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STATUTORY RULES OF NORTHERN IRELAND

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**2013 No. 95**

**PENSIONS**

**The Pension Protection Fund and Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013**

*Made* - - - - *4th April 2013*

*Coming into operation in accordance with regulation 1*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 142(4) and (6)(b) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(1), Articles 75A(1) to (4) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(2), and now vested in it(3), Articles 127(3) to (5), 127A(5), 154(2), 185(1)(a), 189(1) and (5) (a), 280(3) and 287(2) and (3) of, and paragraphs 23(1)(b) and (2), 24(1) and (2), 25(1), 25A(1), 26(9) and 31(2)(a) of Schedule 6 to, the Pensions (Northern Ireland) Order 2005(4) and sections 94(8)(b), 97 and 113(2) of, and paragraphs 9(2), 16A(1) and 19 of Schedule 4 to, the Pensions (No. 2) Act (Northern Ireland) 2008(5).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Pension Protection Fund and Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013.

(2) Subject to paragraph (3), these Regulations shall come into operation on 30th April 2013.

(3) Regulation 7(6) shall come into operation—

(a) in respect of a surviving dependant—

(i) who is receiving periodic compensation on 29th April 2013, and

(ii) is on a qualifying course on that date,

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- (1) 1993 c. 49; section 142(4) was substituted by Article 153(2) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
- (2) S.I. 1995/3213 (N.I. 22); Article 75A was inserted by Article 249 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
- (3) See Article 8(b) of S.R. 1999 No. 481
- (4) S.I. 2005/255 (N.I. 1); Article 127(3) and (4) was amended by paragraph 5(3) and (4) of Schedule 4 to the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)); Article 127A was inserted by paragraph 6 of that Schedule; paragraph 24(1) was amended by paragraph 25 of that Schedule; paragraph 25(1) was amended by paragraph 19(3)(a) of that Schedule; paragraph 25A was substituted by paragraph 22 of that Schedule
- (5) 2008 c. 13 (N.I.); paragraph 16A was inserted by paragraph 30(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

on the date that person leaves that qualifying course, and

(b) in respect of any other surviving dependant, on 30th April 2013.

(4) In this regulation “qualifying course” and “surviving dependant” have the meanings given in regulation 1(2) of the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005<sup>(6)</sup>.

(5) The Interpretation Act (Northern Ireland) 1954<sup>(7)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

### **Amendment of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations**

**2.** In regulation 4(2) of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1997<sup>(8)</sup> (exclusions from jurisdiction)—

- (a) omit sub-paragraph (a);
- (b) at the end of sub-paragraph (e) insert “and”;
- (c) omit sub-paragraph (f);
- (d) for the words after sub-paragraph (g) substitute—

“or the requirements under Part IV (scheme funding) and Articles 218 to 220 (requirements for member-nominated trustees and directors) of the Pensions (Northern Ireland) Order 2005.”

### **Amendment of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations**

**3.—(1)** The Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations (Northern Ireland) 2005<sup>(9)</sup> are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3 (application and effect)—

- (a) in paragraph (1)—
  - (i) after sub-paragraph (c) insert—
 

“(ca) Article 127(5B)(b) and (c)<sup>(10)</sup> (Board’s obligation to obtain valuation of assets and protected liabilities);”;
  - (ii) in sub-paragraph (e) for “Article 136(9)(a)” substitute “Article 136(2B)<sup>(11)</sup>, (9)(a), (10A)”;
- (b) in paragraph (4)—
  - (i) in sub-paragraph (f) after “Article 127(2)”<sup>(12)</sup> insert “, (2A)(a), (5A)(a) and (b)”;
  - (ii) after sub-paragraph (f) insert—
 

“(fa) Article 127A(1)(b) (determinations under Article 127);”;

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<sup>(6)</sup> S.R. 2005 No. 149 to which there are amendments not relevant to these Regulations

<sup>(7)</sup> 1954 c. 33 (N.I.)

