

1987 No. 292

SOCIAL SECURITY

The Personal and Occupational Pension Schemes (Consequential Provisions) Regulations (Northern Ireland) 1987

Made 10th July 1987

Coming into operation—

*regulations 1, 3(1), (14) and (24)(b)
and 6(1) and (2)(a)* 27th July 1987

*regulations 3(2), (6), (10), (15),
(25) and (26) and 6(2)(b)* 4th January 1988

remainder 6th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(5), 33(1), (2), (5) and (7), 34(2), 40(1), 41(1) and (4), 43B(3), 43C(7), 45(4), 47(1), 52, 53 and 53C(4) and (5) of, paragraph 14 of Schedule 1A to, and paragraphs 1, 6 and 9 of Schedule 2 to, the Social Security Pensions (Northern Ireland) Order 1975(a) and Articles 17(2) and 18(13) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(b) and all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1.—(1) These regulations may be cited as the Personal and Occupational Pension Schemes (Consequential Provisions) Regulations (Northern Ireland) 1987.

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- (a) S.I. 1975/1503 (N.I. 15); Article 34(2) is amended by paragraph 6(a) of Schedule 2 to, and paragraph 7(a) of Schedule 9 to, the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); Article 40(1) was substituted by paragraph 9 of Schedule 9 to the Social Security (Northern Ireland) Order 1986; Article 41(4) was amended by Schedule 10 to the Social Security (Northern Ireland) Order 1986; Article 43B(3) was inserted by Schedule 4 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and amended by Article 8(5) of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)); Article 43C(7) was inserted by Schedule 4 to the Health and Social Security (Northern Ireland) Order 1984; Article 45(4) was amended by paragraph 17(1)(b)(i) and (2) of Schedule 5 to the Social Security (Northern Ireland) Order 1985; Article 47(1) is amended by Article 18(7) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), paragraph 17(1)(c) of Schedule 5 to the Social Security (Northern Ireland) Order 1985 and paragraph 7(1)(h) of Schedule 2 to the Social Security (Northern Ireland) Order 1986; Article 52 is amended by paragraph 7(1)(i) of Schedule 2 to the Social Security (Northern Ireland) Order 1986; Article 53C(4) and (5) was inserted by paragraph 2 of Schedule 1 to the Social Security (Northern Ireland) Order 1985, and paragraph (5) of that Article was amended by paragraph 17(2) 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 14 of Schedule 1A is amended by paragraph 24(d) of Schedule 9 to the Social Security (Northern Ireland) Order 1986 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)). *See also* Article 11(4)(b), (e) and (f) of the Social Security (Northern Ireland) Order 1986
- (b) S.I. 1977/610 (N.I. 11); Article 18(13) was amended by paragraph 9 of Schedule 3 to the Social Security (Northern Ireland) Order 1980

(2) Regulations 3(1), (14) and (24)(b) and 6(1) and (2)(a) and this regulation shall come into operation on 27th July 1987, regulations 3(2), (6), (10), (15), (25) and (26) and 6(2)(b) on 4th January 1988 and the remainder of these regulations on 6th April 1988.

Amendment of the Occupational Pensions Board (Contracting-out Certificates) Regulations (Northern Ireland) 1976

2.—(1) The Occupational Pensions Board (Contracting-out Certificates) Regulations (Northern Ireland) 1976(a) shall be amended in accordance with paragraph (2).

(2) In regulation 3(2)—

(a) in each of sub-paragraphs (a) and (b) after “where” there shall be inserted “the scheme is not a money purchase contracted-out scheme(b), and”; and

(b) after sub-paragraph (b) there shall be added “or” and the following sub-paragraph—

“(c) in a case where the scheme is a money purchase contracted-out scheme, and the Board consider that the scheme has ceased to satisfy the requirements for continuing to be a contracted-out scheme, in which case the date may be a date not earlier than the date on which, in the opinion of the Board, it ceased to satisfy those requirements.”.

