1992 No. 92

ELECTRICITY

Electricity (Superannuation Scheme Amendments) Regulations (Northern Ireland) 1992

Made	*5th March 1992*
Coming into operation . .	*1st April 1992*

The Department of Economic Development, in exercise of the powers conferred on it by Article 89 of, and paragraphs 2(1) and (2) and 8 of Schedule 11 to, the Electricity (Northern Ireland) Order 1992(**a**) and of every other power enabling it in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Electricity (Superannuation Scheme Amendments) Regulations (Northern Ireland) 1992 and shall come into operation on 1st April 1992.

Interpretation

2. In these Regulations—

"the Rules" means the Rules attached to the Trust Deed as the same have been amended from time to time prior to the coming into operation of these Regulations;

"the Trust Deed" means the Trust Deed made on 11th September 1946 between Northern Ireland Electricity (then called The Electricity Board for Northern Ireland) of the first part Lendrick McMaster of the second part Alexander Wilson Ferguson and Thomas Gregg Christie of the third part and Acheson Finney Hanna and William John Adair of the fourth part varied by an Order dated 1st December 1987 of the High Court of Justice in Northern Ireland.

Amendments to the scheme

3.—(1) The amendments to the scheme specified in Part I of the Schedule shall have effect.

(2) For the expression "the Board", where it occurs in a Clause of or a Rule attached to the Trust Deed referred to in column (1) of Part II of the Schedule, there shall be substituted the expression appearing opposite that reference in column (2) of that Part and consequential grammatical amendments shall be deemed to have been made in the relevant clause or rule.

(a) S.I. 1992/231 (N.I. 1)

(3) In the Schedule any reference to a numbered Clause or Rule is a reference to the clause or rule bearing that number in the Trust Deed and Rules.

Sealed with the Official Seal of the Department of Economic Development on 5th March 1992.

(L.S.) *W. D. Duncan*
Assistant Secretary

SCHEDULE Regulation 3

Amendments to the Scheme

PART I

1. In the second paragraph of Clause 1 the words "with the approval of the Ministry of Finance, and the Ministry of Commerce" shall be deleted.

2. In Clause 2D(2)(*d*) delete the words "(other than the Board)".

3. The following shall be inserted as new Clauses 11, 12 and 13—

" Principal Employer

11. (A) A corporation or firm which succeeds to the business, or to a substantial part of the business, of the Principal Employer in any way (including, without limitation, reconstruction, amalgamation or purchase), or is or becomes the holding company of the Principal Employer, may agree with the Principal Employer to assume its position as Principal Employer under this Trust Deed and the Rules in succession to it, if approval of the Scheme as an Approved Scheme would not be prejudiced.

(B) A change of Principal Employer:

(1) must be effected by a deed executed by the former Principal Employer and the new Principal Employer in which the new Principal Employer agrees with the Trustees and the former Principal Employer to undertake and assume the liabilities, rights and position of the Principal Employer under this Trust Deed and the Rules in succession to the former Principal Employer;

(2) may take effect from the date of that deed or from an earlier or later date;

(3) must take effect only on terms which do not prejudice approval of the Scheme as an Approved Scheme; and

(4) will as from the effective date discharge the former Principal Employer from all its obligations under the Trust Deed and the Rules.

Participation of Associated Employers

12. (A) The Principal Employer may admit to participation in the Scheme as an Associated Employer any corporation or firm which is a holding company or a subsidiary of the Principal Employer, or a subsidiary of a holding company of the Principal Employer, or which succeeds to any part of the business of any of the Employers, or which is in any way associated in business with any of the Employers, if approval of the Scheme as an Approved Scheme would not be prejudiced.

(B) Participation:

(1) must be effected by a deed executed by the proposed Associated Employer and the Principal Employer in which the proposed Associated Employer agrees with the Trustees, the Committee and the Principal Employer to perform and observe the provisions of the Scheme which apply to it from time to time as an Associated Employer;

(2) may be on terms that some only of the provisions of the Scheme, or different provisions, apply to the Associated Employer or to the directors and employees of the Associated Employer (or some of them);

(3) may take effect from the date of that deed or from an earlier or later date and may be for a definite or indefinite period; and

(4) must take effect only on terms which do not prejudice approval of the Scheme as an Approved Scheme.

