

1987 No. 296

SOCIAL SECURITY

The Protected Rights (Transfer Payment) Regulations
(Northern Ireland) 1987

Made 10th July 1987

*Coming into operation—**for the purposes of all of the
regulations to the extent that
they relate to personal
pension schemes*

27th July 1987

for all other purposes

6th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 4 and 18(1)(b) of, and paragraph 9(1)(b) of Schedule 1 to, 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 Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987 and shall come into operation—

(a) for all purposes in relation to personal pension schemes on 27th July 1987; and

(b) for all other purposes on 6th April 1988.

(2) In these regulations—

“the Order” means the Social Security (Northern Ireland) Order 1986;

“the Abatement of Benefit Regulations” means the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations (Northern Ireland) 1987(b);

“appropriate personal pension scheme” shall be construed in accordance with Part II of the Order;

“the Board” means the Occupational Pensions Board;

“Article 50 money purchase scheme” means a scheme, which was formerly a money purchase contracted-out scheme, and which the Board are under a duty to supervise in accordance with Article 50(c);

(a) S.I. 1986/1888 (N.I. 18)

(b) S.R. 1987 No. 291

(c) Article 50 is extended by Article 11(6) of, and amended by paragraph 10 of Schedule 2 to, paragraph 15 of Schedule 9 to, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986

“Article 50 salary related scheme” means a scheme, which was formerly a salary related contracted-out scheme, and which the Board are under a duty to supervise in accordance with Article 50;

“money purchase contracted-out scheme” and “occupational pension scheme” have the meaning given to those expressions by Article 2(2)(a);

“overseas scheme” means an occupational pension scheme which is neither one contracted-out by virtue of Article 34(b) nor one which the Board is under a duty to supervise in accordance with Article 50, and which is administered wholly or primarily outside the United Kingdom;

“paying scheme” means a scheme which is, or was formerly—

(a) an appropriate personal pension scheme; or

(b) a money purchase contracted-out scheme,

and which gives effect to the protected rights of a member of it by making a transfer payment in respect of those rights;

“protected rights” has the meaning given to that expression by Schedule 1 to the Order, or where the rights are under a money purchase contracted-out scheme, or an Article 50 money purchase scheme, that Schedule as modified by Article 34(2B)(b);

“receiving scheme” means a scheme to which a transfer payment is, or is to be, made;

“salary related contracted-out scheme” means an occupational pension scheme which is contracted-out by virtue of Article 34(2)(b);

“scheme” means occupational pension scheme or personal pension scheme.

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

Transfer payments giving effect to protected rights

2.—(1) Subject to regulation 3, a paying scheme may give effect to the protected rights of a member by the making of a transfer payment—

(a) to an appropriate personal pension scheme; or

(b) to an occupational pension scheme,

in the circumstances and subject to the conditions mentioned in paragraphs (2) to (7), and in these regulations a “transfer payment” means a transfer payment such as is described in this paragraph.

(2) A transfer payment may be made to an appropriate personal pension scheme in the circumstances described in paragraph 1 of Schedule 1, and on the condition specified in paragraph 1 of Schedule 2.

(a) The definition of “money purchase contracted-out scheme” is inserted by paragraph 2(b) of Schedule 2 to the Social Security (Northern Ireland) Order 1986

(b) Article 34 is amended by paragraph 13 of Schedule 4 to the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)), paragraph 6 of Schedule 2 to, and paragraph 7 of Schedule 9 to, the Social Security (Northern Ireland) Order 1986. *See also* Article 11(4)(b) of the Social Security (Northern Ireland) Order 1986

(3) A transfer payment may be made to a money purchase contracted-out scheme in the circumstances described in paragraphs 1 and 2 of Schedule 1, and on the condition specified in paragraph 1 of Schedule 2.

(4) A transfer payment may be made to an Article 50 money purchase scheme in the circumstances described in paragraphs 1 and 3 of Schedule 1, and on the conditions specified in paragraphs 1 and 2 of Schedule 2.

(5) A transfer payment may be made to a salary related contracted-out scheme in the circumstances described in paragraphs 1, 2 and 5 of Schedule 1, and on the condition specified in paragraph 1 of Schedule 2.