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985

3.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985(c) shall be amended in accordance with paragraphs (2) to (26).

(2) In regulation 1—

(a) in paragraph (2) at the end (but not as part of the definition of “trustees”) there shall be inserted “and subject to paragraph (2A) other expressions have the same meaning as in the Pensions Order”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) In these regulations the expression “state scheme premium” does not include a personal pension protected rights premium under Article 7 of the Social Security (Northern Ireland) Order 1986.”.

(3) In regulation 8(2)(d) for “6th April 1978” there shall be substituted “6th April 1988 in a case where the scheme whose name is specified under sub-paragraph (b) is a money purchase contracted-out scheme, or 6th April 1978 in any other case”.

(4) In regulation 10(1) for the words from “the categories” to “the relevant scheme” there shall be substituted—

(a) S.R. 1976 No. 78; the relevant amending regulations are S.R. 1981 No. 32 and S.R. 1986 No. 342
 (b) See Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975 as amended by paragraph 2(b) of Schedule 2 to the Social Security (Northern Ireland) Order 1986
 (c) S.R. 1985 No. 259; the relevant amending regulations are S.R. 1985 No. 355 and S.R. 1986 Nos. 57 and 342

- “(i) the categories of descriptions of the earners affected by the certificate,
- (ii) in the case of a money purchase contracted-out scheme, the protected rights under, or in the case of any other scheme, the benefits provided by, the relevant scheme, or
- (iii) the contributions (if any) payable by those earners to the relevant scheme”.

(5) In regulation 11(1)—

- (a) in sub-paragraph (a) after “guaranteed minimum pensions” there shall be inserted “or protected rights, as the case may be,”; and
- (b) in sub-paragraph (b) after “guaranteed minimum pensions” there shall be inserted “or the protected rights, as the case may be,”.

(6) In regulation 17—

- (a) in paragraph (1B), for “and 47” there shall be substituted “and, subject to paragraph (1C), 47”; and
- (b) after paragraph (1B) there shall be inserted the following paragraph—
 - “(1C) In a case where—
 - (a) a transfer payment has been made to a scheme in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987(a); and
 - (b) the scheme receiving that payment is to exclude one or more of the guaranteed minimum pensions resulting from the payment from full revaluation in accordance with paragraph 2 of Schedule 3 to those regulations,

for the purposes of Article 47(b) (premium where guaranteed minimum pension excluded from full revaluation) the prescribed person is the trustees of the receiving scheme.”.

(7) In regulation 17(3) after “state scheme premium” there shall be inserted “, other than a contracted-out protected rights premium,”.

(8) In regulation 17(4)—

- (a) after “(accrued rights premiums and pensioner’s rights premiums)” there shall be inserted “, Article 46ZA(c) (contracted-out protected rights premiums)”;
- (b) in sub-paragraph (a) after “Article 46” there shall be inserted “or, in the case of a contracted-out protected rights premium, whether or not a person’s protected rights are subject to approved arrangements as mentioned in Article 46ZA”; and
- (c) in sub-paragraph (c) after “Article 46” there shall be inserted “or 46ZA, as the case may be,”.

(9) In regulation 18(1)(c)—

(a) S.R. 1987 No. 296

(b) Article 47(3) was amended by Article 4(8) of the Social Security (Northern Ireland) Order 1980, paragraph 5 of Schedule 3 to the Social Security (Northern Ireland) Order 1985 and paragraph 8 of Schedule 8 to the Social Security (Northern Ireland) Order 1986

(c) Article 46ZA is inserted by paragraph 8 of Schedule 2 to the Social Security (Northern Ireland) Order 1986

- (a) after “widow” there shall be inserted “or her widower”; and
 (b) after “widow’s” in both places where it occurs there shall be inserted “or widower’s”.

(10) In regulation 21(4) after “regulations made thereunder” there shall be inserted “or for members as regards their accrued rights to guaranteed minimum pensions which have arisen under the scheme by reason of a transfer payment made to it in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987”.