<sup>(8)</sup> S.R. 1997 No. 39; regulation 4(2) was amended by paragraph 4 of Schedule 3 to S.R. 2005 No. 568

<sup>(9)</sup> S.R. 2005 No. 55 to which there are amendments not relevant to these Regulations

<sup>(10)</sup> Paragraphs (5A) and (5B) were inserted by regulation 2(2)(a) of S.R. 2005 No. 137 and paragraph (5B) was amended by paragraph 5(5) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

<sup>(11)</sup> Paragraphs (2A) and (2B) were inserted by paragraph 15(3), and paragraph (10A) was inserted by paragraph 15(9), of Schedule 4 to the Pensions Act (Northern Ireland) 2012

<sup>(12)</sup> Paragraphs (2) and (2A) were substituted for paragraph (2) by paragraph 5(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

- (iii) in sub-paragraph (i) for “Article 136(2) and (5)” substitute “Article 136(2), (2A), (2B), (5)(13) and (10A)”;
  - (iv) in sub-paragraph (l) for “Article 142(1) and (3)” substitute “Article 142(1), (3) and (3A)(14)”.
- (3) In regulation 8 (reconsideration) for paragraph (2) substitute—
- “(2) Article 136 (duty to assume responsibility following reconsideration) applies as if—
    - (a) in paragraph (2B), for “protected liabilities” there were substituted “protected liabilities of the unsecured part”, and
    - (b) in paragraph (9)(b), for “liabilities of the scheme” there were substituted “liabilities of the unsecured part”.”.
- (4) In regulation 10(1) (assumption of responsibility)—
- (a) before sub-paragraph (a) insert—
    - “(za) in paragraph (3)(15) for “determination made or valuation obtained under Article 127(2)” there were substituted “valuation obtained under Article 127”;
    - (zb) in paragraph (4)(16) “determination made or” were omitted;”;
  - (b) in sub-paragraph (b)—
    - (i) in added paragraph (8) after “as they apply in relation to a valuation” insert “ and not a determination”;
    - (ii) in added paragraph (9) for “paragraphs (5) and (11)(b)” substitute “paragraphs (5), (5A)(b), (5B)(b) and (11)(b)”.

#### **Amendment of the Pension Protection Fund (Provision of Information) Regulations**

**4.** In the Table in paragraph 1(2) of Schedule 1 to the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005(17) (information to be provided by the Board) after the seventh entry insert—

<p>“Any member who makes a request in writing to the Board for it to provide information about any entitlement the member may have to postpone to a date specified in the request—</p> <ul style="list-style-type: none"> <li>(a) the periodic compensation; or</li> <li>(b) any payment of lump sum compensation,</li> </ul> <p>under paragraph 25A of Schedule 6 to the</p>	<p>Details of any entitlement the member may have to postpone compensation and a forecast to the date specified in the request, and determined in accordance with the pension compensation provisions, of—</p> <ul style="list-style-type: none"> <li>(a) the periodic compensation; or</li> <li>(b) any lump sum compensation payment,</li> </ul>	<p>The period of 28 days beginning on the day on which the Board receives the request.</p>
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(13) Paragraph (5) was amended by paragraph 15(6) of Schedule 4 to the Pensions Act (Northern Ireland) 2012  
 (14) Paragraphs (3) and (3A) were substituted for paragraph (3) by paragraph 11(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012  
 (15) Paragraph (3) was amended by paragraph 12(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012  
 (16) Paragraph (4) was amended by paragraph 12(3) of Schedule 4 to the Pensions Act (Northern Ireland) 2012  
 (17) [S.R. 2005 No. 129](#); the Table was amended by regulation 2(3) of [S.R. 2006 No. 140](#)

Order (postponement of compensation).	payable to the member under the pension compensation provisions.	
Any member who has elected to postpone— <ul style="list-style-type: none"> <li>(a) the commencement of the periodic compensation; or</li> <li>(b) payment of lump sum compensation,</li> </ul> under paragraph 25A of Schedule 6 to the Order.	<p>1. A forecast, to the date compensation ceases to be postponed, determined in accordance with the pension compensation provisions, of the periodic compensation and of any lump sum compensation, payable to the member under the pension compensation provisions.</p> <p>2. Details of any options to commute which may be exercised by the member in relation to that compensation in accordance with paragraph 24 of Schedule 6 to the Order and forecasts, to the date compensation ceases to be postponed, determined in accordance with the pension compensation provisions, of—</p> <ul style="list-style-type: none"> <li>(a) the lump sum to be paid to that member under any such options; and</li> <li>(b) the reduced level of annual compensation payments which that member would receive if that member exercised any such option.</li> </ul>	The period of six months beginning 12 months before the day on which— <ul style="list-style-type: none"> <li>(a) commencement of the periodic compensation ceases to be postponed; or</li> <li>(b) payment of lump sum compensation ceases to be postponed.”.</li> </ul>