(6) A transfer payment may be made to an Article 50 salary related scheme in the circumstances described in paragraphs 1, 3 and 5 of Schedule 1, and on the conditions specified in paragraphs 1 and 2 of Schedule 2.

(7) A transfer payment may be made to an overseas scheme in the circumstances described in paragraphs 1 and 4 of Schedule 1, and on the conditions specified in paragraphs 1 and 2 of Schedule 2.

(8) References in Schedules 1 to 3 to “the member” are references to a member referred to in paragraph (1).

Requirements to be satisfied by receiving scheme

3. A transfer payment may be made by a paying scheme to—

- (a) an appropriate personal pension scheme, a money purchase contracted-out scheme or an Article 50 money purchase scheme, where that scheme satisfies the requirement specified in paragraph 1 of Schedule 3; or
- (b) a salary related contracted-out scheme or an Article 50 salary related scheme, where that scheme satisfies the requirement specified in paragraph 2 of Schedule 3.

Modifications of Part IV of the Pensions Order where transfer payments are made to salary related contracted-out schemes or Article 50 salary related schemes

4.—(1) Where a transfer payment has been paid by a paying scheme to a salary related contracted-out scheme or to an Article 50 salary related scheme in accordance with regulations 2 and 3, Part IV of the Pensions Order shall have effect as modified by paragraphs (2) to (9).

(2) Article 28(2)(a) shall have effect as if—

- (a) after “Articles 35 and 38” there were inserted “or in compliance with the requirement set out in paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987”; and
- (b) at the end there were added “or, as the case may be, of that requirement”.

(3) Article 31(2)(b) shall have effect as if there were inserted after the words added by paragraph 5(b)(ii) of Schedule 9 to the Order, “, unless he is

(a) Article 28(2) was amended by paragraph 3(b) of Schedule 9 to the Social Security (Northern Ireland) Order 1986. *See also* Article 11(4)(a) of that Order

(b) Article 31(2) was amended by paragraph 5(b) of Schedule 9 to the Social Security (Northern Ireland) Order 1986

entitled to that guaranteed minimum pension by reason of paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987”.

(4) Article 37(1) shall have effect as if—

(a) after “guaranteed minimum” there were inserted “both”; and

(b) at the end there were added “and in relation to any pension provided by a scheme in compliance with the requirement set out in paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987, (guaranteed minimum pension to be paid by a scheme by reason of receiving a transfer payment)”.

(5) In a case to which regulation 2(1) of the Abatement of Benefit Regulations applies, Article 37(5)(a) shall have effect as if any earnings factor to which regulation 2(2)(b) of those regulations applies were, before being increased as mentioned in Article 37(5), equal to the amount mentioned in regulation 2(2)(b) of them.

(6) Article 37(7)(b) shall have effect—

(a) if the scheme from which the transfer payment was made was a personal pension scheme—

(i) in respect only of each relevant year after the year in which minimum contributions, within the meaning given to that expression by Article 3 of the Order, were last payable, and

(ii) in a case to which regulation 2(1) of the Abatement of Benefit Regulations applies, as if any earnings factor to which regulation 2(2)(b) of those regulations applies were, before being increased as mentioned in Article 37(7), equal to the amount mentioned in regulation 2(2)(b) of them; or

(b) if the scheme from which the transfer payment was made was a money purchase contracted-out scheme or an Article 50 money purchase scheme, in respect only of each relevant year after the year in which contracted-out employment by reference to that scheme terminated.

(7) Article 37(8)(c) shall have effect as if there were added at the end “, so however that separate provision may be made for members as regards any guaranteed minimum pensions which have accrued to them by reason of paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987”.

