

1990 No. 203

SOCIAL SECURITY

The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1990

Made 1st June 1990

Coming into operation 27th June 1990

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 33(7), 41(1), 43C(7) and 46A(1) of, paragraphs 12(2A) and 20 of Schedule 1A to, and paragraphs 9(2) and 13(5) of Schedule 3 to, the Social Security Pensions (Northern Ireland) Order 1975(a) and Articles 9(1) and 18(1) of, and paragraphs 2, 3 and 9(4) of Schedule 1 to, the Social Security (Northern Ireland) Order 1986(b) (including those paragraphs of that Schedule as modified by Article 34(2B) of 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 and commencement

1. These regulations may be cited as the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1990 and shall come into operation on 27th June 1990.

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

2. In regulation 3(2) of the Occupational Pensions Board (Contracting-out Certificates) Regulations (Northern Ireland) 1976(c) (cases where the Board may cancel a contracting-out certificate with retrospective effect) for sub-paragraph (c) there shall be substituted the following sub-paragraphs—

“(c) in a case where the Board discover that the scheme did not satisfy the requirements for being a contracted-out scheme at the date the contracting-out certificate was issued, in which case the date may be the date from which the certificate had effect or any later date; or

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- (a) S.I. 1975/1503 (N.I. 15); Article 34(2B) was inserted by paragraph 6(b) of Schedule 2 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); Article 43C was inserted by Schedule 4 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); Article 46A was inserted by paragraph 1 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and was amended by paragraph 7(1)(g) of Schedule 2 to, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986 and by paragraph 7 of Schedule 6 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); Schedule 1A was inserted by paragraph 3 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 and paragraph 12(2A) of that Schedule was inserted by paragraph 24(a) of Schedule 9 to the Social Security (Northern Ireland) Order 1986. *See also* Article 2(3)
- (b) 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
- (c) S.R. 1976 No. 78; relevant amending regulations are S.R. 1981 No. 32 and S.R. 1987 No. 292

- (d) in a case where the Board consider that the scheme has ceased to satisfy the requirements for being a contracted-out scheme, in which case the date may be any date not earlier than when, in the Board's opinion, the scheme ceased to satisfy those requirements."

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984

3.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984(a) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 7 (computation of benefit—general) after paragraph (4) there shall be inserted the following paragraph—

“(4A) A scheme may, for the purposes of any calculations made in accordance with paragraph 13(3) of Schedule 3, reckon both the following periods (or neither, but not only one) to the nearest, next highest or next lowest calendar month. The periods referred to are—

- (a) the period over which, on the assumption referred to in paragraph 13(3)(a) of Schedule 3, the credits would have accrued in full; and
- (b) the period between the time when the credits were awarded and the termination of the member's pensionable service.”

(3) In regulation 12(1)(a) (early benefit as an alternative to short service benefit) for “smaller than” there shall be substituted “the same as, or different in amount from,”.

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

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

(2) In regulation 17A (case in which and condition subject to which transfer premiums may be paid) for “condition” in paragraph (1) there shall be substituted “conditions” and for paragraph (3) there shall be substituted the following paragraph—

“(3) The conditions referred to in paragraph (1) are that—

- (a) the trustees of the scheme from which the earner's accrued rights have been transferred have, subject to regulation 18(2), elected to pay a transfer premium; and
- (b) if the earner's accrued rights have been transferred to a personal pension scheme, the personal pension scheme is not an appropriate scheme.”

(3) In regulation 31(4) (commutation of pension) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

(a) S.R. 1984 No. 332; relevant amending regulations are S.R. 1986 No. 362 and S.R. 1988 No. 109
 (b) S.R. 1985 No. 259; relevant amending regulations are S.R. 1985 No. 355

“(b) in the case of an earner who retires before normal pension age, commutation is not permitted before the date on which benefits become payable to the earner under the scheme’s early retirement provisions;”.

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

5. For regulation 10 of the Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1985(a) (retirement benefits varied at state pension age) there shall be substituted the following regulation—

“Retirement benefits varied at state pension age

10.—(1) In a case where a scheme provides that the pension or other retirement benefit payable under the scheme to a member at normal pension age is to be varied at state pension age (that is, age 60 years for a woman or age 65 years for a man), Schedule 1A to the Pensions Order shall have effect subject to the modifications specified in paragraphs (2) and (3) of this regulation.

(2) From the date on which the member attains normal pension age to the date on which the member attains state pension age, the appropriate amount is to be calculated as if D in the formula set out in paragraph 2(2) referred to the amount of the pension or other retirement benefit payable at normal pension age.

(3) On the member’s attaining state pension age, the appropriate amount to be added to the pension or other retirement benefit payable to the member after that date is to be calculated using the formula set out in paragraph 2(2) as if D in that formula referred to the amount of the pension or other benefit payable at state pension age.”.

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

6.—(1) Regulation 2A of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985(b) (reduction of the cash equivalent specified in paragraph 12(1) of Schedule 1A) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) after “pensionable service” in sub-paragraph (a) there shall be inserted “commenced before 6th April 1988 and”, and for “paragraph (2)” there shall be substituted “paragraph (2) or (3), as appropriate”.

(3) For paragraph (2) there shall be substituted the following paragraphs—

“(2) Where the benefits are money purchase benefits, the part referred to in paragraph (1) is the part of those benefits that has accrued to or in respect of the member after 5th April 1988.

