom, and
  - (ii) is not a pay-as-you-go scheme, and
- (b) in relation to which—
  - (i) the trustees or managers were accepting contributions on 22nd September 2005 from any person who, had Article 263(6) been in operation on that date, would have been a European employer, or
  - (ii) any such person was under a liability to pay contributions to the trustees or managers on 22nd September 2005;

“qualifying person” means a person who is employed under a contract of service and whose place of work under that contract is sufficiently located in a member State other than the United Kingdom so that his relationship with his employer is subject to the social and labour law relevant to the field of occupational pension schemes of that member State, but, for the purposes of this definition, a seconded worker is not to be regarded as being so sufficiently located in a member State other than the United Kingdom;

“qualifying self-employed person” means a self-employed person whose place of work is sufficiently located in a member State other than the United Kingdom so that his employment in that member State is subject to the social and labour law relevant to the field of occupational pension schemes of that member State;

“register” means the register of occupational and personal pension schemes compiled and maintained under section 59 of the Pensions Act 2004(4);

“registrable information” shall be construed in accordance with Article 55(1);

“scheme” means an occupational pension scheme;

“seconded worker” means a person—

- (a) who—
  - (i) is employed under a contract of service by an employer established in the United Kingdom and whose habitual place of work under that contract is located in the United Kingdom, or
  - (ii) immediately before the commencement of the period of secondment was employed under a contract of service by an employer established in the United Kingdom and whose habitual place of work under that contract was located in the United Kingdom,
- (b) who—

- (i) was posted before the commencement date for a limited period which had not expired before that date, or
- (ii) is posted on or after the commencement date for a limited period, to a member State other than the United Kingdom for the purpose of providing services on behalf of his employer, and
- (c) who—
  - (i) at the time when that posting began expected to return to the United Kingdom to work for the employer described in paragraph (a)(i) or (ii) after the expiry of that period, or
  - (ii) expects to retire from employment immediately after the expiry of that period;

“segregated multi-employer scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section, and
- (b) a specified part or proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section;

“statutory funding objective” shall be construed in accordance with Article 201;

“the survivor”, in relation to a member of a scheme, means a person who—

- (a) is the widow, widower or surviving civil partner of the member, or
- (b) has survived that member and has any entitlement to benefit, or right to future benefits under the scheme in respect of that member.

In these Regulations—

(2) In these Regulations, “employer”, in relation to a scheme which has no active members, includes every person who was the employer of persons in the description of employment to which the scheme relates immediately before the time at which the scheme ceased to have any active members in relation to it.

(3) Where a scheme is a segregated multi-employer scheme, these Regulations, except regulations 4 to 8, apply as if each section of the scheme were a separate scheme.

### **Meaning of “European employer” and “host member State” in Part VII of the Order**

3.—(1) Subject to paragraphs (2) to (4), in Part VII of the Order “European employer”, in relation to a scheme, means a person who either—

- (a) employs qualifying persons, or
- (b) is a qualifying self-employed person, and

is making (or proposes to make) contributions to that scheme either in respect of a qualifying person or in respect of himself as a qualifying self-employed person.

(2) An employer is not to be regarded as a European employer in relation to any persons whom he employs who are not qualifying persons.

(3) Where—

- (a) the Regulator has approved the trustees or managers of a scheme in relation to a European employer, and
- (b) benefits are, or will become, payable under the scheme rules to or in respect of any member who is or was a qualifying person in relation to that European employer, or to or in respect of any member who is or was a qualifying self-employed person,

“European employer” shall include the persons specified in paragraph (4).

- (4) The persons referred to in paragraph (3) are—
- (a) in a case where the approval was granted in relation to a body corporate which has since ceased to be an employer of qualifying persons, that body corporate,
  - (b) in a case where—
    - (i) the approval was granted in relation to a European employer who is not a body corporate, and
    - (ii) that European employer has ceased to be an employer of qualifying persons, the person who was the employer of qualifying persons who were, in accordance with that approval, members of the scheme immediately before the time at which the scheme ceased to have any such active members, and
  - (c) in a case where the approval was granted in relation to a qualifying self-employed person who has ceased to be such a person, that person.
- (5) In Part VII of the Order “host member State”, in relation to a European employer, means—
- (a) where that European employer is specified in a notice of intention, any member State other than the United Kingdom where—
    - (i) that European employer has employees who are qualifying persons, or
    - (ii) that European employer is a qualifying self-employed person, or
  - (b) where the Regulator has approved the trustees or managers of a scheme in relation to that European employer, the member State or States other than the United Kingdom where—
    - (i) that European employer has or had employees who are or were members of the scheme, or
    - (ii) in the case of a self-employed person who is or was a member of the scheme, that self-employed person is or was a qualifying self-employed person.

**Applications for general authorisation to accept contributions from European employers: established schemes which are not carrying on cross-border activity**

- 4.—(1) This regulation applies to all schemes other than—
- (a) a scheme which is a new scheme on the date on which the trustees or managers make an application for authorisation under Article 264, or
  - (b) a scheme which is a pre-23rd September 2005 scheme.
- (2) Where the trustees or managers of a scheme apply to the Regulator for authorisation under Article 264, the application shall be made—
- (a) in the case of a money purchase scheme, in a form which provides the information described in paragraphs 2 and 3 of Schedule 1, or
  - (b) in the case of a scheme which is not a money purchase scheme, in a form which provides the information described in paragraphs 2 and 4 of that Schedule.