(11) In regulation 23(1) after “where the premium” there shall be inserted “was not a contracted-out protected rights premium and”.

(12) In regulation 23 after paragraph (2) there shall be inserted the following paragraph—

“(2A) Where a contracted-out protected rights premium has been paid in connection with a person’s protected rights and another such premium subsequently becomes payable in connection with the same protected rights or protected rights including those rights, the Department may treat all or part of the first premium as paid (wholly or in part) in discharge of a liability for the second premium.”.

(13) In regulation 23(3)—

(a) after sub-paragraph (d) there shall be inserted the following sub-paragraph—

“(dd) in the case of a contracted-out protected rights premium, it is satisfied that a transfer of the protected rights will be made in accordance with Schedule 1 to the Social Security (Northern Ireland) Order 1986, as modified by Article 34(2B)(a); or”;

(b) after “and where a premium” (following sub-paragraph (e)) there shall be inserted “other than a contracted-out protected rights premium”; and

(c) at the end there shall be inserted “, and where a contracted-out protected rights premium is so refunded, the protected rights which were extinguished by payment of the premium and the corresponding reduction in any guaranteed minimum pension to which any person was treated as entitled shall be restored”.

(14) In regulation 23(4) after “regulation 42(d)(iii),” there shall be inserted “or where the earner’s rights were appropriately secured for the purposes of Article 53C(b) in circumstances analogous to those specified in that provision,”.

(15) After regulation 23(4) there shall be inserted the following paragraph—

“(4A) Where a limited revaluation premium has been paid and a transfer payment under regulation 2B of the Contracting-out (Transfer) Regulations (Northern Ireland) 1985(c) is made thereafter in respect of the

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

(b) Article 53C(1) to (3) was substituted by paragraph 17(1) of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and amended by sub-paragraph (3) of that paragraph

(c) S.R. 1985 No. 243; regulations 2A and 2B are inserted by regulation 4 of the Contracting-out (Transfer) (Amendment) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 277)

accrued rights of the earner in respect of whom that premium was paid, the Department shall repay the amount of the premium to the trustees of the scheme, or the administrators of the policy, who made the transfer payment.”

(16) In regulation 23(8)(a) and (c) after “widow” there shall be inserted “or widower”.

(17) In regulation 23(8) after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(d) where it was paid under Article 46ZA(4) and the person in respect of whom it was paid has died, without leaving a widow or widower, on or before the later of the days first mentioned in sub-paragraphs (a) and (b) respectively of regulation 19(1).”

(18) In regulation 27 for paragraph (1) there shall be substituted the following paragraph—

“(1) For a scheme to be contracted-out in relation to an earner’s employment it must include a specific rule to the effect that if the earner has a guaranteed minimum under Article 37(a)—

- (a) the weekly rate of his pension under the scheme at pensionable age shall not be less than that guaranteed minimum;
- (b) the weekly rate of pension payable to any widow of the earner under the scheme shall be not less than half that guaranteed minimum; and
- (c) the weekly rate of pension payable to any widower of the earner under the scheme shall be not less than half of that part of the earner’s guaranteed minimum which is attributable to earnings factors for the tax year 1988/89 and subsequent tax years,

that rule to be expressed to override all other provisions of the scheme, except any that are in accordance with the provisions of the Pensions Order.”

(19) In regulation 31—

- (a) in paragraph (1)(c) after “his widow” there shall be inserted “or her widower”; and
- (b) in paragraph (2)—
 - (i) after “him” there shall be inserted “or her”, and
 - (ii) after “widow’s” in both places where it occurs there shall be inserted “or widower’s”.

(20) In regulation 32—

- (a) in paragraph (1) after “widow’s” there shall be inserted “or widower’s”; and
- (b) in paragraph (2) after “widow’s” in both places where it occurs there shall be inserted “or widower’s”.