### **Amendment of the Pension Protection Fund (Valuation) Regulations**

5.—(1) The Pension Protection Fund (Valuation) Regulations (Northern Ireland) 2005<sup>(18)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “Article 136 determination”<sup>(19)</sup> insert—

““Article 136(9) valuation” means a valuation obtained under Article 136(9) of the Order;”;

(b) after the definition of “Article 142 determination” insert—

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<sup>(18)</sup> S.R. 2005 No. 131; relevant amending Regulations are S.R. 2007 No. 193 and S.R. 2012 No. 270

<sup>(19)</sup> The definitions of “Article 136 determination” and “Article 142 determination” were inserted by regulation 5(2)(d) of S.R. 2012 No. 270

““Article 142 valuation” means a valuation obtained under Article 142(3)(b)(20) of the Order;”.

(3) In regulation 6(1)(a) and (b)(21) (valuation of protected liabilities) for “market rate” substitute “best value rate available in the market as estimated by the Board”.

(4) In regulation 7(4)(c)(22) (alternative valuation of assets and protected liabilities in specific cases)—

(a) in head (i) at the beginning insert “either none of the amount due or only”;

(b) in head (ii)—

(i) for “no further” substitute “some or all of the”;

(ii) after “notice or direction will” insert “not”.

(5) In regulation 7A(23) (application of these regulations to applications for reconsideration and by closed schemes)—

(a) for paragraph (3) substitute—

“(3) Regulations 3 to 7 apply in relation to an Article 136(9) valuation, an Article 136(10A) valuation and an Article 142 valuation as they apply in relation to an Article 127 valuation.”;

(b) in paragraph (4) for “to Article 136(10A) valuations” substitute “to an Article 136(9) valuation, an Article 136(10A) valuation or an Article 142 valuation”.

#### **Amendment of the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations**

6. In regulation 3(1)(a) of the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005(24) (time for making an application for a review decision) for “two months” substitute “28 days”.

#### **Amendment of the Pension Protection Fund (Compensation) Regulations**

7.—(1) The Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005(25) are amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(2) (interpretation) after the definition of “the assessment date”(26) insert—

““commutation limit” means the amount specified in paragraph 7(4)(27) of Schedule 29 to the 2004 Act(28) (trivial commutation lump sum);”.

(3) In regulation 2 (circumstances where a person shall be entitled to early payment of compensation) omit paragraph (5).

(4) After Part 2 (early payment of compensation) insert—

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(20) Article 142(3) was substituted by paragraph 11(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(21) Regulation 6 was amended by regulation 3(5) of S.R. 2007 No. 193 and regulation 5(6) of S.R. 2012 No. 270

(22) Regulation 7(4)(c) was amended by regulation 5(7)(b)(iv) of S.R. 2012 No. 270

(23) Regulation 7A was inserted by regulation 5(8) of S.R. 2012 No. 270

(24) S.R. 2005 No. 138; regulation 3(1) was amended by regulation 6(2) of S.R. 2012 No. 270

(25) S.R. 2005 No. 149; relevant amending Regulations are S.R. 2005 No. 357 and S.R. 2006 No. 155

(26) The definition of “the assessment date” was inserted by regulation 8(2)(a)(i) of S.R. 2005 No. 357

(27) Paragraph 7(4) was amended by paragraph 4(2) of Schedule 18 to the Finance Act 2011 (c. 11)

(28) The definition of “the 2004 Act” was inserted by regulation 22(2)(a) of S.R. 2006 No. 155

## “PART 2A

### Postponement of compensation

#### **Postponing compensation**

**2A.**—(1) A person who becomes entitled to periodic compensation under paragraph 5(**29**), 8(**30**), 11(**31**) or 15(**32**) of Schedule 6, or by virtue of paragraph 21(**33**) or 21A of Schedule 6, may elect to postpone the commencement of periodic compensation under that paragraph—

- (a) in any of the circumstances prescribed in regulation 2B, and
- (b) subject to all of the conditions prescribed in regulation 2C.