**Applications for general authorisation to accept contributions from European employers: established schemes which are carrying on cross-border activity**

- 5.—(1) This regulation applies where—
- (a) a scheme is a pre-23rd September 2005 scheme, and
  - (b) the trustees or managers of that scheme apply, within the period of three months beginning on the commencement date, to the Regulator for authorisation under Article 264.

- (2) Such an application shall be made—
- (a) in the case of a money purchase scheme, in a form which provides the information described in paragraphs 2 and 3 of Schedule 1, or
  - (b) in the case of a scheme which is not a money purchase scheme, in a form which provides the information described in paragraphs 2 and 5 of that Schedule.

**Applications for general authorisation to accept contributions from European employers: new schemes**

6.—(1) This regulation applies to schemes which are new schemes on the date on which the trustees or managers make an application for authorisation under Article 264.

(2) Where the trustees or managers of a scheme apply to the Regulator for authorisation under Article 264, the application shall be made—

- (a) in the case of a money purchase scheme, in a form which provides the information described in paragraphs 2 and 3 of Schedule 1, or
- (b) in the case of a scheme which is not a money purchase scheme, in a form which provides the information described in paragraph 2 of that Schedule.

**Conditions for general authorisation to accept contributions from European employers**

7.—(1) Where the Regulator receives an application for authorisation under regulation 4, 5 or 6, it shall, before granting the authorisation, be satisfied that the applicant meets the conditions described in paragraph (2).

(2) The conditions to be met under paragraph (1) are—

- (a) that the scheme is registered in the register,
- (b) that the matters set out in Article 9(1)(b) to (f) of the Directive are satisfied,
- (c) that the trustees or managers of the scheme have ensured that the scheme will be operated in a way which is consistent with the requirements of the law relating to schemes, and
- (d) in the case of a scheme which is not a money purchase scheme—
  - (i) where the application is made under regulation 4, that the scheme meets the statutory funding objective;
  - (ii) where the application is made under regulation 5, that the scheme will, in the opinion of the Regulator, meet the statutory funding objective by 22nd September 2008, or
  - (iii) where the application is made under regulation 6, that the scheme will, in the opinion of the Regulator, meet the statutory funding objective by the expiry of the period of two years beginning on the date on which the application was made.

**Criteria for revocation of general authorisation to accept contributions from European employers**

8.—(1) The Regulator may revoke an authorisation granted under Article 264 where it is satisfied by the trustees or managers of that scheme that—

- (a) the scheme does not have any European members who have any accrued European rights, and
- (b) there are not in relation to the scheme any survivors of a European member of the scheme who have any accrued European rights.

(2) The Regulator may revoke an authorisation granted under Article 264 where it is satisfied that any of the criteria described in paragraph (3) are met in relation to the scheme.

(3) The criteria to be applied by the Regulator in reaching any decision relating to the revocation of an authorisation under paragraph (2) are the seriousness, frequency and persistence of any failure—

- (a) by the trustees or managers of the scheme to ensure that the scheme is operated in a way which is consistent with, or
- (b) by the scheme to comply with,

any of the requirements described in paragraph (4).

(4) The requirements for the purposes of paragraph (3) for the purposes of any decision by the Regulator relating to the revocation of an authorisation are—

- (a) the provisions (other than Article 16(3)) of the Directive,
- (b) the condition described in regulation 7(2)(c), and
- (c) in the case of a scheme which is not a money purchase scheme and to which—
  - (i) regulation 4 applies, the condition described in paragraph (5),
  - (ii) regulation 5 applies, the condition described in regulation 7(2)(d)(ii) or, after 22nd September 2008, the condition described in paragraph (5), or
  - (iii) regulation 6 applies, the condition described in regulation 7(2)(d)(iii) or, after the expiry of the period of two years beginning on the date on which the application for the authorisation of the scheme was made, the condition described in paragraph (5).

(5) The condition to be met under paragraph (4)(c)(i), (ii) or (iii) is that the scheme—

- (a) meets the statutory funding objective, or
- (b) where—
  - (i) the trustees or managers of the scheme have obtained an actuarial valuation, and
  - (ii) it appears to them that the statutory funding objective was not met on the effective date of that valuation,

the scheme will, in the opinion of the Regulator, meet the statutory funding objective within two years after that date.

**Applications for approval in relation to particular European employer: established schemes which are not carrying on cross-border activity**

9.—(1) This regulation applies to all schemes other than—

- (a) a scheme which is a new scheme on the date on which the trustees or managers make an application for approval under Article 265,
- (b) a scheme which is a pre-23rd September 2005 scheme, or
- (c) where the trustees or managers of a segregated multi-employer scheme have stated in the notice of intention relating to an application for approval under Article 265 that any contributions payable to the scheme by the European employer specified in that notice of intention will be allocated to a new section, that section (to which these Regulations apply as if that section were a separate scheme in accordance with regulation 2(3)).

(2) Where the trustees or managers of a scheme apply to the Regulator for approval under Article 265 in relation to one or more European employers, the information to be contained in the notice of intention, in addition to the information specified in Article 265(1)(a) to (c), shall be determined—

- (a) in the case of a money purchase scheme, in accordance with the provisions of paragraph 6(1), (2), (3) and (7) of Schedule 1, or
- (b) in the case of a scheme which is not a money purchase scheme, in accordance with the provisions of paragraph 6(1), (2), (4) and (7) of that Schedule.