(21) In regulation 33—

(a) Article 37 is amended by Article 4(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977, by paragraphs 15 and 19(a) and (b) of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), by paragraphs 2(1) and 8 of Schedule 3 to the Social Security (Northern Ireland) Order 1985 and by Article 11(1) and (2) of, paragraph 6 of Schedule 8 to, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986

- (a) in each of sub-paragraphs (c), (d) and (e) of paragraph (1), after “guaranteed minimum pensions” there shall be inserted “or his protected rights, as the case may be,”;
- (b) in paragraph (3)(a)(iii) there shall be inserted at the end “or, as the case may be, effect has not been given to protected rights under the scheme arising out of his service in that employment by the making of a transfer payment in accordance with the provisions of the scheme under paragraph 9(1)(b) of Schedule 1 to the Social Security (Northern Ireland) Order 1986 as modified by Article 34(2B)”;
- (c) in paragraph (5)(a)—
- (i) after “guaranteed minimum pensions” there shall be inserted “or protected rights, as the case may be,”; and
 - (ii) after “benefits” there shall be inserted “or such rights”.
- (22) In regulation 34(2)(d) there shall be inserted at the end “or, as the case may be, effect has been given to protected rights under the scheme arising out of his service in the first employment by the making of a transfer payment in accordance with the provisions of the scheme under paragraph 9(1)(b) of Schedule 1 to the Social Security (Northern Ireland) Order 1986 as modified by Article 34(2B).”.
- (23) In regulation 35(1)(a) and (2)(b) after “widow” there shall be inserted “or widower”.
- (24) In regulation 40—
- (a) in paragraph (3) after “guaranteed minimum pensions” there shall be inserted “(including those to which persons are treated as entitled under Article 31(2A)(a))”;
 - (b) for paragraph (4) there shall be substituted the following paragraph—

“(4) In any case where a person or body transfers his or its responsibility for, or makes a transfer payment in respect of, a guaranteed minimum pension to another person or body, the first person or body shall, within 5 weeks from the date of the transfer or transfer payment, notify the Department of its occurrence, giving such particulars as the Department may reasonably require to enable it to identify the second person or body.”; and
 - (c) in paragraph (5) for “guaranteed minimum pensions and for related purposes” there shall be substituted “guaranteed minimum pensions (including those to which persons are treated as entitled under Article 31(2A)), and in order to know for what, if any, protected rights the scheme is responsible, and from what minimum contributions, minimum payments or transfer payments they derive, and for related purposes”.
- (25) In regulation 41(d)(ii), after “in such cases” there shall be inserted “, except in such a case to which regulation 17(1C) applies,”.
- (26) In regulation 46—

(a) Article 31(2A) is inserted by paragraph 4 of Schedule 2 to the Social Security (Northern Ireland) Order 1986

(a) in paragraph (1)—

- (i) after “paragraph (2)” there shall be inserted “and paragraph (3)”, and
- (ii) after “another contracted-out scheme” there shall be inserted “or have arisen in such a scheme by reason of a transfer payment giving effect to his protected rights in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(3) For the purposes of paragraph (1), where an earner has a guaranteed minimum pension in consequence of a transfer payment made in accordance with regulations 2 and 3 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987—

- (a) that pension shall be treated as if it had arisen as a result of his service in the employment by reference to which the scheme ceasing to be contracted-out was contracted-out; and
- (b) the reference to earnings factors, to the extent that they relate to that pension, shall be construed so as to include only those which do not fall to be revalued in accordance with Article 37(7) as modified by regulation 4(6) of those regulations.”.

Amendment of the Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984

4.—(1) The Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984(a) shall be amended in accordance with paragraphs (2) to (6).

(2) In the heading to regulation 4 after “Widows” there shall be inserted “and widowers”; and in regulation 4—

- (a) after “his widow” there shall be inserted “or her widower”; and
- (b) after “that widow” there shall be inserted “or widower”.

(3) In regulation 6(2) after “widow’s” in both places where it occurs there shall be inserted “or widower’s”.