(2) A person who becomes entitled to lump sum compensation under paragraph 7(**34**), 10(**35**), 14(**36**) or 19(**37**) of Schedule 6, or by virtue of paragraph 21 or 21A of Schedule 6, may elect to postpone the payment of lump sum compensation under that paragraph—

- (a) in any of the circumstances prescribed in regulation 2B, and
- (b) subject to all of the conditions prescribed in regulation 2C.

#### **Circumstances in which periodic and lump sum compensation can be postponed**

**2B.**—(1) The circumstances referred to in regulation 2A(1)(a) and (2)(a) are as follows.

(2) The first circumstance is where the person has—

- (a) not attained normal pension age, or
- (b) not attained normal benefit age,

on the date when an assessment period begins in relation to the scheme.

(3) The second circumstance is where the person—

- (a) has not received any pension (including any lump sum entitlement) under the scheme;
- (b) is an active member, and
- (c) has attained normal pension age,

on the date when an assessment period begins in relation to the scheme.

(4) The third circumstance is where—

- (a) the person has had his pension payment postponed, and
- (b) the payment of that pension remains postponed,

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(**29**) Paragraph 5 was amended by paragraph 3 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008 and paragraphs 23(1) and 37(3) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**30**) Paragraph 8 was amended by paragraph 23(3) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**31**) Paragraph 11 was amended by paragraph 4 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008 and paragraph 23(5) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**32**) Paragraph 15 was amended by paragraph 7 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008 and paragraph 23(7) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**33**) Paragraphs 21 and 21A were substituted for paragraph 21 by paragraph 19(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**34**) Paragraph 7 was amended by paragraph 23(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**35**) Paragraph 10 was amended by paragraph 23(4) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**36**) Paragraph 14 was amended by paragraph 6 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008 and paragraph 23(6) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**37**) Paragraph 19 was amended by paragraph 9 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008 and paragraph 23(8) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

on the date of the transfer notice issued under Article 144(38) to trustees or managers of the scheme.

### **Conditions subject to which periodic and lump sum compensation can be postponed**

**2C.**—(1) The conditions referred to in regulation 2A(1)(b) and (2)(b) are as follows.

(2) The first condition is that—

- (a) where the person elects to postpone periodic compensation in respect of a benefit under the scheme, the person must also elect to postpone the payment of any lump sum compensation to which the person is entitled in respect of that scheme, or
- (b) where the person elects to postpone lump sum compensation in respect of a benefit under the scheme, the person must also elect to postpone the payment of any periodic compensation to which the person is entitled in respect of that scheme.

(3) The second condition is that the person must not have received, or have received in respect of any benefit under the scheme—

- (a) his pension;
- (b) any periodic compensation, or
- (c) any lump sum compensation.

(4) The third condition is that for each election to postpone periodic compensation or lump sum compensation, the person has sent written notice to the Board—

- (a) in accordance with paragraph (5);
- (b) that the person wishes to postpone the commencement of periodic compensation or payment of lump sum compensation, and
- (c) before the commencement of that periodic compensation or payment of lump sum compensation.

(5) The notice referred to in paragraph (4) must include—

- (a) the person's name, address, date of birth and national insurance number;
- (b) the name of the scheme for which the Board has assumed responsibility, and
- (c) the date on which the person would like the commencement of periodic compensation or payment of lump sum compensation to cease to be postponed, which must be a date before the person attains the age of 75.

### **Date on which postponement ceases**

**2D.**—(1) Periodic compensation and lump sum compensation ceases to be postponed on the date elected under regulation 2C(5)(c) unless the person has further elected an earlier date or a later date (which must be a date before the person attains the age of 75).

(2) A person who wishes to make a further election under this regulation must send a written notice to the Board before the date notified (or most recently notified) under regulation 2C(5)(c).

(3) The notice referred to in paragraph (2) must include the information set out in regulation 2C(5).”.

(5) In regulation 4(3) (compensation for surviving dependants)—

- (a) in sub-paragraph (a)—
  - (i) omit “or unborn child”;

- (ii) for “demonstrating” substitute “or other evidence demonstrating to the satisfaction of the Board”;
- (b) at the end of sub-paragraph (b) omit “or”;
- (c) after sub-paragraph (b) insert—
  - “(ba) in the case of a child of the member who, at the date of the member’s death, was being carried by the mother and had not been born, evidence demonstrating to the satisfaction of the Board that the child—
    - (i) is the child of the member, and
    - (ii) would have been a dependant of the member had the child been born before the date of the member’s death, or”.
- (6) In regulation 7(4)(**39**) (period of payment)—
  - (a) for “Where” substitute “This paragraph applies where”;
  - (b) in sub-paragraph (a) for “later” substitute “earlier”.
- (7) In regulation 17(2)(b)(**40**) (commutation of periodic compensation) for head (ii) substitute—
  - “(ii) payment of periodic compensation commences.”.
- (8) In regulation 18(**41**) (circumstances in which the portion of compensation to be commuted may exceed 25 per cent.) omit paragraph (4).