### **Applications for approval in relation to particular European employer: established schemes which are carrying on cross-border activity**

10.—(1) This regulation applies where—

- (a) a scheme is a pre-23rd September 2005 scheme, and
- (b) the trustees or managers of that scheme make an application for approval under Article 265 in relation to one or more European employers within the period of three months beginning on the commencement date.

(2) The information to be contained in the notice of intention relating to such an application, in addition to the information specified in Article 265(1)(a) to (c), shall be determined—

- (a) in the case of a money purchase scheme, in accordance with the provisions of paragraph 6(1), (2), (3) and (7) of Schedule 1, or
- (b) in the case of a scheme which is not a money purchase scheme, in accordance with the provisions of paragraph 6(1), (2), (5) and (7) of that Schedule.

### **Applications for approval in relation to particular European employer: new schemes and new sections of segregated multi-employer schemes**

11.—(1) This regulation applies to—

- (a) a scheme which is a new scheme on the date on which the trustees or managers make an application for approval under Article 265, or
- (b) where the trustees or managers of a segregated multi-employer scheme have stated in the notice of intention relating to an application for approval under Article 265 that any contributions to the scheme by the European employer specified in that notice of intention will be allocated to a new section, that section.

(2) The information to be contained in the notice of intention relating to such an application, in addition to the information specified in Article 265(1)(a) to (c), shall be determined in accordance with the provisions of paragraph 6(1), (2), (6) and (7) of Schedule 1.

### **Conditions for approval in relation to particular European employer**

12.—(1) Where the Regulator receives an application made under regulation 9, 10 or 11 for approval in relation to one or more European employers specified in the notice of intention it shall, before granting the approval in relation to any such European employer, be satisfied that persons giving the notice of intention meet the condition described in paragraph (2) in relation to that specified European employer.

(2) The condition to be met under paragraph (1) is that the Regulator has no reason to doubt that—

- (a) the administrative structure of the scheme,
- (b) the financial situation of the scheme, and
- (c) the repute and professional qualifications or experience of the persons running the scheme,

are compatible with the proposed operations of the scheme in the specified host member State.

### **Revocation of approval in relation to particular European employer**

13.—(1) In this regulation “notified”, in relation to a requirement, means a requirement which was included in information which was received by the Regulator from the competent authority in the host member State in pursuance of Article 20(5) or (8) of the Directive and was forwarded by the Regulator—



(a) in accordance with Article 266(1) (notification of legal requirements of host member State outside the United Kingdom) to the person who gave the notice of intention, or

(b) in accordance with Article 266(2) to the trustees or managers of the scheme,

as the case may be.

(2) Where the Regulator has granted approvals under Article 265 to the trustees or managers of a scheme in relation to one or more specified European employers it may revoke any or all of those approvals where it is satisfied by the trustees or managers of the scheme that—

(a) the scheme does not have any European members who have any accrued European rights, and

(b) there are not in relation to the scheme any survivors of a European member of the scheme who have any accrued European rights.

(3) Where the Regulator has granted approvals under Article 265 to the trustees or managers of a scheme in relation to more than one specified European employer it may decide under paragraph (4) or (5) to revoke those approvals in relation to one or more such European employers.

(4) Where the Regulator has granted approvals under Article 265 to the trustees or managers of a scheme in relation to one or more specified European employers and those European employers are all located in the same host member State, the criteria to be applied by the Regulator in reaching any decision relating to the revocation of any such approval are the seriousness, frequency and persistence of any failure—

(a) by the trustees or managers of the scheme to ensure that the scheme is operated in a way which is consistent with, or

(b) by the scheme to comply with,

any of the requirements described in paragraph (5).

(5) The requirements for the purposes of paragraph (4) for the purposes of any decision by the Regulator relating to the revocation of an approval are—

(a) the notified requirements of the social and labour law of that host member State,

(b) the notified information requirements imposed by that host member State in pursuance of Article 20(7) of the Directive, or

(c) the conditions described in regulation 12(2).

(6) Where the Regulator has granted approvals under Article 265 to the trustees or managers of a scheme in relation to more than one specified European employer and not all of those European employers are located in the same host member State, the criteria to be applied by the Regulator in reaching any decision relating to the revocation of any such approval are the seriousness, frequency and persistence of any failure—

(a) by the trustees or managers of the scheme to ensure that the scheme is operated in a way which is consistent with, or

(b) by the scheme to comply with,

any of the requirements described in paragraph (7).

(7) The requirements for the purposes of paragraph (6) for the purposes of any decision by the Regulator relating to the revocation of an approval are—

(a) the notified requirements of the social and labour law of any of the host member States,

(b) the notified information requirements imposed by any of those host member States in pursuance of Article 20(7) of the Directive, or

(c) the conditions described in regulation 12(2).

### **Modifications of pensions legislation in relation to European members of cross-border schemes**

**14.**—(1) Where a cross-border scheme is not a pre-23rd September 2005 scheme, the provisions of the Pension Schemes Act and the 1995 Order which are listed in paragraph 2, 3 or 4 of Schedule 2 shall be modified in their application to that scheme as if—

- (a) the European members of that scheme, and
- (b) any European survivors,

were excluded from the application of those provisions in respect of any accrued European rights.

