

1987 No. 291

SOCIAL SECURITY

**The Personal and Occupational Pension Schemes
(Abatement of Benefit) Regulations (Northern Ireland) 1987**

Made 10th July 1987

Coming into operation—
regulations 1 to 3 4th January 1988
regulations 4 and 5 6th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 31(2A) and (2C) of the Social Security Pensions (Northern Ireland) Order 1975(a) and Article 6 of the Social Security (Northern Ireland) Order 1986(b) 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 and Occupational Pension Schemes (Abatement of Benefit) Regulations (Northern Ireland) 1987 and shall come into operation as follows—

- (a) regulations 1 to 3 on 4th January 1988;
- (b) regulations 4 and 5 on 6th April 1988.

(2) In these regulations—

“the Pensions Order” means the Social Security Pensions (Northern Ireland) Order 1975;

“minimum contributions” has the same meaning as in the Social Security (Northern Ireland) Order 1986;

“rebate percentage” has the same meaning as in Article 5(1) of the Social Security (Northern Ireland) Order 1986;

“relevant year” has the same meaning as in Article 37;

“the Transfer Payment Regulations” means the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987(c);

and other expressions have the same meaning as in the Pensions Order.

(3) Any reference in these regulations to a numbered Article is a reference to the Article of the Pensions Order bearing that number.

(a) S.I. 1975/1503 (N.I. 15); paragraphs (2A) and (2C) are inserted into Article 31 by paragraph 4 of Schedule 2 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))
 (b) S.I. 1986/1888 (N.I. 18)
 (c) S.R. 1987 No. 296

Guaranteed minimum pension to which earner is treated as entitled after minimum contributions have been paid

2.—(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum contributions have been paid in respect of an earner, sections 16(2B), 28(7A) and 59(1A) of the principal Act(a) and Article 31 shall have effect in relation to him, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension, arising from that tax week—

- (a) at the rate described in paragraph (2) if that tax week fell within a tax year which was a relevant year in relation to that earner; and
- (b) at a nil rate if it did not.

(2) The rate referred to in paragraph (1)(a) is the same rate as that of the guaranteed minimum pension to which he would have been entitled if—

- (a) he had been employed in that tax week in employment which was contracted-out employment by virtue of Article 34(2)(a) and (b)(b);
- (b) his earnings factor for the relevant year which included that tax week, so far as derived from earnings (being earnings such as are mentioned in Article 37(1) upon which primary Class 1 contributions have been paid or treated as paid) from that employment in that tax week, had been equal to the amount of which the minimum contributions referred to in paragraph (1) (less any part of them paid under Article 5(1)(b) of the Social Security (Northern Ireland) Order 1986) are the rebate percentage; and
- (c) the occupational pension scheme by reference to which that employment was contracted-out had made no provision under Article 37(7)(c).

(3) In circumstances where, in relation to any tax week—

- (a) minimum contributions have been paid in respect of an earner; and
- (b) in respect of the protected rights which derived from them a transfer payment has been made in accordance with regulations 2(5) or (6) and 3(b) of the Transfer Payment Regulations,

sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31 shall have effect in relation to him, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension arising from that tax week at a nil rate.

Guaranteed minimum pension to which earner's widow or widower is treated as entitled after minimum contributions have been paid

3.—(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum contributions have been paid in respect of an earner, sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31 shall, in the circumstances specified in paragraph (2), have effect in relation to the earner's widow or widower—

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- (a) 1975 c. 15; sections 16(2B), 28(7A) and 59(1A) were inserted by Article 11(1)(b), (2)(c) and (4)(b) respectively of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16))
 - (b) Article 34(2) was amended by paragraph 7(a) of Schedule 9 to the Social Security (Northern Ireland) Order 1986
 - (c) Article 37(7) was amended by paragraph 19(b) of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and by paragraph 2(1) of Schedule 3 to the Social Security (Northern Ireland) Order 1985

- (a) if the earner died after reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate described in regulation 2(2); and
- (b) if the earner died before reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at the same weekly rate (if any) as that of the guaranteed minimum pension to which she or he would have been entitled if the conditions set out in regulation 2(2) had been satisfied in relation to the earner.

(2) The circumstances referred to in paragraph (1) are those in which, if the conditions set out in regulation 2(2) had been satisfied in relation to the earner, a guaranteed minimum pension would have been payable to the widow (by virtue of Article 38(6)(a)) or to the widower (by virtue of regulations made under Article 38(7A)(b)).

(3) In circumstances where; in relation to any tax week—

- (a) minimum contributions have been paid in respect of an earner; and
- (b) in respect of the protected rights which derived from them a transfer payment has been made in accordance with regulations 2(5) or (6) and 3(b) of the Transfer Payment Regulations,

the earner's widow or widower shall not, for the purposes of sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31, be treated as if she or he were entitled to a guaranteed minimum pension arising from that tax week.

