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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 310**

**The Occupational and Personal Pension  
Schemes (Automatic Enrolment) (Amendment)  
Regulations (Northern Ireland) 2015**

**Alternative quality requirements for UK defined benefits schemes**

**10.** After regulation 32K(1) (interpretation) insert—

**“PART 7B**

**Alternative quality requirements: UK defined benefits schemes**

**Alternative quality requirements for UK defined benefits schemes**

**32L.—**(1) A defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement<sup>(2)</sup> in relation to a jobholder if section 23A(1) (a) (alternative quality requirements for UK defined benefits schemes) is satisfied and for the purpose of that section, the scheme is of a prescribed description if the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are—

- (a) the benefits provided to the member are calculated by reference to factors which include the contributions made to the scheme by or on behalf of or in respect of the member;
- (b) the contributions referred to in sub-paragraph (a) are converted in accordance with the scheme rules, as soon as reasonably practicable and no later than one month after their receipt into the scheme, into a right to an income for life;
- (c) the benefits payable to the member under the scheme are payable no later than the member’s pensionable age;
- (d) following any conversion referred to in sub-paragraph (b), the amount of the member’s benefits under the scheme cannot be reduced unless this is at the member’s request;
- (e) following any valuation of the scheme’s assets and determination of its liabilities, the trustees or managers of the scheme have absolute discretion to use any excess assets to increase the benefits of the members in relation to whose contributions the excess assets may be attributed, and
- (f) where a member’s benefits are increased using the excess assets referred to in sub-paragraph (e), the amount of those benefits cannot be reduced unless this is at the member’s request.

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(1) Regulation 32K was inserted by regulation 2(3) of *S.R. 2012 No. 237*

(2) See section 16(1)(c) of the Pensions (No. 2) Act (Northern Ireland) 2008 in relation to the quality requirement

**32M.**—(1) A defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if section 23A(1)(b)(3) (alternative quality requirements for UK defined benefits schemes) is satisfied.

(2) Terms defined for the purpose of section 23A have the meanings prescribed in the following paragraphs.

(3) Subject to paragraphs (4) and (6), the relevant members are the active members of the defined benefits scheme of which the jobholder is a member.

(4) Where there is or was, as the case may be, a material difference in the cost of providing the benefits accruing for different groups of relevant members over the relevant period by taking into account the criteria under which members accrue or accrued benefits including—

- (a) the rate at which benefits accrue or accrued;
- (b) the provision of survivor’s benefits;
- (c) the normal pension age;
- (d) the definition of “pensionable earnings” used by the scheme;
- (e) the method of revaluation provided for by Schedule 2(4) to the 1993 Act (methods of revaluing accrued pension benefits);
- (f) the method of an annual increase in the rate of pension provided for under Article 51(5) of the 1995 Order (annual increase in rate of pension) or under the scheme rules;
- (g) the maximum pensionable service period;
- (h) the calculation of service, and
- (i) the terms for retirement before normal pension age,

the relevant members are the active members of each such group.

(5) For the purposes of paragraph (4), whether a difference in cost is a material difference is to be determined by the actuary.

(6) Subject to paragraph (4), in the case of a multi-employer scheme, the employer of the jobholder may choose that the relevant members are the active members who are also employed by that employer.

(7) Subject to paragraph (8), the relevant period is—

- (a) where the most recent written report signed (including by way of an electronic signature (within the meaning given by section 7(2) of the Electronic Communications Act 2000(6)) by an actuary provides details of the cost of accruals by reference to a period which begins later than the date of that report, that period, and
- (b) in any other case, any period of 12 months.

