

Regulations made by the Department for Social Development and laid before the Assembly under section 51(3) and (4)(e) of the Pensions Act (Northern Ireland) 2015 for approval of the Assembly before the expiration of six months from the date of their coming into operation

STATUTORY RULES OF NORTHERN IRELAND

2016 No. 192

PENSIONS

**The Occupational Pension Schemes (Scheme Administration)
(Amendment) Regulations (Northern Ireland) 2016**

Made - - - - 23rd March 2016

Coming into operation 6th April 2016

The Department for Social Development makes the following Regulations in exercise of the powers conferred by section 51(6) of, and paragraphs 2(1), (3) and (5), 6 and 7 of Schedule 18 to, the Pensions Act (Northern Ireland) 2015⁽¹⁾.

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 6th April 2016.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

2. The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997⁽²⁾ are amended in accordance with regulations 3 to 6.

Amendment of regulation 1

3. In regulation 1 (interpretation)—

- (a) in paragraph (2) in the definition of “relevant multi-employer scheme”⁽³⁾ for the words from “in relation to” to “or which is” substitute “which is or has been”;
- (b) for paragraph (2ZA)⁽⁴⁾ substitute—

(1) 2015 c. 5 (N.I.)

(2) S.R. 1997 No. 94; relevant amending Regulations are S.R. 2015 No. 309

(3) The definition of “relevant multi-employer scheme” was inserted by regulation 21(a) of S.R. 2015 No. 309. Paragraph (c) of the definition is omitted from 6th April 2016 by virtue of regulations 1(3)(c) and 23(c) of S.R. 2015 No. 309

(4) Paragraph (2ZA) was inserted by regulation 21(b) of S.R. 2015 No. 309

“(2ZA) For the purposes of the definition of “relevant multi-employer scheme”, a participating employer is “connected” to another employer where either of the following conditions is satisfied—

- (a) the first condition is that both employers—
 - (i) are or have been part of the same group of companies consisting of one or more holding companies and subsidiaries of any such companies within the meaning of section 1159(1) of the Companies Act 2006⁽⁵⁾; or
 - (ii) are or have been partnerships, each having the same persons as at least half of its partners;
- (b) the second condition is that the participating employer which is not a company within the group referred to in sub-paragraph (a)(i)—
 - (i) forms or formed a joint venture with that other employer within the group;
 - (ii) jointly employs or employed members of the scheme with that other employer within the group;
 - (iii) employs active members of the scheme following a transfer from that other employer within the group;
 - (iv) holds, held, controls or controlled at least 20% of the voting power in that other employer within the group; or
 - (v) is or was an employer 20% of whose voting power is or was held or controlled by that other employer within the group.”.

Amendment of regulation 22

- 4. In regulation 22⁽⁶⁾ (duty to appoint a chair of the trustees or managers)—
 - (a) in paragraph (5) after “hold that office” insert “(but see also paragraph (7))”;
 - (b) in paragraph (6) for “6th April 2015” substitute “6th April 2016”;
 - (c) after paragraph (6) add—
 - “(7) Paragraph (5) does not apply to a scheme established under section 67 of the Pensions Act 2008⁽⁷⁾.”.

Amendment of regulation 23

- 5. In regulation 23⁽⁸⁾(annual statement regarding governance)—
 - (a) in paragraph (1) for sub-paragraph (e) substitute—
 - “(e) be signed on behalf of the trustees or managers by—
 - (i) the chair; or
 - (ii) where the chair has ceased to hold office as chair for any reason and a replacement has not yet been appointed, a person appointed by the trustees or managers to act as the chair in the interim period.”;
 - (b) in paragraph (2) for “6th April 2015” substitute “17th July 2015”;

⁽⁵⁾ 2006 c. 46

⁽⁶⁾ Regulation 22 was added by regulation 16(3) of S.R. 2015 No. 309

⁽⁷⁾ 2008 c. 30; section 67 was amended by section 30(2) of the Finance (No. 3) Act 2010 (c. 33)

⁽⁸⁾ Regulation 23 was added by regulation 17(1) of S.R. 2015 No. 309

Amendment of regulation 27

6. In regulation 27(9) (appointment of trustees)—
- (a) in paragraphs (1) and (2) for “paragraphs (4) to (7)” substitute “paragraphs (4) to (7A)”;
 - (b) after paragraph (2) insert—

“(2A) Paragraphs (1) and (2) override any provision of a relevant multi-employer scheme to the extent that it conflicts with those paragraphs.”;
 - (c) for paragraph (7) substitute—

“(7) Where a relevant multi-employer scheme was established, or became a relevant multi-employer scheme, before 17th July 2015 and the requirements of paragraph (1) or (2) were not met on that date, the requirement in question must be met before 6th July 2016.

(7A) Where a relevant multi-employer scheme was established by or under a statutory provision, other than a scheme established under section 67 of the Pensions Act 2008, before 6th April 2016 and the requirements of paragraph (1) or (2) are not met on that date, the requirement in question must be met before the end of the period of 6 months starting with that date.”.

Revocation

7. Regulation 21(b) of the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015(10) is revoked.

Sealed with the Official Seal of the Department for Social Development on 23rd March 2016

Anne McCleary
A senior officer of the Department for Social
Development

(9) Regulation 27 was added by regulation 22 of S.R. 2015 No. 309
(10) S.R. 2015 No. 309

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 in relation to certain governance requirements.

Regulation 3 of these Regulations amends the definition of “relevant multi-employer scheme” in regulation 1. It substitutes the definition of “connected employers”, thereby removing the definition of “participating employer” for the purposes of the definition of “relevant multi-employer scheme”.

Regulation 4(a) and (c) of these Regulations amends regulation 22 to disapply the requirement to appoint a chair of the trustees or managers of a scheme established under section 67 of the Pensions Act 2008.

Regulation 5(a) of these Regulations amends regulation 23 to provide for the signing of the annual statement regarding governance in the absence of a chair of the trustees or managers.

Regulation 6 of these Regulations amends regulation 27 concerning the appointment of trustees and provides a further exemption solely from the appointment requirements for schemes established by statute.

Regulations 4(b), 5(b) and 6 of these Regulations also amend regulations 22, 23 and 27 respectively to extend the transitional period for schemes to comply with the governance requirements relating to the appointment of trustees and to clarify the period to be covered in the first governance statement.

Regulation 7 of these Regulations makes a consequential revocation.

The Pensions (2015 Act) (Commencement No. 1) Order (Northern Ireland) 2015 ([S.R. 2015 No. 307 \(C. 25\)](#)) provides for the coming into operation of Schedule 18 to the Pensions Act (Northern Ireland) 2015, some of the enabling provisions under which these Regulations are made, on 16th July 2015.

In so far 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 does not apply by virtue of paragraph 8 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.