Guaranteed minimum pension to which earner is treated as entitled after minimum payments have been made

4.—(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum payments have been made in respect of an earner to an occupational pension scheme which in relation to the earner's employment ("the actual employment") is a money purchase contracted-out scheme, then, for the purposes of sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31, the earner shall be treated, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension, arising from that tax week—

- (a) at the rate described in paragraph (2) if that tax week fell within a tax year which was a relevant year in relation to that earner; and
- (b) at a nil rate if it did not.

(2) The rate referred to in paragraph (1)(a) is the same rate as that of the guaranteed minimum pension to which he would have been entitled if—

- (a) he had been employed in that tax week in employment ("the notional employment") which was contracted-out employment by virtue of Article 34(2)(a) and (b);
- (b) his earnings in that tax week from the notional employment had been what his earnings in that tax week from the actual employment in fact were; and

(a) Article 38(6) was amended by Schedule 10 to the Social Security (Northern Ireland) Order 1986
 (b) Article 38(7A) is inserted by Article 11(3)(c) of the Social Security (Northern Ireland) Order 1986. See the Contracting-out (Widowers' Guaranteed Minimum Pensions) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 278)

(c) the occupational pension scheme by reference to which the notional employment was contracted-out had made no provision under Article 37(7).

(3) In circumstances where, in relation to any tax week—

(a) minimum payments have been paid in respect of an earner; and

(b) in respect of the protected rights which derived from them a transfer payment has been made in accordance with regulations 2(5) or (6) and 3(b) of the Transfer Payment Regulations,

sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31 shall have effect in relation to him, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension arising from that tax week at a nil rate.

Guaranteed minimum pension to which earner's widow or widower is treated as entitled after minimum payments have been made

5.—(1) Where, in relation to any tax week, except a tax week such as is mentioned in paragraph (3), minimum payments have been made in respect of an earner to an occupational pension scheme which in relation to the earner's employment is a money purchase contracted-out scheme, sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31 shall, in the circumstances specified in paragraph (2), have effect in relation to the earner's widow or widower—

(a) if the earner died after reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate described in regulation 4(2); and

(b) if the earner died before reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at the same weekly rate (if any) as that of the guaranteed minimum pension to which she or he would have been entitled if the conditions set out in regulation 4(2) had been satisfied in relation to the earner.

(2) The circumstances referred to in paragraph (1) are those in which, if the conditions set out in regulation 4(2) had been satisfied in relation to the earner, a guaranteed minimum pension would have been payable to the widow (by virtue of Article 38(6)) or to the widower (by virtue of regulations made under Article 38(7A)).

(3) In circumstances where, in relation to any tax week—

(a) minimum payments have been paid in respect of an earner; and

(b) in respect of the protected rights which derived from them a transfer payment has been made in accordance with regulations 2(5) or (6) and 3(b) of the Transfer Payment Regulations,

the earner's widow or widower shall not, for the purposes of sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31, be treated as if she or he were entitled to a guaranteed minimum pension arising from that tax week.

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

(L.S.)

A. N. Burns

Assistant Secretary

(This note is not part of the Regulations.)

Article 6 of the Social Security (Northern Ireland) Order 1986 ("the Order") and Article 31(2A) and (2C) of the Social Security Pensions (Northern Ireland) Order 1975 ("the Pensions Order"), the enabling provisions under which these regulations are made, are brought into operation on 4th January 1988 and 6th April 1988 respectively by virtue of the Social Security (1986 Order) (Commencement No. 5) Order (Northern Ireland) 1987 (S.R. 1987 No. 161 (C. 6)).

Article 6 of the Order provides that where minimum contributions have been paid (by the Department to a personal pension scheme) in respect of an earner, that earner on reaching pensionable age, or his or her widow or widower in prescribed circumstances, is to be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate for the purposes of certain sections of the Social Security (Northern Ireland) Act 1975 and Article 31 of the Pensions Order, under which certain social security benefits are abated if the beneficiary is entitled to a guaranteed minimum pension. Regulations 2 and 3 prescribe the rate of the guaranteed minimum pension for the earner and the widow or widower respectively, and regulation 3 also prescribes the circumstances in which the widow or widower is to be treated as entitled to it.

Article 31(2A) of the Pensions Order (inserted by Schedule 2 to the Order) makes provision similar to that of Article 6 of the Order for the case where minimum payments have been made (by an earner's employer to an occupational pension scheme). Regulations 4 and 5 prescribe the rate of the guaranteed minimum pension for the earner and the widow or widower respectively, and regulation 5 also prescribes the circumstances in which the widow or widower is to be treated as entitled to it.