(2) Where a cross-border scheme is a pre-23rd September 2005 scheme, the provisions of the Pension Schemes Act and the 1995 Order which are listed in paragraph 2 or 4 of Schedule 2 shall be modified in their application to that scheme as if—

- (a) the European members who were such members of that scheme on the commencement date, and
- (b) any European survivors of such European members,

were excluded from the application of those provisions in respect of any accrued European rights.

(3) Where a cross-border scheme is a pre-23rd September 2005 scheme, the provisions of the Pension Schemes Act and the 1995 Order which are listed in paragraph 2, 3 or 4 of Schedule 2 shall be modified in their application to that scheme as if—

- (a) the European members who became such members of the scheme after the commencement date, and
- (b) any European survivors of such European members,

were excluded from the application of those provisions in respect of any accrued European rights.

### **Ring-fencing of assets**

**15.**—(1) For the purposes of this regulation, the assets and liabilities of a scheme shall be determined in accordance with Part IV of the Order and regulations made under that Part.

(2) Where the trustees or managers of a scheme receive contributions to the scheme from a European employer, the Regulator may issue a notice (“a ring-fencing notice”) to the trustees or managers of that scheme where it has reasonable grounds for believing that—

- (a) a person has done or will do any act which constitutes a misuse or misappropriation of the assets of the scheme, or
- (b) a situation exists which amounts to a material threat to the interests of the members of the scheme who are or have been qualifying persons or qualifying self-employed persons in relation to any European employer.

(3) A ring-fencing notice may direct the trustees or managers of the scheme—

- (a) to notify the Regulator, within three months of the date of the issue of the notice, of the details of the assets and liabilities of the scheme attributable to each European employer—
  - (i) from whom the trustees or managers have received or are receiving contributions, and
  - (ii) in relation to whom the ring-fencing notice is given, or
- (b) for so long as the Regulator has reasonable grounds for believing that there is a material threat to the interests of the members of the scheme who are or have been qualifying persons in relation to any such European employer or who are or have been such a European employer, to divide the scheme into two or more sections and ensure that—

- (i) any contributions payable to the scheme by any such European employer in relation to the scheme or by any such member are allocated to a separate section, and
- (ii) a specified part or proportion of the assets of the scheme is attributable to that section and cannot be used for the purposes of any other section.

### **Relevant legal requirements for the purposes of Article 269**

**16.** Where a UK employer has made, makes, or proposes to make, contributions to a European pensions institution in respect of persons who are not qualifying persons, the relevant legal requirements for the purposes of Article 269 are, in relation to such persons and their survivors, those requirements of the law relating to schemes as it applies in Northern Ireland which are listed in paragraph 2, 3 or 5 of Schedule 2.

### **Manner of applying to the Regulator under regulations 4 to 6 and 9 to 11**

**17.—(1)** In this regulation, “electronic communications network” shall be construed in accordance with Article 277 (notification and documents in electronic form).

(2) An application to the Regulator by the trustees or managers of a scheme for authorisation under Article 264 or for approval under Article 265 shall be made in writing or, where any requirements imposed by or under Article 277 are complied with, may be made by transmitting it to the Regulator—

- (a) by means of an electronic communications network, or
- (b) by other means but in a form that nevertheless requires the use of apparatus by the Regulator to render it intelligible.

(3) A notification by the Regulator under Article 265(2)(a)(i) or (b) to the persons who gave a notice of intention shall be made in writing or, where any requirements imposed by or under Article 277 are complied with, may be made by transmitting it to those persons—

- (a) by means of an electronic communications network, or
- (b) by other means but in a form that nevertheless requires the use of apparatus by those persons to render it intelligible.

### **Amendment of the Occupational Pension Schemes (Trust and Retirement Benefits Exemption) Regulations**

**18.—(1)** The Occupational Pension Schemes (Trust and Retirement Benefits Exemption) Regulations (Northern Ireland) 2005<sup>(5)</sup> shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) after the definition of “relevant statutory scheme” there shall be added the following definition—

““scheme undertaking cross-border activities” means a scheme in relation to which the trustees or managers are—

- (a) authorised under Article 264 of the Order (general authorisation to accept contributions from European employers), or
- (b) approved under Article 265 of the Order in relation to a European employer;”.

(3) After regulation 1 there shall be inserted the following regulation—

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

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**“Application**

**1A.** With the exception of regulation 2(a), these Regulations do not apply to any scheme undertaking cross-border activities.”.

Sealed with the Official Seal of the Department for Social Development on 20th December 2005.

L.S.

*John O'Neill*  
A senior officer of the  
Department for Social Development

SCHEDULE 1

Regulations 4 to 6 and 9 to 11

ADDITIONAL INFORMATION TO BE CONTAINED IN  
APPLICATIONS FOR AUTHORISATION OR APPROVAL

1. In this Schedule—

“minimum funding valuation” means an actuarial valuation required by Article 57(1)(a) or (2) of the 1995 Order (valuation and certification of assets and liabilities);

“payment schedule” shall be construed in accordance with Article 85 of the 1995 Order (schedules of payments to money purchase schemes);

“schedule of contributions” shall be construed in accordance with Article 206(6), and includes a schedule of contributions prepared by the trustees or managers for any purpose, including that of making an application under Article 264 or 265;

“statement of funding principles” shall be construed in accordance with Article 202, and includes a statement of funding principles prepared by the trustees or managers for any purpose, including that of making an application under Article 264 or 265.