#### **Amendment of the Occupational Pension Schemes (Employer Debt) Regulations**

**8.** In paragraph 4(6)(i) of Schedule 1A to the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005(**42**) (withdrawal arrangements and approved withdrawal arrangements) for ““Article 127 valuations” and provisions which relate to Article 127 valuations” substitute ““Article 127 valuations” and “Article 127 determinations” and provisions which relate to Article 127 valuations and Article 127 determinations”.

#### **Amendment of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations**

**9.—(1)** The Pension Protection Fund (General and Miscellaneous Amendments) Regulations (Northern Ireland) 2006(**43**) are amended in accordance with paragraphs (2) to (5).

- (2) In regulation 1(2) (interpretation) after the definition of “PPF compensation” insert—
  - ““PPF money purchase lump sum” means a payment of a lump sum which is made by the Board in respect of entitlement or accrued rights under the scheme rules to money purchase benefits;”.
- (3) In regulation 7(1)(**44**) (manner of discharge of liabilities in respect of money purchase benefits)—
  - (a) in sub-paragraph (d) for “policies, or” substitute “policies;”;
  - (b) in sub-paragraph (e) for “payment.” substitute “payment, or”;
  - (c) after sub-paragraph (e) add—

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(39) Regulation 7 was amended by regulation 8(7) of [S.R. 2005 No. 357](#)

(40) Regulation 17 was amended by regulation 22(3) of [S.R. 2006 No. 155](#)

(41) Regulation 18 was substituted by regulation 22(4) of [S.R. 2006 No. 155](#)

(42) [S.R. 2005 No. 168](#); Schedule 1A was substituted by Schedule 2 to [S.R. 2008 No. 132](#) and paragraph 4 was amended by regulation 18 of [S.R. 2010 No. 111](#)

(43) [S.R. 2006 No. 155](#); relevant amending Order is [S.R. 2012 No. 124](#)

(44) Regulation 7(1) was amended by Article 24(3)(a) of [S.R. 2012 No. 124](#)



“(f) in the circumstances described in regulation 9A, a PPF money purchase lump sum.”.

(4) In regulation 8(3) (further provision for discharge of liabilities in respect of money purchase benefits) after “trivial commutation” insert “and regulation 9A in relation to PPF money purchase lump sums”.

(5) After regulation 9 (trivial commutation) insert—

**“PPF money purchase lump sums**

**9A.**—(1) The Board may discharge its liabilities in respect of money purchase benefits transferred to it under Article 145 of the Order (effect of Board assuming responsibility for a scheme) by way of a PPF money purchase lump sum where the conditions in the following paragraphs are met.

(2) The first condition is that the member is aged 60 or over.

(3) The second condition is that the value of the member’s entitlements to money purchase benefits under the pension scheme does not exceed £2,000.

(4) The third condition is that the payment extinguishes the member’s entitlement to money purchase benefits under the pension scheme.

(5) The fourth condition is that the payment is made within a reasonable time from the date the Board notifies the member under regulation 8(1).”.

**Amendment of the Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations**

**10.**—(1) The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011<sup>(45)</sup> are amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(3) (interpretation) for “paragraph (a)” substitute “sub-paragraph (a)”.

(3) In regulation 14(1)(c) (notification of discharge of liability) for “paragraphs (5)(e)” substitute “paragraph (5)(e)”.

(4) In regulation 20(3)(b) (compensation payable in the case of relevant partners and surviving dependants) for “paragraph (a)(i)” substitute “sub-paragraph (a)(i)”.

(5) In regulation 26 (circumstances in which the portion of compensation to be commuted may exceed 25%)—

(a) in paragraph (7)(b) for “would be” substitute “is”;

(b) in paragraph (8) in the definition of “tax year” for “as section 279(1) of the Finance Act (other definitions);” substitute “as in section 4(2), (3) and (4) of the Income Tax Act 2007<sup>(46)</sup> (income tax an annual tax);”.