(8) Where, after the date of the report referred to in paragraph (7)(a) or the period referred to in paragraph (7)(b) begins (whether or not it has ended), a change is made to the benefits

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(3) Section 23A was inserted by section 38(2) of the Pensions Act (Northern Ireland) 2015

(4) Schedule 2 was amended by paragraphs 1 to 3 of Schedule 1 to the Pensions (No. 2) Act (Northern Ireland) 2008, section 20(4) to (6) of the Pensions Act (Northern Ireland) 2012 and regulation 2(3) of [S.R. 2014 No. 213](#)

(5) Article 51 was amended by paragraph 40 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(N.I. 11\)](#)), section 47(1) of the [Child Support, Pension and Social Security Act \(Northern Ireland\) 2000 \(c. 4 \(N.I.\)\)](#), Article 255(1) to (6) of the Pensions (Northern Ireland) Order 2005 ([S.I. 2005/255 \(N.I. 1\)](#)), sections 20(7) and (8) and 21(1) to (3) of the Pensions Act (Northern Ireland) 2012, paragraph 59 of Schedule 13 to the Pensions Act (Northern Ireland) 2015 and Article 11(2) of [S.I. 2006/745](#)

(6) [2000 c. 7](#)

provided to a relevant member, the relevant period is a period of 12 months commencing with the day on which that change takes effect.

(9) Relevant earnings are the earnings which the scheme uses to determine pensionable earnings provided that they are the relevant member's—

- (a) qualifying earnings;
- (b) pensionable earnings where those earnings are equal to or more than that member's basic pay;
- (c) pensionable earnings where those earnings are equal to or more than that member's basic pay and, taking all the relevant members together, the pensionable earnings of those members constitute at least 85% of the earnings of those members in the relevant period;
- (d) earnings where that member's pensionable earnings are equal to the whole of that member's earnings, or
- (e) basic pay above—
  - (i) the amount of the lower earnings limit specified for the purposes of section 5(1)(a)(i)(7) of the Contributions and Benefits Act (earnings limits and thresholds for Class 1 contributions), or
  - (ii) the amount of the basic state pension specified in the first figure in section 44(4)(8) of the Contributions and Benefits Act (Category A retirement pension).

(10) Subject to paragraph (11), for the purposes of section 23A(1)(b), the prescribed percentage is, in relation to—

- (a) paragraph (9)(a) and (c), 10%;
- (b) paragraph (9)(b), 11%;
- (c) paragraph (9)(d), 9%, and
- (d) paragraph (9)(e), 13%.

(11) Where the scheme does not provide pension benefits payable on the death of a relevant member, the respective percentages mentioned in paragraph (10) are to be reduced by 1%.

(12) In this regulation—

“actuary” means an actuary appointed by the scheme or the employer;

“basic pay” means the gross earnings of the relevant member from their employment by the employer, disregarding the gross amount of—

- (a) any commission, bonuses, overtime or similar payments;
- (b) any shift premium pay, as defined in regulation 32K as if—
  - (i) “jobholder” read “relevant member”, and
  - (ii) “within a certification period” and “during the certification period” were omitted, and
- (c) any reasonable allowance with respect to—

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(7) Section 5 was substituted by paragraph 1 of Schedule 10 to the Welfare Reform and Pensions Act 1999 (c. 30) and subsection (1) was amended by section 8(2) of the Pensions Act 2007 (c. 22) and Schedule 2 to the National Insurance Contributions Act 2008 (c. 16)

(8) Section 44(4) was substituted by Article 64 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and amended by Article 4(3) of S.R. 2015 No. 124

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- (i) any duty of the relevant member, such as a duty in connection with the role of fire or bomb warden, that is ancillary to the main duties of the relevant member's employment;
- (ii) the cost of relocation of the relevant member to a different place of work;
- (iii) in a case not covered by sub-paragraph (ii), the purchase, lease or maintenance of a vehicle;
- (iv) in a case not covered by sub-paragraph (ii) or (iii), the purchase, lease or maintenance of an item;
- (v) in a case not covered by sub-paragraph (ii), (iii) or (iv), the delivery of a service to the relevant member;

“multi-employer scheme” means an occupational pension scheme in relation to which there is more than one employer;

“normal pension age” has the meaning given by section 175 of the 1993 Act;

“pensionable earnings” means the gross earnings of the relevant member on which contributions are payable to the pension scheme in question by the employer or the relevant member.”.