2. The information about the scheme to be provided in an application for authorisation in accordance with regulations 4(2), 5(2) and 6(2) is—

- (a) the pension scheme registration number which is allocated to that scheme in the register;
- (b) a statement signed by the trustees or managers of the scheme that they have provided to the Regulator all the registrable information with respect to the scheme;
- (c) a statement signed by the trustees or managers of the scheme that the scheme complies with the requirements of Article 229(2) and (3) (UK-based scheme to be trust with effective rules);
- (d) a statement signed by the trustees or managers of the scheme that any requirements made by or under—
  - (i) section 109 of the Pension Schemes Act(7) (disclosure of information to members of schemes, etc.),
  - (ii) Article 35 of the 1995 Order(8) (investment principles), and
  - (iii) Article 36 of the 1995 Order (9) (choosing investments),have been complied with, and
- (e) a statement signed by the trustees or managers of the scheme that—
  - (i) where Articles 224 and 225(10) (requirement for knowledge and understanding: individual and corporate trustees) are in operation on the day on which the application is made, any requirements made by or under those Articles have been complied with, or
  - (ii) where Articles 224 and 225 are not in operation on the day on which the application is made, any requirements made by or under those Articles, or in any regulations made under either or both of those Articles, will be complied with once those Articles are in operation.

(6) Article 206 is modified in its application to schemes undertaking cross-border activities by [S.R. 2005 No. 568](#)

(7) Section 109 was amended by section 48 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and paragraph 15 of the Schedule to [S.R. 2005 No. 434](#)

(8) Article 35 is substituted by Article 221 of the Pensions (Northern Ireland) Order 2005

(9) Article 36 was amended by Article 151 of S.I. [2001/3649](#) and is amended by Article 222 of the Pensions (Northern Ireland) Order 2005

(10) Articles 224 and 225 will be brought into operation on a date to be appointed

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3. The information about a scheme to be provided in an application for authorisation in accordance with regulations 4(2)(a), 5(2)(a) and 6(2)(a) is the most recent payment schedule for the scheme.

4. The information about the scheme to be provided in an application for authorisation in accordance with regulation 4(2)(b) is—

- (a) a statement signed by the trustees or managers of the scheme that the scheme complies with the requirements of Article 201;
- (b) a statement signed by the trustees or managers of the scheme that any requirements imposed by or under—
  - (i) Article 203 (actuarial valuations and reports),
  - (ii) Article 204 (certification of technical provisions), and
  - (iii) Article 206 (schedule of contributions),have been complied with;
- (c) the most recent statement of funding principles for the scheme, and
- (d) an actuarial valuation for the scheme the effective date of which is within the period of 12 months ending on the date of the application.

5. The information about the scheme to be provided in an application for authorisation in accordance with regulation 5(2)(b) is the most recent minimum funding valuation for the scheme.

6.—(1) In this paragraph—

- (a) except in sub-paragraph (2)(c), references to the European employer are references to the European employer specified in the notice of intention, and
- (b) references to the provision of information in relation to one European employer shall include the provision of that information in relation to each European employer so specified.

(2) The additional information about the scheme and its existing activities to be contained in the notice of intention in accordance with regulations 9(2), 10(2) and 11(2) is—

- (a) where—
  - (i) the application for approval is not made on the same day as the application for authorisation, and
  - (ii) the trustees or managers have not satisfied the Regulator that there has not been any material change in the information described in paragraph (2)(a) to (e) since the application for authorisation was made,the information so described in so far as there has been any material change in that information;
- (b) where the trustees or managers of the scheme have been authorised by the Regulator under Article 264, the date on which such authorisation was granted;
- (c) where the trustees or managers of the scheme are already accepting contributions from a European employer, the name and address of that employer and the host member State of that employer, and
- (d) a copy of the scheme rules.

(3) The additional information about the scheme and its existing activities to be contained in the notice of intention in accordance with regulations 9(2)(a) and 10(2)(a) is the most recent payment schedule for the scheme.

(4) The additional information about the scheme and its existing activities to be contained in the notice of intention in accordance with regulation 9(2)(b) is—

(a) where—

(i) the application for approval is not made on the same day as the application for authorisation, and

(ii) the trustees or managers have not satisfied the Regulator that there has not been any material change in the information described in paragraph 4(a) to (d) since the application for authorisation was made,

the information so described in so far as there has been any material change in that information, and

(b) the most recent schedule of contributions for the scheme.

(5) The additional information about the scheme and its existing activities to be contained in the notice of intention in accordance with regulation 10(2)(b) is the most recent minimum funding valuation for the scheme.

(6) The additional information about the scheme to be contained in the notice of intention in accordance with regulation 11(2) is a statement signed by the trustees or managers of the scheme showing—

(a) the rates of contributions which will be payable towards the scheme by or on behalf of the employer and the active members of the scheme, and

(b) the dates on or before which such contributions are to be paid.

