

1987 No. 284

SOCIAL SECURITY

**The Occupational Pension Schemes (Qualifying Service —
Consequential and Other Provisions) Regulations
(Northern Ireland) 1987**

Made 10th July 1987

Coming into operation 6th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 45(4) and 53C(4) and (5) and 60(1A)(a) of, and paragraph 20 of Schedule 1A to, paragraph 6 of Schedule 2 to, and paragraphs 9(2) and (3), 21, 22 and 26 of Schedule 3 to, the Social Security Pensions (Northern Ireland) Order 1975(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 Occupational Pension Schemes (Qualifying Service — Consequential and Other Provisions) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1988.

(2) In these regulations—

“the Contracting-out Regulations” means the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985(b);

“the Preservation Regulations” means the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984(c);

“the Discharge Regulations” means the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985(d); and

“the Revaluation Regulations” means the Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1985(e).

(a) S.I. 1975/1503 (N.I. 15); Article 45(4) was amended by paragraph 17 of Schedule 5 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)); Article 53C was inserted by paragraph 2 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 and amended by paragraph 17 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); Article 60(1A)(a) was inserted by paragraph 19 of Schedule 9 to the Social Security (Northern Ireland) Order 1986; Schedule 1A was inserted by paragraph 3 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 and paragraph 6 of Schedule 2 was amended by Article 4(11) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

(b) S.R. 1985 No. 259; the relevant amending regulations are S.R. 1986 No. 57

(c) S.R. 1984 No. 332; the relevant amending regulations are S.R. 1985 No. 353

(d) S.R. 1985 No. 356; the relevant amending regulations are S.R. 1986 No. 362

(e) S.R. 1985 No. 357; the relevant amending regulations are S.R. 1986 No. 114

Amendment of the Contracting-out Regulations

2.—(1) The Contracting-out Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 18(1)(d) “is under the age of 26 or” shall be omitted and for “5” there shall be substituted “2”.

(3) In regulation 23(3)(e) for “5” there shall be substituted “2”.

Amendment of the Preservation Regulations

3.—(1) The Preservation Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 12(4) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) for the alternative mentioned in paragraph (1)(e) to be substituted for short service benefit without the member’s consent in any case where the conditions specified in paragraph (4A) are satisfied;”

(3) After paragraph (4) of regulation 12 there shall be inserted the following paragraph—

“(4A) The conditions referred to in paragraph (4)(aa) are—

- (a) that the short service benefit is not, and does not include, protected rights (within the meaning given to that expression by Schedule 1 to the Social Security (Northern Ireland) Order 1986, whether or not as modified under Article 34(2B) of the Pensions Order(a));
- (b) that the member has at least 2 years’ qualifying service but has not 5 years’ qualifying service (within the meaning given to that expression by paragraph 7 of Schedule 3 immediately before the coming into operation of Article 12 of the Social Security (Northern Ireland) Order 1986);
- (c) that the insurance policy is taken out or the annuity contract entered into more than 12 months after the member’s service in relevant employment is terminated;
- (d) that at least 30 days before the insurance policy is taken out or the annuity contract entered into, the trustees or managers of the scheme have sent by ordinary post to the member at his last known address, or delivered personally to him, a written notice that it is their intention to take it out or enter into it unless, before the date of expiry of the notice or, if it is later, the first anniversary of the date on which the member’s service in relevant employment was terminated, the member has made an application (which he has not subsequently withdrawn) to the trustees or managers of the scheme under paragraph 16 of Schedule 1A to the Pensions Order (transfer values);
- (e) that when the trustees or managers of the scheme enter into an agreement with an insurance company to take out the insurance policy or enter into the annuity contract, the member has not made

(a) Article 34(2B) is inserted by paragraph 6 of Schedule 2 to the Social Security (Northern Ireland) Order 1986

an application in writing to the trustees or managers of the scheme under paragraph 16 of Schedule 1A to the Pensions Order, or if he has made such an application he has withdrawn it under paragraph 17 of that Schedule; and

- (f) that the insurance policy or annuity contract is so framed that it may be assigned or surrendered on the conditions set out in regulation 2 of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985.”.

(4) In regulations 14(d)(i), 17(3)(b)(iii) and (4) and 21(3)(b) for “5” there shall be substituted “2”.