(4) For the heading to regulation 7 there shall be substituted “Widows’ and widowers’ pensions increased during initial period of payment”; and in regulation 7 after “widow” there shall be inserted “or widower”.

(5) In the heading to regulation 7A after “widow’s” there shall be inserted “and widower’s”; and in regulation 7A—

- (a) after “wife” there shall be inserted “or husband”;
- (b) after “he” in both places where it occurs there shall be inserted “or she”; and
- (c) after “his” in both places where it occurs there shall be inserted “or her”.

(6) In regulation 10(2)—

- (a) after “he” there shall be inserted “or she”;

- (b) after “him” in both places where it occurs there shall be inserted “or her”;
- (c) after “his” there shall be inserted “or her”; and
- (d) at the end there shall be inserted “, or if he is the widower, to whom a widower’s guaranteed minimum pension is payable, of such a person”.

Amendment of the Contracting-out (Transfer) Regulations (Northern Ireland) 1985

5. In paragraph 5(b) of Schedule 2 to the Contracting-out (Transfer) Regulations (Northern Ireland) 1985(a) after “widow” there shall be inserted “or her widower”.

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985

6.—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985(b) shall be amended in accordance with paragraphs (2) to (5).

(2) Regulation 2(b)(ii) shall be amended by—

- (a) the substitution for “in the case only of benefits which are not and do not include guaranteed minimum pensions” of “subject, in the case of benefits which are or include guaranteed minimum pensions, to regulations 2A and 2B of the Contracting-out (Transfer) Regulations (Northern Ireland) 1985”; and
- (b) the insertion at the end of “or the granting of rights to money purchase benefits under a personal pension scheme”.

(3) In regulation 3(1)—

- (a) in sub-paragraph (a) after “widow” there shall be inserted “or her widower”;
- (b) in sub-paragraph (b) after “widow’s” there shall be inserted “or her widower’s”;
- (c) in sub-paragraph (b)(i) for “he” there shall be substituted “the earner”;
- (d) in sub-paragraph (b)(ii) for “his” there shall be substituted “the earner’s”; and
- (e) in sub-paragraph (b)(iii) for “he” there shall be substituted “the earner”.

(4) In regulation 4(b) after sub-paragraph (ii) there shall be inserted the following sub-paragraph—

“(iii) if the earner is a woman, that if she dies or has died leaving a widower the annuity to be paid thereunder to him or for his benefit will be at least equal to the guaranteed minimum due to him, or prospectively due to him in the event of his being left as her widower; and”.

(a) S.R. 1985 No. 243, to which there are amendments not relevant to these regulations
 (b) S.R. 1985 No. 356; the relevant amending regulations are S.R. 1986 No. 362

(5) In regulation 5 after “widow” in both places where it occurs there shall be inserted “or her widower”.

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985

7.—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985(a) shall be amended in accordance with paragraph (2).

(2) In regulation 3—

(a) in paragraphs (1) and (2) at the beginning there shall be inserted “Except in a case to which paragraph (3) applies,”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(3) Where a member’s cash equivalent such as is mentioned in paragraph 12(1) of Schedule 1A, or any portion of it—

(a) represents his rights to money purchase benefits under a scheme which is or was formerly a money purchase contracted-out scheme; and

(b) those rights do not fall, either wholly or in part, to be valued in a manner which involves making estimates of the value of benefits, then that cash equivalent, or that portion of it, shall be calculated and verified in such manner as may be approved in particular cases by the trustees of the scheme, and by adopting methods consistent with the requirements of that Schedule.”.

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.)

The Social Security (Northern Ireland) Order 1986 introduces the concepts of personal pension schemes, money purchase contracted-out schemes, and guaranteed minimum pensions for widowers; these regulations make amendments, which are consequential on the introduction of those concepts, to the Occupational Pensions Board (Contracting-out Certificates) Regulations (Northern Ireland) 1976, the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985, the Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984, the Contracting-out (Transfer) Regulations (Northern Ireland) 1985, the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985 and the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985.