(7) The additional information about the future activities of the scheme when it is approved in relation to the European employer to be contained in the notice of intention in accordance with regulations 9(2), 10(2) and 11(2) is—

(a) the names of any member States other than the United Kingdom where the scheme already has members who are qualifying persons or qualifying self-employed persons;

(b) where the scheme has established, or is intending to establish, a branch in the host member State, the address, e-mail address, telephone number and fax number of—

(i) that branch, and

(ii) all persons authorised to represent the scheme for the business of the branch;

(c) the address, e-mail address, telephone number and fax number in the host member State of the European employer;

(d) a description of the type of scheme to be offered to the European employer (including whether it will be defined contribution only, defined benefit, final salary, salary related or some form of hybrid);

(e) the conditions to be met before benefits are, or will become, payable;

(f) the types and rates of contributions to be paid towards the scheme by or on behalf of the European employer and those active members of the scheme in the host member State who are—

(i) qualifying persons in relation to that European employer, or

(ii) qualifying self-employed persons;

(g) a description of any guarantees and additional coverage offered by the scheme;

(h) a description of the categories of persons who are employees in the host member State of that European employer who cannot become members of the scheme, and

(i) whether the assets or liabilities (or both) of the scheme which correspond to the activities carried out in the host member State will be ring-fenced.

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## SCHEDULE 2

Regulations 14 and 16

**MODIFICATIONS OF PENSIONS LEGISLATION, AND RELEVANT  
LEGAL REQUIREMENTS FOR THE PURPOSES OF ARTICLE 269**

1. In this Schedule, a reference to a section of an Act or Article of an Order includes a reference to any subordinate legislation made or having effect as if made under that section or, as the case may be, that Article.

2. For the purposes of regulations 14 and 16—

- (a) the provisions of pensions legislation which are modified in their application to European members and European survivors of cross-border schemes, and
- (b) the relevant legal requirements for the purposes of Article 269,

are the provisions listed in Table 1.

**Table 1**

<i>Provisions of the 1995 Order</i>	<i>Subject matter</i>
Article 50(1) to (5) and (7)	Resolution of disputes

3. For the purposes of regulations 14 and 16—

- (a) the provisions of pensions legislation which are modified in relation to European members and European survivors of cross-border schemes, other than European members of a cross-border scheme which is a pre-23rd September 2005 scheme who became members of that scheme before the commencement date and European survivors of such members, and
- (b) the relevant legal requirements for the purposes of Article 269,

are the provisions listed in Table 2.

**Table 2**

<i>Provisions of the Pension Schemes Act</i>	<i>Subject matter</i>
Sections 65 to 72, 77 and 78 <b>(11)</b>	Preservation of benefit under occupational schemes
Sections 79 to 82 <b>(12)</b>	Revaluation of accrued benefits (excluding guaranteed minimum pensions)
Sections 89 to 94, 95(1) to (4A), (7)(a) and (8), 96 and 97 <b>(13)</b>	Transfer values

- (11)** Section 66 was amended by paragraph 12 of the Schedule to [S.R. 2005 No.434](#); sections 67 and 68 were amended by Article 240 of the Pensions (Northern Ireland) Order 2005; section 69 was amended by paragraph 2(2)(a) of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. [1999/3147 \(N.I. 11\)](#)); and section 78 was amended by paragraph 15 of Schedule 1 to the Pensions (Northern Ireland) Order 1995 (S.I. [1995/3213 \(N.I. 22\)](#))
- (12)** Section 79 was amended by paragraph 20 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; section 80 was amended by paragraph 52 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, Article 258 of the Pensions (Northern Ireland) Order 2005 and paragraph 13 of the Schedule to [S.R. 2005 No. 434](#); and section 81 was amended by paragraph 21 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (13)** Section 89 was amended by Article 148 of the Pensions (Northern Ireland) Order 1995 and paragraph 22 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; section 90 was amended by Article 150 of the Pensions (Northern Ireland) Order 1995 and paragraph 24 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and is amended by paragraph 9 of Schedule 10 to the Pensions (Northern Ireland) Order 2005; section 91 was amended by paragraph 5 of Schedule 4 to the Pensions (Northern Ireland) Order 1995, paragraph 4 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Article 133 of S.I. [2001/3649](#); section 92 was amended by paragraph 53 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 2(2)(b) of Schedule 2



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<i>Provisions of the Pension Schemes Act</i>	<i>Subject matter</i>
Sections 97AA to 97AI <b>(14)</b>	Early leavers: cash transfer sums and contribution refunds
<i>Provisions of the 1995 Order</i>	<i>Subject matter</i>
Articles 51 to 54 <b>(15)</b>	Indexation
Articles 89 to 92 <b>(16)</b>	Assignment, forfeiture, bankruptcy, etc.

4. For the purposes of regulation 14, the other provisions of pensions legislation which are modified in their application to European members and European survivors of cross-border schemes are the provisions listed in Table 3.

**Table 3**

<i>Provisions of the Pension Schemes Act</i>	<i>Subject matter</i>
Section 95(7)(b) <b>(17)</b>	Trustees' duties after exercise of option
<i>Provisions of the 1995 Order</i>	<i>Subject matter</i>
Article 50(6)	Resolution of disputes

5. For the purposes of regulation 16, the other relevant legal requirements for the purposes of Article 269 are the provisions listed in Table 4.

