1990 No. 205

SOCIAL SECURITY

The Personal Pension Schemes (Advertisements) Regulations (Northern Ireland) 1990

Made	*1st June 1990*
Coming into operation—	
except regulation 3	*27th June 1990*
regulation 3	*1st October 1990*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 15 and 55 of the Social Security (Northern Ireland) Order 1986(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Personal Pension Schemes (Advertisements) Regulations (Northern Ireland) 1990 and shall come into operation on 27th June 1990, except for regulation 3 which shall come into operation on 1st October 1990.

(2) In these regulations—

"the Order" means the Social Security (Northern Ireland) Order 1986;

"advertisement" includes every form of advertising, whether in a publication, by the display of notices, signs, labels or showcards, by means of circulars, catalogues, price lists or other documents, by an exhibition of pictures or photographic or cinematographic films, by way of sound broadcasting or television, by the distribution of recordings, or in any other manner; and references to the issue of an advertisement shall be construed accordingly;

"explicit charges" means those charges made by the deposit-based scheme, if any, the nature and amount (whether fixed or variable) of which are ascertainable at the time application for membership is made;

"issue" in relation to an advertisement includes any form of issue or publication whether to the public at large or to individuals or groups of individuals or to any employees, but does not include the issuing or publishing of an advertisement to an agent or professional adviser of the issuer in their capacity as such;

"LAUTRO Rules" means the Lautro Rules 1988(**b**);

(**a**) S.I. 1986/1888 (N.I. 18); Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the powers conferred by that Order; section 155(3A) was inserted by Article 63(1)

(**b**) Copies of these Rules may be obtained from Lautro Limited, Centre Point, 103 New Oxford Street, London WC1A 1QH

"off the page advertisement" means an advertisement which contains—

(*a*) an offer by a deposit-based scheme or the provider thereof to admit to membership a person who responds to the advertisement; or

(*b*) an invitation to a person to respond to the advertisement by making an offer to a deposit-based scheme or the provider thereof to become a member of that scheme;

"period" means the period from the date of issue of an advertisement to the date when a pension under the deposit-based scheme is assumed to become payable for the purpose of a projection;

"projection" means an illustration of the amount of any future benefit payable under a deposit-based scheme, being benefit the amount of which is not ascertainable under the rules of that scheme when the calculation is made;

"relevant investment" means the investment into which contributions to be made to a deposit-based scheme by or on behalf of a prospective member will be made;

"standard expenses" means any expenses of a deposit-based scheme which are recoverable out of contributions made to that scheme by or on behalf of a member, the amount of which cannot be ascertained at the time of admission to membership.

Scope of the regulations

2. These regulations apply in respect of any personal pension scheme which takes the form specified in regulation 2(1)(*c*) of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988(**a**) (investment of contributions in an interest-bearing account), and in these regulations such a scheme is referred to as a "deposit-based scheme".

Projections

3. —(1) Any projection contained in an advertisement for a deposit-based scheme shall contain or be accompanied by a statement in the following terms—

> "The figures quoted in this projection of future benefits are illustrations only. They do not represent the upper and lower limits of the amounts of the benefits. What is actually payable will depend on the future movement of market forces, which can go down as well as up, and the effect of charges applicable to the scheme.
>
> These illustrations should not be used as a basis for comparing similar contracts issued by other pension providers.".

(2) In so far as a projection contained in an advertisement for a deposit-based scheme relates to contributions which will give rise to protected rights under the scheme, then—

(*a*) if the projection is in respect of a period of not more than 5 years it—

(**a**) S.R. 1988 No. 34; relevant amending regulations are S.R. 1988 No. 176

(i) shall be prepared on the basis that the only contributions to be made to the scheme are minimum contributions under Part II of the Order in respect of the tax year in which the projection is prepared and, if the rate of the rebate percentage (within the meaning of Article 5(1) of the Order) is known, the next following tax year, which shall be treated as a single premium,

(ii) shall assume a rate of interest not exceeding that payable in respect of the relevant investment on the day the projection is made,

(iii) shall allow for a deduction from the contributions to be invested in respect of any explicit charges, and

(iv) any annuity derived from the fund obtained in accordance with heads (i) and (ii) shall be obtained in accordance with paragraph 3(3) of Part I of Schedule 4 to the LAUTRO Rules;

(*b*) if the projection is in respect of a period exceeding 5 years it—

(i) shall be prepared on the basis that the only contributions to be made to the scheme are minimum contributions under Part II of the Order in respect of the tax year in which the projection is prepared and, if the rate of the rebate percentage (within the meaning of Article 5(1) of the Order) is known, the next following tax year, which shall be treated as a single premium,