(6) After Part 8 (early payment of periodic compensation) insert—

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<sup>(45)</sup> S.R. 2011 No. 113

<sup>(46)</sup> 2007 c. 3

## “PART 8A

### Postponement of compensation

#### **Postponing compensation**

**28A.** A person who becomes entitled to periodic compensation under paragraph 4 or 6 of Schedule 4 (compensation payable to transferee) may elect to postpone the commencement of periodic compensation under that paragraph—

- (a) in any of the circumstances prescribed in regulation 28B, and
- (b) subject to all of the conditions prescribed in regulation 28C.

#### **Circumstances in which periodic compensation can be postponed**

**28B.**—(1) The circumstances referred to in regulation 28A(a) are as follows.

(2) The first circumstance is where the person has not attained pension compensation age on the transfer day.

(3) The second circumstance is where, on the transfer day, the person—

- (a) has attained pension compensation age, and
- (b) is not in receipt of periodic compensation in respect of the pension compensation credit.

#### **Conditions subject to which periodic compensation can be postponed**

**28C.**—(1) The conditions referred to in regulation 28A(b) are as follows.

(2) The first condition is that the person on and from the transfer day is not and has not been in receipt of any periodic compensation or lump sum compensation payment in respect of the pension compensation credit.

(3) The second condition is that for each election to postpone, the person must have sent a written notice to the Board in accordance with paragraph (4) that the person wishes to postpone periodic compensation, before the person receives payment in respect of the pension compensation credit.

(4) The notice referred to in paragraph (3) must include—

- (a) the person’s name, address, date of birth and national insurance number;
- (b) the name of the scheme for which the Board has assumed responsibility, and
- (c) the date on which the person would like the commencement of periodic compensation to cease to be postponed, which must be a date before the person attains the age of 75.

#### **Date on which postponement ceases**

**28D.**—(1) Periodic compensation ceases to be postponed on the date elected in regulation 28C(4)(c) unless the person has further elected an earlier date or a later date (which must be a date before the person attains the age of 75).

(2) A person who wishes to make a further election under this regulation must send a written notice to the Board before the date notified (or most recently notified) under regulation 28C(4)(c).

(3) The notice referred to in paragraph (2) must include the information set out in regulation 28C(4).”.

(7) In the Table in paragraph 2 of the Schedule (information to be provided by the Board) after the fifth entry insert—

<p>“Any pension compensation credit member who makes a request in writing to the Board for it to postpone to a date specified in the request, commencement of the periodic compensation under paragraph 16A(47) of Schedule 4.</p>	<p>A forecast to the date specified in the request, determined in accordance with Schedule 4, of the periodic compensation payable to the pension compensation credit member under Schedule 4.</p>	<p>The period of 28 days beginning on the day on which the Board receives the request.</p>
<p>Any pension compensation credit member who has elected to postpone the commencement of the periodic compensation under paragraph 16A of Schedule 4.</p>	<p>1. A forecast to the date the periodic compensation ceases to be postponed, determined in accordance with Schedule 4, of the periodic compensation payable to the pension compensation credit member under Schedule 4.</p> <p>2. Details of any options to commute which may be exercised by the pension compensation credit member in relation to the periodic compensation in accordance with paragraph 9(48) of Schedule 4 and forecasts to the date the periodic compensation ceases to be postponed, determined in accordance with Schedule 4, of—</p> <p>(a) the lump sum to be paid to that member under any such options, and</p> <p>(b) the reduced level of annual compensation payments which that member would receive if that member exercised any such option.</p>	<p>The period of 6 months beginning 12 months before the day on which the commencement of the periodic compensation ceases to be postponed.”.</p>

## Revocation

11. Paragraph 4 of Schedule 3 to the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005(49) is revoked.

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(47) Paragraph 16A was inserted by paragraph 30(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(48) Paragraph 9 was amended by paragraph 33 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(49) S.R. 2005 No. 568

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**Status:** *This is the original version (as it was originally made). Northern Ireland Statutory Rules are not carried in their revised form on this site.*

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Sealed with the Official Seal of the Department for Social Development on 4th April 2013