(8) In a case to which regulation 2(1) of the Abatement of Benefit Regulations applies—

(a) Article 46(6)(a)(d) shall have effect as if any earnings factor to which regulation 2(2)(b) of those regulations applies were, before being

(a) Article 37(5) was amended by paragraph 19(a) of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

(b) Article 37(7) was amended by paragraph 19(b) of Schedule 3 to the Social Security (Northern Ireland) Order 1979 and paragraph 2(1) of Schedule 3 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16))

(c) Article 37(8) was amended by paragraph 8(a) of Schedule 3 to the Social Security (Northern Ireland) Order 1985

(d) Article 46(6) was substituted by Article 4(7) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and amended by paragraph 4 of Schedule 3 to the Social Security (Northern Ireland) Order 1985

increased as mentioned in Article 46(6)(a), equal to the amount mentioned in regulation 2(2)(b) of them; and

- (b) Article 47(3)(a)(a) shall have effect as if any earnings factor to which regulation 2(2)(b) of those regulations applies were, before being increased as mentioned in Article 47(3)(a), equal to the amount mentioned in regulation 2(2)(b) of them.

(9) Article 47(1)(b) shall have effect as if after “accrued rights” there were inserted “, including any such pensions which have accrued to him by reason of paragraph 2 of Schedule 3 to the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1987”.

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

(L.S.)

A. N. Burns

Assistant Secretary

-
- (a) 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
- (b) 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

SCHEDULE 1

Regulation 2

CIRCUMSTANCES IN WHICH A TRANSFER PAYMENT MAY
BE MADE UNDER REGULATION 2

1. The member consents to the transfer payment being made.
2. The member has entered employment with an employer who is a contributor to the receiving scheme.
3. The member has entered employment with an employer who is or was a contributor to the receiving scheme.
4. The member has entered employment to which the receiving scheme applies and that employment is outside the United Kingdom.
5. The transfer payment is made on or after 6th April 1990.

CONDITIONS ON WHICH A TRANSFER PAYMENT MAY
BE MADE UNDER REGULATION 2

1. The transfer payment made by the paying scheme (whether or not it forms part of a larger payment giving effect to both protected and other rights) is of an amount at least equal to the value of the protected rights of the member to which effect is being given.

2. The transfer payment is approved by the Board, whether or not subject to conditions.

REQUIREMENTS TO BE SATISFIED BY THE RECEIVING SCHEME
UNDER REGULATION 3 FOR A TRANSFER PAYMENT TO BE MADE

1. The transfer payment is applied by the receiving scheme to provide money purchase benefits for or in respect of the member.

2. In consequence of the transfer payment, and without prejudice to any other rights which the member receives under it, the receiving scheme provides for the member and the member's widow or widower to be entitled to guaranteed minimum pensions equal to those to which they would have been treated as entitled by virtue of Article 6 of the Order, or Article 31(2) or (2A) of the Pensions Order(a), as the case may be, if the transfer payment had not been made, except that the receiving scheme may make provision that any earnings factor of the member is to be revalued in accordance with Article 37(7) of the Pensions Order, as modified by regulation 4(6).

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

(This note is not part of the Regulations.)

These regulations are made under Articles 4 and 18(1)(b) of, and paragraph 9(1)(b) of Schedule 1 to, the Social Security (Northern Ireland) Order 1986 which were brought into operation on 1st May 1987 by virtue of the Social Security (1986 Order) (Commencement No. 5) Order (Northern Ireland) 1987 (S.R. 1987 No. 161 (C. 6)). They make provision for the protected rights of a member of a scheme which is or was an appropriate personal pension scheme or a money purchase contracted-out scheme to be given effect to by the making of a transfer payment.

Regulation 2, and Schedules 1 and 2, provide for the circumstances in which, and the conditions subject to which, such a transfer payment may be made.

Regulation 3 and Schedule 3 set out the requirements, if any, to be satisfied by an occupational pension scheme or personal pension scheme for a transfer payment to be made to it.

Regulation 4 provides for Part IV of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) to have effect, subject to modifications, where a transfer payment is made to a scheme which is or was contracted-out under Article 34(2) of that Order (a salary related scheme) in order to accommodate the guaranteed minimum pensions to which a member of such a receiving scheme becomes entitled in consequence of that payment.

1987 No. 297

Road Races (Temple 100) Order (Northern Ireland) 1987

This Order, being of a temporary character, is not printed at length in this volume.