

**2012 No. 125**

**PENSIONS**

**The Occupational Pension Schemes (Contracting-out and  
Modification of Schemes) (Amendment) Regulations  
(Northern Ireland) 2012**

*Made* - - - -

*16th March 2012*

*Coming into operation* -

*6th April 2012*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 12(3) and 177(4) of the Pension Schemes (Northern Ireland) Act 1993(a) and Articles 68(2)(e) and 166(3) of the Pensions (Northern Ireland) Order 1995(b), and now vested in it(c).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Contracting-out and Modification of Schemes) (Amendment) Regulations (Northern Ireland) 2012 and shall come into operation on 6th April 2012.

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Assembly.

**Amendment of the Occupational Pension Schemes (Contracting-out) Regulations**

2. In regulation 62(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(e) (fixed rate revaluation of guaranteed minimum pensions for early leavers)—

(a) in sub-paragraph (f) after “6th April 2007” insert “but before 6th April 2012”;

(b) after sub-paragraph (f) add—

“(g) where that period of service terminates on or after 6th April 2012, 4.75 per cent. compound.”.

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(a) 1993 c. 49; section 12(3) was amended by paragraph 21(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); *see also* paragraph 3 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(b) S.I. 1995/3213 (N.I. 22)

(c) *See* Article 8(b) of S.R. 1999 No. 481

(d) 1954 c. 33 (N.I.)

(e) S.R. 1996 No. 493; regulation 62(2) was amended by regulation 2(14) of S.R. 2002 No. 109 and regulation 4(3) of S.R. 2007 No. 185

### **Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations**

3. After regulation 7 of the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006(a) (modification of schemes: surviving civil partners) insert—

#### **“Modification of schemes: abolition of protected rights**

7A.—(1) The trustees of a trust scheme may by resolution passed before 6th April 2018 modify the scheme for the purposes of removing all or part of a scheme rule which makes special provision in relation to the protected rights of members, and which no longer reflects a statutory provision as a result of the coming into operation of provisions contained within—

- (a) section 13(1) of, and Schedule 4 to, the Pensions Act (Northern Ireland) 2008(b) (abolition of contracting-out for defined contribution pension schemes);
- (b) section 85 of, and Part 3 of Schedule 10 to, the Pensions (No. 2) Act (Northern Ireland) 2008(c) (contracting-out: abolition of all protected rights);
- (c) the Pensions (2008 Act) (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Provisions) Regulations (Northern Ireland) 2012(d), or
- (d) the Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012(e).

(2) Modifications made by resolution under paragraph (1)—

- (a) must only have effect from a date on or after the date of the coming into operation of the provisions specified in paragraph (1)(a) to (d) to which those modifications relate, and
- (b) may have effect from a date before the resolution is passed.

(3) A resolution passed under paragraph (1) is without prejudice to a member’s money purchase benefits under the scheme (including any payments that become money purchase benefits under section 27(f) of the Pension Schemes Act (investment and resources of schemes) on or after 6th April 2012).

(4) In this regulation “protected rights” has the meaning given in section 176(1)(g) of the Pension Schemes Act (general interpretation).”.

Sealed with the Official Seal of the Department for Social Development on 16th March 2012

(L.S.)

*Anne McCleary*

A senior officer of the Department for Social Development

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(a) S.R. 2006 No. 149 to which there are amendments not relevant to these Regulations  
(b) 2008 c. 1 (N.I.); Schedule 4 is amended by Parts 2 and 3 of Schedule 10 to the Pensions (No. 2) Act (Northern Ireland) 2008 (2008 c. 13 (N.I.)) and Article 7 of S.R. 2012 No. 124  
(c) 2008 c. 13 (N.I.)  
(d) S.R 2012 No. 120  
(e) S.R 2012 No. 124  
(f) 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 (S.I. 1999/671)  
(g) The definition of “protected rights” is amended by Article 4(24)(a) of S.R. 2012 No. 124

## EXPLANATORY NOTE

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

These Regulations amend the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (“the Contracting-out Regulations”) and the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 2006 (“the Modification of Schemes Regulations”).

Regulation 2 amends regulation 62 of the Contracting-out Regulations to provide for a new fixed rate percentage to be used for the revaluation of a person’s guaranteed minimum pension (if the scheme provides for revaluation by that method in accordance with section 12(2) of the Pension Schemes (Northern Ireland) Act 1993), if they leave contracted-out employment on or after 6th April 2012.

Regulation 3 inserts regulation 7A into the Modification of Schemes Regulations. Regulation 7A provides a power for trustees by resolution to modify their scheme rules for the purposes of amending or removing rules which make special provision for the protected rights of members, where those rules are no longer required, or where the rules no longer reflect a statutory provision, as a result of the coming into operation of the listed statutory provisions which implement the abolition of contracting-out on a defined contribution basis and the abolition of protected rights. Such a resolution must be passed by 6th April 2018 and any modifications must take effect from a date on or after the coming into operation of the statutory provisions to which they relate. The removal of rules relating to protected rights does not affect the member’s underlying entitlement to money purchase benefits under the scheme.

As these Regulations, in so far as they are made under the Pensions (Northern Ireland) Order 1995, 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 117(1) of that Order does not apply by virtue of paragraph (2)(e) of that Article.

An assessment of the cost to business of regulation 3 was included in the Regulatory Impact Assessment which accompanied the Statutory Rules which implement the abolition of contracting-out on a defined contribution basis and the abolition of protected rights (S.R. 2012 Nos. 120 and 124), a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of that Assessment 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 or from the website: <http://www.dsdni.gov.uk/index/ssa/ssani-publications/ssani-pensions-publications.htm>. A copy of the Assessment is also annexed to the Explanatory Memorandum which is available alongside this Statutory Rule on the website: <http://www.legislation.gov.uk/nisr>.

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STATUTORY RULES OF NORTHERN IRELAND

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