(C) The participation of an Associated Employer must stop:

(1) on the effective date of any notice given by the Associated Employer, pursuant to Rule 11(F), terminating its liability to pay contributions to the Fund;

(2) if the Associated Employer is a corporation, on an order being made or an effective resolution being passed for its winding up (other than for the purpose of reconstruction or amalgamation) or, if it is a firm, on the firm being dissolved;

(3) if there is a change in the nature or extent of the association of the Associated Employer with the Principal Employer and its continued participation would prejudice approval of the Scheme as an Approved Scheme, on a date agreed to by the Principal Employer, which must not be later than the end of the first complete tax year after that change (or any longer period agreed by the Board of Inland Revenue);

(4) on any date specified in the deed of participation relating to the Associated Employer or on any date specified by the Principal Employer by written notice to the Associated Employer, the Trustees and the Committee.

Amendments to this Trust Deed

13. The provisions of this Trust Deed (including this Clause) may be amended by the Trustees subject to the consent of the Principal Employer

PROVIDED THAT no amendment shall be made which would have the effect of—

(i) altering the main purpose of the Scheme from the provision of pensions for Contributors upon their retirement at a specified age; or

(ii) conflicting with the provisions of the Electricity (Northern Ireland) Order 1992 and the requirements prescribed therein or regulations made thereunder; or

(iii) permitting any moneys to be paid to the Employers unless authorised or required by any enactment from time to time.''.

4. Add the following definitions to Rule 1(A)—

'' ''Associated Employer'' means any corporation or firm (except the Principal Employer) participating in the Scheme;

''Employers'' means the Principal Employer and the Associated Employers. In relation to any employee or former employee or person claiming through him, ''Employer'' means the Employer by which, at the relevant time, he is or was last employed;

"Principal Employer" means

(1) until the Transfer Date, the Board; and

(2) on and after the Transfer Date, Northern Ireland Electricity plc or any other corporation or firm which is for the time being the Principal Employer under Clause 11 of the Trust Deed;

"Transfer Date" means the appointed day under Article 69(3) of the Electricity (Northern Ireland) Order 1992.".

5. In Rule 4 the definition of "Service" shall be amended as follows:—

(*a*) the word "and" after the paragraph numbered "(ii)" shall be deleted;

(*b*) in the paragraph numbered "(iii)" the words "and prior to the Transfer Date" shall be inserted immediately after the phrase "April 1988";

(*c*) the word "and" shall be inserted after the paragraph numbered "(iii)"; and

(*d*) the following shall be added as paragraph (iv):—

"for any period on and after the Transfer Date employment with any of the Employers.".

6. In Rule 11(A) after the word "Contributors" insert the words "in the Service of the Employer".

7. In Rule 11(C) the phrase "it deems to be necessary" shall be deleted and replaced by the following:—

"the Principal Employer deems to be necessary".

8. The following paragraph shall be inserted as Rule 11(F) and the existing paragraph (F) will be designated as (G):—

"(F) An Employer may at any time, by notice in writing to the Trustees, terminate its liability to pay contributions to the Fund. Any notice of termination is without prejudice to any obligation of the Employer to pay contributions to the Fund in respect of any period before the effective date of the notice. On the expiry of any notice the Employer will cease to participate in the Scheme and the provisions of Rule 58(B) will apply.".

9. For Rule 26 substitute the following—

"Transfers out of the Scheme

26. (A) In this Rule:

(*a*) "Group of Beneficiaries" means the beneficiaries to whom a transfer payment made under sub-rule (F) relates;

(*b*) "New Scheme" means an Approved Scheme, a personal pension scheme approved under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 or any other fund, scheme or arrangement approved specifically for the purposes of this Rule by the Board of Inland Revenue and also by the Occupational Pensions Board if it is administered primarily or wholly outside the United Kingdom;

(*c*) "transfer payment" can be or include a transfer of assets.