(ii) shall assume a real rate of interest (after allowing for increases in excess of national average earnings) of plus one half per cent. and minus one half per cent. (both compound),

(iii) where there are explicit charges, shall allow for a deduction of those charges from the contributions to be invested,

(iv) shall, unless the projection allows for explicit charges, allow for a deduction from the contributions to be invested of one per cent. in respect of standard expenses, and

(v) any annuity derived from the fund obtained in accordance with heads (i) to (iii) shall be obtained in accordance with paragraph 2(6) of Part I of Schedule 4 to the LAUTRO Rules.

(3) In so far as a projection contained in an advertisement for a deposit-based scheme relates to contributions which will not give rise to protected rights under the scheme, then—

(*a*) if the projection is in respect of a period of not more than 5 years it—

(i) shall assume a rate of interest not exceeding that payable in respect of the relevant investment on the day the projection is made,

(ii) where there are explicit charges, shall allow for a deduction of those charges from the contributions to be invested,

(iii) any annuity derived from the fund obtained in accordance with heads (i) and (ii) shall, if the projection is in respect of a period of more than one year, be obtained in accordance with paragraph 3(3) of Part I of Schedule 4 to the LAUTRO Rules, and

(iv) shall contain or be accompanied by a statement showing the effect on the real value of the scheme benefits if retail prices in Great

Britain were to increase at the rates of 4 per cent. compound, 7 per cent. compound and 10 per cent. compound; and

(*b*) if the projection is in respect of a period exceeding 5 years it—

(i) shall assume an interest rate of 8 per cent. and 11 per cent. (both compound),

(ii) shall allow for a deduction from the contributions to be invested of one per cent. in respect of standard expenses,

(iii) where there are explicit charges, shall allow for a deduction of those charges from the contributions to be invested,

(iv) shall contain or be accompanied by a statement showing the effect on the real value of the scheme benefits if retail prices in Great Britain were to increase at the rates of 4 per cent. compound, 7 per cent. compound and 10 per cent. compound, and

(v) any retirement fund and annuity shall be obtained in accordance with paragraph 2(5) of Part I of Schedule 4 to the LAUTRO Rules.

Off the page advertisements

4. An off the page advertisement for a deposit-based scheme must include the following information—

(*a*) where contributions are payable periodically, whether there are any minimum or maximum amounts of such a contribution and, if so, what those amounts are;

(*b*) how and where full details of the scheme may be obtained; and

(*c*) the information specified in paragraphs 1 and 4 to 8 of Schedule 2 to the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988 but with the modification that in paragraph 5 of that Schedule the reference to the time when the notice is served shall be read as a reference to the time when the advertisement is issued.

Form and content of advertisements

5. An advertisement for a deposit-based scheme shall not, in respect of its design, format or content—

(*a*) convey any information which is false or misleading;

(*b*) contain any statement of fact which the issuer does not at the time the advertisement is issued have reasonable grounds for believing will continue to be true for so long as it remains relevant to the subject-matter of the advertisement;

(*c*) make any comparison with any other personal pension scheme or occupational pension scheme or the state earnings related pension scheme which is unfair or misleading;

(*d*) make any statement about the past performance of the scheme unless it also contains a warning that such information is not necessarily a guide to future performance; or

(*e*) contain, whether expressly or by implication, any statement to the effect that the advertisement has been approved by any government department or by the Occupational Pensions Board.

Offences and penalties

6. Any person who issues or causes to be issued in Northern Ireland an advertisement for a deposit-based scheme which he knows contravenes any provision of these regulations or being reckless as to whether there is such a contravention shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

Sealed with the Official Seal of the Department of Health and Social Services on 1st June 1990.

(L.S.) *A. N. Burns*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provision relating to the content of advertisements for personal pension schemes which take the form of arrangements for the investment of contributions in an interest-bearing account.

Regulation 1 is formal and regulation 2 specifies the schemes to which the regulations apply.

Regulation 3 specifies the bases on which projections of future benefits are to be made.

Regulation 4 prescribes the information which is to be contained in "off the page advertisements", that is those advertisements which invite persons to respond by either accepting or making an offer to become a member of a scheme.

Regulation 5 prohibits any assertion or implication that an advertisement has the approval of a government department or the Occupational Pensions Board.

Regulation 6 provides for penalties for contravention of the regulations.