**Table 4**

<i>Provisions of the Pension Schemes Act</i>	<i>Subject matter</i>
Sections 5 and 6 <b>(18)</b>	General requirements for certification

and paragraph 25 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 14 of the Schedule to [S.R. 2005 No. 434](#); section 93 was amended by paragraph 6 of Schedule 4 to the Pensions (Northern Ireland) Order 1995 and paragraph 5(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; section 94 was amended by paragraph 7 of Schedule 4 to the Pensions (Northern Ireland) Order 1995, paragraph 26 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 5(2) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; section 95 was amended by paragraph 8 of Schedule 4 and Schedule 11 to the Pensions (Northern Ireland) Order 1995; and section 96 was amended by paragraph 27 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

- (14) Sections 97AA to 97AI are inserted by Article 241 of the Pensions (Northern Ireland) Order 2005
- (15) Article 51 was amended by paragraph 40 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, section 47(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Article 255(2) to (6) of the Pensions (Northern Ireland) Order 2005; Article 51ZA was inserted by Article 255(7) of that Order; Article 51A was inserted by section 47(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; and Article 54 was amended by Article 255(8) of, and Schedule 11 to, the Pensions (Northern Ireland) Order 2005
- (16) Article 89 was amended by paragraph 46 of Schedule 9 and Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, Article 243 of the Pensions (Northern Ireland) Order 2005 and paragraph 24 of the Schedule to [S.R. 2005 No. 434](#); Article 90 was amended by paragraph 47 of Schedule 9 and Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 25 of the Schedule to [S.R. 2005 No. 434](#); and Article 91 was amended by paragraph 48 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (17) Section 95(7) was inserted by paragraph 8(e) of Schedule 4 to the Pensions (Northern Ireland) Order 1995
- (18) Section 5 was amended by Article 133(3) and (4) of, and paragraph 14 of Schedule 3 and Schedule 5 to, the Pensions (Northern Ireland) Order 1995, paragraph 38 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. [1999/671](#)) and Article 260 of the Pensions (Northern Ireland) Order 2005 and section 6 was amended by Article 29(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraph 39 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 23(2) of Schedule 11 to the Proceeds of Crime Act [2002 \(c. 29\)](#)

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<i>Provisions of the Pension Schemes Act</i>	<i>Subject matter</i>
Sections 8A to 8D <b>(19)</b>	Requirements for certification of occupational pension schemes
Sections 9 to 17 and 19 <b>(20)</b>	Requirements for certification of occupational pension schemes providing guaranteed minimum pensions
Sections 23 to 29 <b>(21)</b>	Requirements for certification of occupational and personal money purchase schemes
Sections 33 and 35 <b>(22)</b>	Alteration of scheme rules after certification
Section 41B <b>(23)</b>	Money purchase and personal pension schemes: verification of ages
Sections 46 and 47 <b>(24)</b>	Approval of arrangements for schemes ceasing to be certified
Sections 48 to 50 <b>(25)</b>	Supervision of formerly certified schemes

- (19) Sections 8A to 8D were inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995; sections 8A and 8B were amended respectively by paragraphs 3 and 4 of Schedule 1 to [S.R. 2005 No. 433](#) and section 8B was amended by regulation 2 of [S.R. 1997 No. 162](#)
- (20) Section 9 was amended by paragraph 19 of Schedule 3 to the Pensions (Northern Ireland) Order 1999; section 10 was amended by paragraph 20 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 41 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 23(3) of Schedule 11 to the Proceeds of Crime Act 2002; section 11A was inserted by Article 29(3) of the Welfare Reform and Pensions (Northern Ireland) Order 1999; section 12 was amended by paragraph 21 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 3 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; section 13 was amended by paragraph 22 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 42 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, paragraph 1 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 5 of Schedule 1 to [S.R. 2005 No. 433](#) and is amended by Article 261(2) of the Pensions (Northern Ireland) Order 2005; section 15 was amended by Article 129 of [S.I. 2001/3649](#) and paragraph 6 of Schedule 1 to [S.R. 2005 No. 433](#); section 16 was amended by paragraph 2(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 7 of Schedule 1 to [S.R. 2005 No. 433](#); section 17 is substituted by section 261(1) of the Pensions (Northern Ireland) Order 2005 and paragraph 8 of Schedule 1 to [S.R. 2005 No. 433](#); and section 19 was amended by paragraph 24 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 9 of Schedule 1 to [S.R. 2005 No. 433](#)
- (21) Section 24 was amended by paragraph 4 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, Articles 139 and 143(2) of, and paragraph 27 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, paragraphs 2(2) and 3 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 10 of Schedule 1 to [S.R. 2005 No. 433](#) and is amended by Article 261 of the Pensions (Northern Ireland) Order 2005; section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 11 of Schedule 1 to [S.R. 2005 No. 433](#); section 25 was amended by Article 141 of, and paragraph 28 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, Article 130 of [S.I. 2001/3649](#) and paragraph 12 of Schedule 1 to [S.R. 2005 No. 433](#) and is amended by Article 261(7) of the Pensions (Northern Ireland) Order 2005; section 26 was amended by paragraph 45 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; section 27 was amended by paragraph 29 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 46 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; and section 28A was inserted by Article 143(1) of the Pensions (Northern Ireland) Order 1995 and amended by [S.I. 2002/ 1555](#)
- (22) Section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and amended by paragraph 13 of Schedule 1 to [S.R. 2005 No. 433](#)
- (23) Section 41B was inserted by Article 136 of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 58 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
- (24) Section 46 was amended by paragraph 37 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 60 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 18 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and section 47 was amended by paragraph 38 of Schedule 3 to the Pensions (Northern Ireland) Order 1995
- (25) Section 48 was amended by paragraph 39 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 19 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; section 49 was amended by paragraph 40 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 61 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; and section 50 was amended by paragraph 41 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 62 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