(B) This Rule applies if a beneficiary is or becomes entitled to rights under a New Scheme.

Individual Transfers

(C) If the beneficiary has a right to a cash equivalent under Schedule 1A to the 1975 Order and has exercised that right by requiring the Committee to use the cash equivalent (or part of it) in acquiring transfer credits under a New Scheme, the Committee must make a transfer payment to the trustees or other administrator of the New Scheme, if they agree to accept it. Subject to the other parts of this Rule and to any reduction allowed by law, the transfer payment will be equal to the part of the cash equivalent which the beneficiary has required the Committee to be used in this way. However, the Principal Employer may (subject to not prejudicing the approval of the Scheme as an Approved Scheme) instruct the Committee to increase the transfer payment to an amount not exceeding such amount as the Actuary certifies to be proper.

(D) If the beneficiary has no right to a cash equivalent (or if he has a right but has not exercised it), the Committee may make a transfer payment in respect of him to the trustees or other administrator of a New Scheme. Subject to the other parts of this Rule, the transfer payment will be of an amount calculated on a basis consistent with the calculation of a cash equivalent. However, the Principal Employer may (subject to not prejudicing the approval of the Scheme as an Approved Scheme) instruct the Committee to increase the transfer payment to an amount not exceeding such amount as the Actuary certifies to be proper.

(E) If a Contributor, within one year of ceasing to be a Contributor, becomes a member of another superannuation scheme which is a scheme in respect of which reciprocal arrangements with the Scheme have been entered into by the Principal Employer with the approval of the Inland Revenue and the Occupational Pensions Board then on his request a transfer payment shall be made to such other scheme of the relevant amount as determined in accordance with the provisions of such reciprocal arrangements.

Bulk Transfers

(F) This Part (F) applies if some (but not all) of the beneficiaries become entitled at the same time to rights under the same New Scheme in which an Employer (or a successor to the whole or part of the undertaking of an Employer) participates. If this Part (F) applies:

(*a*) the Committee may, after consulting the Actuary, make a transfer payment in respect of all or some of the beneficiaries concerned as a group;

(*b*) the transfer payment proposed in relation to the Group of Beneficiaries shall be the amount equal to the aggregate of the transfer payments in respect of the Group of Beneficiaries under Part (C), (D) or (E) (as appropriate); and

(*c*) the Principal Employer may (subject to not prejudicing the approval of the Scheme as an Approved Scheme) instruct the Committee that the transfer amount shall be a higher sum than that calculated above but no greater than the Actuary certifies to be proper but in any event no greater than the value of the proportion of the Fund which the liability in respect of the Group of Beneficiaries bears to the total liabilities of the Fund

(calculated on consistent principles). For this purpose, any values will be determined by the Committee, who will also decide the method and assumptions to be employed, but in every case only after consulting the Actuary.

(G) This Part (G) applies if all the beneficiaries become entitled at the same time to rights under the same New Scheme in which an Employer (or a successor to the whole or part of the undertaking of an Employer) participates. If this Part (G) applies the Committee may make a transfer payment to the New Scheme of the whole of the Fund and any voluntary contributions (except, if the Committee decides, an amount in respect of any costs, expenses or other payments due from the Scheme).

General

(H) The Committee may make a transfer payment in respect of a beneficiary without his written consent only in accordance with the Contracting-out (Transfer) Regulations (Northern Ireland) 1985 and the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991.

(I) Liabilities relating to a Guaranteed Minimum Pension may be transferred only in compliance with:

(*a*) Article 38(1) of the 1975 Order; in particular the New Scheme may, in cases permitted under that Order, revalue the accrued rights to a Guaranteed Minimum Pension transferred to it by a method different from that used by the Scheme for Contributors whose Contracted-out Employment ends; or

(*b*) arrangements approved by the Occupational Pensions Board under Article 44 of the 1975 Order.