Amendment of the Discharge Regulations

4.—(1) The Discharge Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4(c)(ii) for “5” there shall be substituted “2”.

(3) In regulation 5(b)(ii) after “12(4)(a)” there shall be inserted “or (aa)”.

(4) In regulation 5 after paragraph (b) there shall be inserted “or” and the following paragraph—

- “(c) (i) the earner died when he had, in relation to the scheme, at least 2 years’ qualifying service (within the meaning of paragraph 7 of Schedule 3 to the Pensions Order) but not 5 years’ qualifying service (within the meaning given to that expression by paragraph 7 of Schedule 3 to the Pensions Order immediately before the coming into operation of Article 12 of the Social Security (Northern Ireland) Order 1986),
- (ii) benefit which is or includes a guaranteed minimum pension is payable to the earner’s widow or widower,
- (iii) the arrangement for securing the benefit by means of the policy or contract was made without the consent of the widow or widower, and
- (iv) at least 30 days before the policy is taken out or the contract entered into the trustees or managers of the scheme sent by ordinary post to the widow or widower at her or his last known address, or delivered personally to her or him, a written notice of their intention to take it out or enter into it.”.

Amendment of the Revaluation Regulations

5.—(1) The Revaluation Regulations shall be amended in accordance with paragraph (2).

(2) In regulations 1(2) and 6 and in the heading to regulation 6 for “5 years’ qualifying service” (wherever occurring) there shall be substituted “2 years’ qualifying service”.

Purpose prescribed under Article 60 (1A)(a) of the Social Security Pensions (Northern Ireland) Order 1975

6. A purpose prescribed under Article 60(1A)(a) of the Social Security Pensions (Northern Ireland) Order 1975 (powers of Occupational Pensions Board to authorise modification of occupational pension schemes) is that of enabling the scheme—

- (a) to make provision for the alternative mentioned in regulation 12(1)(e) of the Preservation Regulations to be substituted for short service benefit without the member's consent in cases where the conditions specified in regulation 12(4A) of those regulations are satisfied; and
- (b) to make provision for a benefit payable to a member's widow or widower to be secured by means of a policy of insurance or annuity contract without the widow's or widower's consent in cases where the conditions specified in regulation 5(c) of the Discharge Regulations are satisfied.

Sealed with the Official Seal of the Department of Health and Social Services on 10th July 1987.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Article 12 of the Social Security (Northern Ireland) Order 1986 ("the Order") makes amendments to Schedule 3 to the Social Security Pensions (Northern Ireland) Order 1975 ("the Pensions Order") so that members of occupational pension schemes have the benefit of the "preservation requirements" set out in the Pensions Order after 2, instead of 5, years' qualifying service.

Most of the provisions of these regulations make amendments of other regulations which are consequential upon the said Article 12, and regulation 2(2) also removes, from the regulation it amends, some wording which refers to the earner being under the age of 26.

Regulation 3(2) and (3) makes amendments so that where a member's service in employment to which a scheme applies is terminated when he has at least 2, but less than 5, years' qualifying service, and other specified conditions are satisfied, benefits under an insurance policy or annuity contract different from those required to constitute short service benefit (as defined in Schedule 3 to the Pensions Order) may be substituted for his short service benefit without his consent.

Regulation 4(4) makes amendments so that where a member dies when he has at least 2, but less than 5, years' qualifying service, and other specified conditions are satisfied, the trustees or managers of the scheme may be discharged of their liability to provide for the member's widow or widower a benefit which is or includes a guaranteed minimum pension by substituting benefits under an insurance policy or annuity contract.

Regulation 6 enables the Occupational Pensions Board to authorise the modification of an occupational pension scheme to enable it (if its rules would not otherwise allow it) to take advantage of the provisions of regulations 3(2) and (3) and 4(4).

Article 12 of the Order is brought into operation on 6th April 1988 by virtue of the Social Security (1986 Order) (Commencement No. 5) Order (Northern Ireland) 1987 (S.R. 1987 No. 161 (C. 6)). Article 60 of the Order is one of the enabling provisions under which these regulations are made. It is brought into operation on 1st December 1986 by virtue of the Social Security (1986 Order) (Commencement No. 1) Order (Northern Ireland) 1986 (S.R. 1986 No. 339 (C. 6)).