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<i>Provisions of the Pension Schemes Act</i>	<i>Subject matter</i>
Sections 51 to 54 and 57 to 59 <b>(26)</b>	State scheme premiums
Sections 64A to 64D <b>(27)</b>	Safeguarded rights
Sections 83 to 88 <b>(28)</b>	Protection of increases in guaranteed minimum pensions (“anti-franking”)
Section 89A(1) to (3) <b>(29)</b>	Salary related schemes: right to statement of entitlement
Sections 105 and 106 <b>(30)</b>	Guaranteed minimum pensions
Sections 125 to 128 <b>(31)</b>	Relationship between requirements and scheme rules
Section 155 <b>(32)</b>	Inalienability of guaranteed minimum pension and protected rights payments
<i>Provisions of the 1999 Order</i>	<i>Subject matter</i>
Articles 12 and 13	Pensions and bankruptcy
Article 37 <b>(33)</b>	Other pension schemes

- (26)** Section 51 was amended by Article 138(1) of, and paragraph 42 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, paragraph 63 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 7(2) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30); section 52 was amended by paragraph 43 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 64 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; section 53 was amended by paragraph 65 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; section 54 was amended by paragraph 44 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and paragraph 6(1) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c. 19); section 57 was amended by paragraph 47 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 paragraph 66 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 6(2) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000; section 58 was amended by paragraph 48 of Schedule 3 to the Pensions (Northern Ireland) Order 1995; and section 59 was amended by paragraph 49 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 67 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 6(3) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000
- (27)** Sections 64A to 64D were inserted by Article 33 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and section 64B was amended by paragraph 23(5) of Schedule 11 to the Proceeds of Crime Act 2002
- (28)** Sections 83 to 86 were amended respectively by paragraphs 18 to 21 of Schedule 1 to [S.R. 2005 No. 433](#)
- (29)** Section 89A was inserted by Article 149 of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 23 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (30)** 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](#) and 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](#)
- (31)** Section 125 was amended by paragraph 23 of Schedule 1 to the Pensions (Northern Ireland) Order 1995, paragraph 28 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 16 of the Schedule to [S.R. 2005 No. 434](#) and section 128 was amended by paragraph 24 of Schedule 1 to the Pensions (Northern Ireland) Order 1995
- (32)** Section 155 was amended by paragraph 33 of Schedule 1 to the Pensions (Northern Ireland) Order 1995
- (33)** Article 37 was amended by Article 257 of the Pensions (Northern Ireland) Order 2005

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## EXPLANATORY NOTE

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

These Regulations make provision relating to the carrying out by the Pensions Regulator (“the Regulator”) of its functions in relation to cross-border activity within the European Union by occupational pension schemes and their trustees or managers, or by European pensions institutions and together with Part VII of the Pensions (Northern Ireland) Order 2005 (“the Order”) implement Article 20 of European Union Directive [2003/41/EC](#) on the activities and supervision of institutions for occupational retirement provision (OJNo. L 235, 23.9.03, p.10) (“the Directive”).

Regulation 3 makes provision as to the meaning of “European employer” and “host member State” when those terms are used in Part VII of the Order.

Regulations 4 to 6 make provision about the information to be supplied to the Regulator when the trustees or managers of an occupational pension scheme make an application to the Regulator for a general authorisation to accept contributions from European employers.

Regulation 7 makes provision about the conditions which must be met by an applicant for general authorisation before the Regulator may grant the application.

Regulation 8 makes provision about the criteria to be applied by the Regulator in reaching any decision as to the revocation of a general authorisation.

Regulations 9 to 11 make provision about the information to be supplied to the Regulator when the trustees or managers of an occupational pension scheme make an application to the Regulator for approval in relation to a particular European employer.

Regulation 12 makes provision about the conditions which must be met by an applicant for approval before the Regulator may grant an approval.

Regulation 13 makes provision about the revocation of approvals and the criteria to be applied by the Regulator in reaching any decision as to the revocation of an approval.

Regulation 14 provides for the modification of certain provisions of pensions legislation in their application to European members of occupational pension schemes which carry out cross-border activity.

Regulation 15 makes provision about the circumstances in which the Regulator may issue a ring-fencing notice, and about what such a notice may require of the trustees or managers of an occupational pension scheme.

Regulation 16 makes provision about the requirements of the law relating to occupational pension schemes to be notified by the Regulator to the competent authorities of other member States and complied with by European pensions institutions which accept contributions from UK employers.

Regulation 17 makes provision about the manner of applying to the Regulator for authorisation or approval.

Regulation 18 makes a consequential amendment to the Occupational Pension Schemes (Trust and Retirement Benefits Exemption) Regulations (Northern Ireland) 2005.

Articles 263(6), 264, 265(1), (2) and (4), 267(2), 268(1) and 269(8) of the Order, some of the enabling provisions under which these Regulations are made, were brought into operation, for the purpose only of authorising the making of regulations, on 6th December 2005 and for all other purposes on 30th December 2005, by virtue of the Pensions (2005 Order) (Commencement No. 7) Order (Northern Ireland) 2005 ([S.R. 2005 No. 543 \(C. 37\)](#)).

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As these Regulations 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 to consult under Article 289(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.

An assessment of the cost to business of these Regulations is detailed in a Regulatory Impact Assessment and the transposition of Article 20 of the Directive is detailed in the Transposition Note. Copies of both the Assessment and the Note have been laid in the Business Office and the Library of the Northern Ireland Assembly and 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.