(J) The Committee must give the trustee or other administrator of the New Scheme any information relating to the beneficiary reasonably required in connection with the transfer. This includes in the case of a transfer to a personal pension scheme, the issue of any certificate required under the Personal Pension Schemes (Transfer Payments) Regulations (Northern Ireland) 1988 or by the Board of Inland Revenue.

(K) On making a transfer payment, the Committee and the Trustees are discharged from all liabilities to and in respect of the beneficiary concerned except for any part of his entitlement to a cash equivalent which is to be applied in another way permitted by paragraph 13(2) of Schedule 1A to the 1975 Order and for liabilities relating to a Guaranteed Minimum if retained by the Scheme. This discharge is in addition to and without prejudice to any other discharge given to the Committee and the Trustees.''.

10. In Rule 55 for the words ''Department of Economic Development for Northern Ireland'' substitute the words ''the President for the time being of the Law Society of Northern Ireland''.

11. In Rule 57 for the paragraph designated (*a*) substitute the following—

''(*a*) The Principal Employer:

(i) terminates its liability to pay contributions to the Fund, or

(ii) has an order made against it, or passes an effective resolution, for its winding up or, if a firm, is dissolved and a new Principal Employer has not succeeded within three months,

or''.

12. Delete the proviso to Rule 57.

13. The following shall be inserted in the Rules after Rule 58—

''(B) (*a*) If an Associated Employer ceases to participate in the Scheme, there shall be a partial winding up of the Scheme. In this Part (B) ''date of partial determination'' means the effective date of the Associated Employer ceasing to participate, which in the case of doubt shall be determined by the Principal Employer.

(*b*) Each Member who is in the Service of the Associated Employer on the date of partial determination but has deferred the start of his pension beyond Normal Pension Age is deemed to have retired on immediate pension on the date of partial determination. The pension and other benefits payable to and in respect of him must be calculated and paid accordingly.

(*c*) Every other Member who is in the Service of the Associated Employer on the date of partial determination is deemed to have left Service on the date of partial determination and his benefit must be calculated accordingly.

(*d*) The Principal Employer may instruct the Committee to increase any one or more of the benefits payable to and in respect of the Members referred to in sub-clauses (*b*) and (*c*) above to the extent it thinks fit, subject to not prejudicing approval of the Scheme as an Approved Scheme. The Committee must not give effect to any such instructions unless they are reasonably satisfied that the total value of those benefits does not as at the date of partial determination exceed the value of the proportion of the Fund which the liabilities in respect of those Members bears to the total liabilities of the Fund (calculated on consistent principles). For this purpose, any values will be determined by the Committee, who will also decide the method and assumptions to be employed, but in every case only after consulting the Actuary.

(C) On the termination of the Scheme or the cessation of an Associated Employer's participation in it, the Committee may make a transfer of assets in connection with the grant of benefits to any beneficiary or group of beneficiaries or all the beneficiaries.

The provisions of Rule 26 (including those relating to the amount to be transferred) apply (with any changes required by the context) to any transfer under this Rule. On the termination of the Scheme, however, except where Rule 26(G) applies, the amount to be transferred is the amount which the Committee would have applied in securing personal and contingent annuities for and in respect of the beneficiary concerned.''.

14. In proviso (vii) to Rule 58(A) for the word ''Board'' substitute the words ''Employers participating in the Scheme on the date of termination, in the proportions the Committee thinks fit''.

15. In Rule 59 delete paragraph "(*b*)".

16. In Rule 59 the proviso shall be deleted and replaced by the following:—

"PROVIDED THAT no amendment shall be made which would have the effect of:

(i) altering the main purpose of the Scheme from the provision of pensions for Contributors upon their retirement at a specified age; or

(ii) conflicting with the provisions of the Electricity (Northern Ireland) Order 1992 and the requirements prescribed therein or regulations made thereunder; or

(iii) permitting any moneys to be paid to the Employers unless authorised or required by an enactment from time to time.".