*Anne McCleary*  
A senior officer of the Department for Social  
Development

## EXPLANATORY NOTE

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

These Regulations amend the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1997 (“the Pensions Ombudsman Regulations”), the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations (Northern Ireland) 2005 (“the Partially Guaranteed Schemes Regulations”), the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005 (“the Provision of Information Regulations”), the Pension Protection Fund (Valuation) Regulations (Northern Ireland) 2005 (“the Valuation Regulations”), the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005 (“the Review and Reconsideration Regulations”), the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 (“the Compensation Regulations”), the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005 (“the Employer Debt Regulations”), the Pension Protection Fund (General and Miscellaneous Amendments) Regulations (Northern Ireland) 2006 (“the General Regulations”) and the Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011 (“the Pension Compensation Sharing Regulations”).

Regulation 1(3) provides for a transitional period for regulation 7(6), which amends the Compensation Regulations, to allow surviving dependants aged 18 and above who are receiving periodic compensation for attending a qualifying course, to continue to receive it until they cease attending the course.

Regulation 2 amends the Pensions Ombudsman Regulations to update the statutory references to matters which are excluded from the Ombudsman’s jurisdiction.

Regulation 3 amends the Partially Guaranteed Schemes Regulations to provide that the Board of the Pension Protection Fund (“the Board”) is not able to make a determination in respect of partially guaranteed schemes under the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”) (as amended by the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.))).

Regulation 4 amends the Provision of Information Regulations so that the Board is required to provide members with information on postponement of compensation.

Regulation 5 amends the Valuation Regulations. The reference to the market rate in calculating the value of protected liabilities is amended so that the best value rate available in the market is applicable. Regulation 7A of the Valuation Regulations (which specifies the regulations applicable to applications for reconsideration, and by closed schemes) is extended to apply to all valuations under Articles 136 and 142 of the 2005 Order. Provision is made so that the valuations of scheme assets which are contribution notices and orders reflect the actual payments received under these.

Regulation 6 amends the Review and Reconsideration Regulations to change the time within which an eligible person may make an application for an internal review of a decision by the Board from two months to 28 days.

Regulation 7 makes various amendments to the Compensation Regulations, including giving members the ability to postpone the payment of compensation, and allowing pension credit members to apply for early payment of compensation. A surviving dependant aged 18 to 23 is only eligible for periodic compensation if they are attending a qualifying course. The commutation limit is changed to reflect the limit for registered pension schemes as set out in paragraph 7(4) of Schedule 29 to the Finance Act 2004 (c. 12).

Regulation 8 amends the Employer Debt Regulations to exclude, for employer debt purposes, determinations under Article 127 of the 2005 Order.

Regulation 9 amends the General Regulations to provide that the Board may discharge all of its liabilities in respect of money purchase benefits to a member by making a small lump sum payment, provided that the value of such benefits does not exceed £2,000. The payment must be made within a reasonable time from the date the Board notifies the member of their entitlement under regulation 8(1) of the General Regulations, which gives the member 3 months from the date of being notified by the Board, to inform the Board of how they wish the liability to be discharged. If no such notice is received within this time, the Board must discharge the lump sum as it sees fit in accordance with the General Regulations.

Regulation 10 amends the Pension Compensation Sharing Regulations to make provision for the postponement of compensation by pension compensation credit members. It also makes some minor corrections.

Regulation 11 makes a consequential revocation.

The Pensions (2012 Act) (Commencement No. 3) Order (Northern Ireland) 2013 (S.R. 2013 No. 83 (C. 5)) provides for the coming into operation of paragraphs 22, 25 and 30 of Schedule 4 to the Pensions Act (Northern Ireland) 2012, which substitute paragraph 25A of Schedule 6 to the 2005 Order, amend paragraph 24(1) of Schedule 6 to the 2005 Order and insert paragraph 16A of Schedule 4 to the Pensions (No. 2) Act (Northern Ireland) 2008 respectively, some of the enabling provisions under which these Regulations are made, on 27th March 2013.

As these Regulations, in so far as they are made under Part II of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) and the 2005 Order, 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 for consultation does not apply by virtue of Article 117(2)(e) of the 1995 Order and Article 289(2)(e) of the 2005 Order.

An assessment of the impact of the postponement of pension compensation is included in the Regulatory Impact Assessment which accompanied the Pensions Act (Northern Ireland) 2012, 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>.