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## STATUTORY RULES OF NORTHERN IRELAND

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### 2016 No. 107

#### The Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016

#### PART 6

#### AMENDMENT OF THE CONTRACTING-OUT (TRANSFER AND TRANSFER PAYMENT) REGULATIONS (NORTHERN IRELAND) 1996

##### **Revaluation after transfer from another scheme**

**22.**—(1) The Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996<sup>(1)</sup> are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) after the definition of “accrued rights” insert—

““the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992<sup>(2)</sup>;”.

(3) In regulation 10<sup>(3)</sup> (transfer payments in occupational and personal pension schemes in respect of section 5(2B) rights) omit “a salary related contracted-out scheme;”.

(4) After regulation 13A<sup>(4)</sup> (modification of section 8C where transfer payments are made to salary related contracted-out schemes) insert—

##### **“Modification of section 12: revaluation after transfer from another scheme**

**13B.**—(1) This regulation applies where the following conditions are satisfied—

- (a) on or after 5th April 1983, a transfer of the earner’s accrued rights to guaranteed minimum pensions under a scheme (“scheme A”) was made (under or by virtue of section 16(1)) to another scheme (“scheme B”) that was at the time a contracted-out scheme;
- (b) the earner commenced employment that was contracted-out by reference to scheme B;
- (c) by virtue of section 10(1), as modified by regulation 12(a), the calculation, under the provisions of scheme B, of the earner’s guaranteed minimum pension for the purposes of section 10(2) falls to include earnings factors arising out of contracted-out employment in any period of linked qualifying service<sup>(5)</sup> that was contracted-out employment by reference to scheme A, and

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(1) [S.R. 1996 No. 618](#); relevant amending Regulations are [S.R. 1997 No. 160](#)

(2) [1992 c. 8](#)

(3) Regulation 10 was substituted by regulation 7(4) of [S.R. 2012 No. 120](#)

(4) Regulation 13A was inserted by paragraph 10(6) of the Schedule to [S.R. 1997 No. 160](#)

(5) See section 174 of the Pension Schemes (Northern Ireland) Act 1993 as amended by paragraph 25 of Schedule 10 to the Pensions (Northern Ireland) Order 2005 and paragraph 72 of Schedule 4 to the Pension Schemes Act 2015

(d) either—

- (i) scheme B provides for the earnings factors to be increased at the rate by which they fell to be increased under the provisions of scheme A, or would have fallen to be increased under the provisions of that scheme relating to an earner whose pensionable service under the scheme terminated before the earner attained pensionable age;
- (ii) if scheme A provided for those earnings factors to be increased by reference to orders under section 130 of the Administration Act, scheme B provides for them to be increased in accordance with the provisions of section 12(2) and (3);
- (iii) if scheme A provided for those earnings factors to be increased in accordance with the provisions of section 12(2) and (3), scheme B includes provision for them to be increased by reference to orders under section 130 of the Administration Act from the date of termination of the earner's pensionable service under the scheme, or
- (iv) if a transfer of the earner's accrued rights to scheme B is not one to which head (iii) applies and those rights were previously being increased at a rate calculated by reference to orders under section 130 of the Administration Act, scheme B includes provision for those earnings factors to be increased at a rate calculated otherwise than by reference to orders under that section.

(2) In paragraph (1), references to earnings factors include the weekly equivalent mentioned in section 10(2).

(3) Where this regulation applies section 12(1) applies as if there were added at the end “or, in respect of the earner's earnings factor (or the weekly equivalent mentioned in section 10(2)) for any relevant year in a period of linked qualifying service, shall be taken to be that factor (or weekly equivalent) as increased in accordance with the provisions of the scheme under regulations made under subsection (3)”.

(4) Where this regulation applies, the modifications of section 12(2) and (3) contained in paragraph (5) apply where earnings factors of an earner whose accrued rights to guaranteed minimum pensions, including such rights derived from linked qualifying service, have been transferred under or by virtue of section 16(1) to another scheme that was contracted-out.

(5) The modifications referred to in paragraph (4) are that section 12(2) and (3) applies as if it permitted that scheme to provide for those earnings factors to be determined for the purpose of section 10(2) without reference to any order coming into operation under section 130 of the Administration Act—

- (a) where such earnings factors had previously fallen to be determined by reference to orders under section 130 of the Administration Act, after the relevant year in which the earner's pensionable service under the scheme, from which those rights were transferred, was terminated, or
- (b) in any other case, in and after the relevant year in which that service was terminated, and as if section 12(3) had effect accordingly, save, in a case to which paragraph (b) applies, for treating the reference to the amount of the increase in section 12(3) as a reference to the amount by which the earnings factors relevant to the weekly equivalent would be increased.”.

#### Commencement Information

**II** [Reg. 22](#) in operation at 6.4.2016, see [reg. 1\(a\)](#)

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**Changes to legislation:** There are currently no known outstanding effects for the *The Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016, PART 6*. (See end of Document for details)

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