17. In Rule 60 the following are inserted in alphabetical order:—

"Associated Employer	...	1(A)
Employers	...	1(A)
Principal Employer	...	1(A)
Transfer Date	...	1(A)".

PART II

(1)	(2)
Clause 1	Employers
Clause 7 first occasion	Principal Employer's
Clause 7 second occasion	Principal Employer
Clause 8	Principal Employer
Clause 9	Principal Employer
Rule 6(B)	Principal Employer
Rule 8(B)	Principal Employer's
Rule 8(C)	Principal Employer
Rule 8(F) first, third and fourth occasions	Employer
Rule 8(F) second occasion	Principal Employer
Rule 9	Employer
Rule 10(A)	Employer
Rule 10(C)	Employer
Rule 10(D)	Employer
Rule 10(G)(v)	Employers
Rule 10(G)(vii) first and third occasions	Employer
Rule 10(G)(vii) second and last occasions	Principal Employer
Rule 11 Heading	Employers'
Rule 11(A) first occasion	each Employer
Rule 11(A) second occasion	Employer
Rule 11(A) third occasion	Employer's
Rule 11(B) first occasion	each Employer
Rule 11(B) second occasion	Principal Employer

Schedule Part II *(continued)*

(1)	(2)
Rule 11(B) third occasion	Employer
Rule 11(C)	Employers
Rule 11(D) first and third occasions	Principal Employer
Rule 11(D) second occasion	Employers'
Rule 11(E) first occasion	Each Employer
Rule 11(E) second occasion	Employers
Rule 11(G)	Principal Employer
Rule 12	Principal Employer's
Rule 13 definition of "Pensionable Service" first occasion	Principal Employer
second occasion	Employers
fourth occasion	Employer
Rule 13 definition of "Final Salary" first occasion	Employer
Rule 14(*c*) first occasion	Employer
Rule 14(*c*) second occasion	Employers
Rule 14(*d*)	Employer
Rule 14(1)	Employers
Rule 14(2)	Principal Employer's
Rule 15	Employer
Rule 16(C)	Employers
Rule 17(B)	Principal Employer
Rule 20A(F)	Employers'
Rule 23A(D)	Principal Employer
Rule 23B	Principal Employer
Rule 24(B)	Principal Employer
Rule 24(D) first, third, sixth and seventh occasions	Principal Employer
Rule 24(D) second occasion	Principal Employer's
Rule 24(D) fourth, fifth and eighth occasions	Employer
Rule 24(E) first and third occasions	Principal Employer
Rule 24(E) second occasion	Employer
Rule 25(A)	Principal Employer
Rule 25(B)	Principal Employer
Rule 25(E)	Employer
Rule 26A(B)	Principal Employer
Rule 26(D) first occasion	Principal Employer
Rule 27(C)	Principal Employer

Schedule Part II *(continued)*

(1)	(2)
Rule 28 first three occasions	Employers'
Rule 28 last occasion	Principal Employer
Rule 32	Principal Employer
Rule 35	Principal Employer
Rule 36(A) first occasion	Principal Employer
Rule 36(A) second occasion	Employers'
Rule 36(B)(i) first occasion	Employers'
Rule 36(B)(i) second and third occasions	Principal Employer
Rule 36(B)(ii)	Employers'
Rule 38(A) first and third occasions	Principal Employer
Rule 38(A) second and fourth occasions	Employers'
Rule 38(B)	Employers'
Rule 39	Principal Employer
Rule 42(A) first and third occasions	Employers'
Rule 42(A) second occasion	Employer
Rule 42(B)	Employers'
Rule 42(C)	Employers'
Rule 43	Employers'
Rule 44	Employers'
Rule 47	Employer
Rule 50	Employers
Rule 52	Employer
Rule 53	Employer
Rule 54(A)	Employers
Rule 54(B)	Principal Employer
Rule 55	Employers
Rule 56	Principal Employer
Rule 57(*b*)	Principal Employer
Rule 58(A)	Employers
Rule 59	Principal Employer
Rule 60 second and third occasions	Employers'
Rule 63(I)	Employer
Rule 64(E)	Employers
Rule 64(G)	Principal Employer
Rule 65	Principal Employer

Schedule Part II *(continued)*

(1)	(2)
Rule 66(B) definition of "Previous Arrangements" second occasion	Employers
Rule 66(I)	Employers
Rule 66(K)	Employer

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for certain amendments to be made to the Northern Ireland Electricity Superannuation Scheme to ensure that the scheme is suitable for use in the private sector. The amendments will come into operation on 1st April 1992.

Regulation 1 provides for the commencement and citation of the regulations. Regulation 2 provides for interpretation.

Regulation 3(1) brings into effect the amendments set out in Part I of the Schedule. Regulation 3(2) ensures that the role of the Board is replaced throughout the Trust Deed and Rules by a reference either to the Principal Employer or to the particular employer of a member as is appropriate.

Paragraph 1 of Part I of the Schedule removes the requirement that amendments should take place with the consent of the Ministry of Finance and the Ministry of Commerce (now the Department of Finance and Personnel and the Department of Economic Development).

Paragraph 2 deletes a reference to Northern Ireland Electricity.

Paragraph 3 incorporates a general reference to the Principal Employer and change of Principal Employer. It introduces Clause 12 to the Trust Deed which provides for the participation of associated employers and Clause 13 to the Trust Deed which provides for amendments to the Trust Deed.

Paragraph 4 introduces certain new definitions to the Rules.

Paragraph 5 amends the existing definition of service to take account of service with Northern Ireland Electricity prior to 1st April 1992.

Paragraph 6 introduces a consequential change to Rule 11(A).

Paragraph 7 introduces a consequential change to Rule 11(C).

Paragraph 8 enables any employer to terminate his liability to pay contributions to the Fund but without prejudice to any pre-existing liability.

Paragraph 9 substitutes a new rule 26 which provides for transfers out of the scheme. It provides for individual transfers to be on a cash equivalent basis in accordance with Schedule 1(A) to the Social Security Pensions (Northern Ireland) Order 1975. Bulk transfers are to be on a cash equivalent basis with the ability of the employer to instruct the trustees to make a higher transfer value but subject to certain restrictions.

Paragraph 10 provides that in the event of an arbitration being necessary in respect of the Rules the arbitrator should be named by the President for the time being of the Law Society of Northern Ireland.

Paragraph 11 amends the Rule relating to the determination of the scheme and provides that the scheme will terminate if the Principal Employer terminates its liability to pay contributions to the Fund or is wound up and no new principal employer succeeds within 3 months. These provisions replace the reference to a dissolution of Northern Ireland Electricity.

Paragraph 12 deletes the proviso to Rule 57 since it referred to the transfer of the powers of Northern Ireland Electricity to another public board or authority.

Paragraph 13 introduces a new Rule 58(B) which provides for the partial winding up of the scheme in the event of an associated employer leaving the scheme and provides for a particular order of priority.

Paragraph 14 amends Rule 58(A) proviso (vii) in that any surplus available after winding up of the scheme has been completed is to be returned to the employers participating in the scheme in the proportions that the Committee thinks fit.

Paragraph 15 amends Rule 59 so that the consent of the Ministries of Finance and of Commerce for Northern Ireland (now the Department of Finance and Personnel and the Department of Economic Development) are no longer required for amendments to the Rules.

Paragraph 16 amends Rule 59 also, so that no amendments may either conflict with the Electricity (Northern Ireland) Order 1992 or permit moneys to be returned to an employer unless authorised or required by statute.

Paragraph 17 introduces consequential amendments to Rule 60 which sets out where various definitions can be found elsewhere in the Rules.

Part II of the Schedule contains consequential amendments so that the role of Northern Ireland Electricity is substituted by the role either of the Principal Employer or of the particular employer of an employee or of the employers as a whole.