(a) S.R. 1985 No. 357; relevant amending regulations are S.R. 1988 No. 109

(b) S.R. 1985 No. 358; relevant amending regulations are S.R. 1987 No. 285 and S.R. 1988 No. 127

(3) Where the benefits are not money purchase benefits, the part referred to in paragraph (1) is the part, or the total of the parts described in the following sub-paragraphs—

(a) in the case of benefits that have accrued to or in respect of the member as a result of the member's pensionable service, the part of those benefits that is attributable to the member's pensionable service after 5th April 1988;

(b) in the case of any other benefits (for example, transfer credits), the part of those benefits that was credited to the member after 5th April 1988.

(4) Where a member exercises a right to the cash equivalent described in paragraph (1), Articles 43A and 43B (protection of pensions) and Part I of Schedule 1A (revaluation of pensions) are modified so that, for the purposes of those provisions, the benefits to which the cash equivalent related are disregarded and the pensionable service by reference to which those benefits were calculated is excluded from B and C in the formula set out in paragraph 2(2) of that Schedule.”

Amendment of the Money Purchase Contracted-out Schemes Regulations (Northern Ireland) 1987

7.—(1) The Schedule to the Money Purchase Contracted-out Schemes Regulations (Northern Ireland) 1987(a) (permitted investments) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph 1(a)(ii) for the words from “has disclosed in its audited accounts” to the end there shall be substituted “is authorised under regulation 5 or 6 of the Friendly Societies (Long Term Insurance Business) Regulations 1987(b) to carry on long term business as defined in regulation 2(2) of those regulations”.

(3) In paragraph 4 for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) a pension vehicle as defined in item 14 of the Schedule to the Building Societies (Designation of Qualifying Bodies) Order 1988(c) which is associated with a building society as described in section 18(17) of the Building Societies Act 1986(d);”.

Amendment of the Personal and Occupational Pension Schemes (Incentive Payments) Regulations (Northern Ireland) 1987

8.—(1) Regulation 3 of the Personal and Occupational Pension Schemes (Incentive Payments) Regulations (Northern Ireland) 1987(e) (cases in which payments under Article 9 of the Social Security (Northern Ireland) Order 1986 are not to be made, or are to be made to prescribed persons) shall be amended in accordance with paragraphs (2) and (3).

(2) At the beginning of paragraph (2) there shall be inserted “Subject to paragraph (2B),”.

(a) S.R. 1987 No. 279, amended by S.R. 1988 No. 107

(b) S.I. 1987/2132

(c) S.I. 1988/1196, to which there are amendments not relevant to these regulations

(d) 1986 c. 53

(e) S.R. 1987 No. 293; relevant amending regulations are S.R. 1988 No. 450

- (3) After paragraph (2A) there shall be inserted the following paragraph—
- “(2B) Paragraph (2) does not apply if both the following conditions are satisfied—
- (a) the employment referred to in paragraph (2) is distinguishable from the employment of the earner in question because there has been a change in the identity of the employer; and
 - (b) if the employment of the earner in question were contracted-out by reference to the scheme other than the scheme in question, payments under Article 9 would be made to that other scheme in respect of the earner in question.”.

Amendment of the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations (Northern Ireland) 1987

9.—(1) Regulation 3 of the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations (Northern Ireland) 1987(a) (modification of provisions of the Pensions Order) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) for “to (7)” there shall be substituted “to (9)”.

(3) For paragraph (7) there shall be substituted the following paragraphs—

“(7) Paragraph 9(2) of Schedule 3 shall have effect as if for head (a) there were substituted the following head—

“(a) for the member’s accrued rights to be transferred to another occupational pension scheme with a view to acquiring transfer credits for the member under the other scheme, or to a personal pension scheme or a self-employed pension arrangement with a view to acquiring rights for the member under the rules of the scheme or arrangement; or”.

(8) Paragraph 15(3) of Schedule 3 shall have effect as if for head (b) there were substituted the following head—

“(b) to acquire for the member transfer credits under the rules of another occupational pension scheme or rights under the rules of a personal pension scheme or a self-employed pension arrangement;”.

(9) In paragraphs (7) and (8) “self-employed pension arrangement” has the same meaning as in regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985(b).”.

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1987

10. In regulation 10(3)(c) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1987(c) (death of scheme member before effect given to his protected rights) the words “in the case only of an occupational pension scheme,” shall be omitted.

(a) S.R. 1987 No. 294; relevant amending regulations are S.R. 1988 Nos. 107 and 214

(b) S.R. 1985 No. 358; relevant amending regulations are S.R. 1988 No. 214

(c) S.R. 1987 No. 295, to which there are amendments not relevant to these regulations

Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988

11.—(1) Regulation 3 of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988(a) (persons who and bodies which may establish schemes) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (2) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) is authorised under regulation 5 or 6 of the Friendly Societies (Long Term Insurance Business) Regulations 1987 to carry on long term business as defined in regulation 2(2) of those regulations.”.

(3) In paragraph (3) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) a pension vehicle as defined in item 14 of the Schedule to the Building Societies (Designation of Qualifying Bodies) Order 1988 which is associated with a building society as described in section 18(17) of the Building Societies Act 1986;”.

Revocations

12. The following regulations are hereby revoked—

- (a) regulation 2 of the Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984(b);
- (b) regulation 7 of the Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1985(c);
- (c) regulation 2(3) of the Occupational Pension Schemes (Revaluation and Transfer Values) (Amendment) Regulations (Northern Ireland) 1986(d);
- (d) regulation 8(b)(ii) of the Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations (Northern Ireland) 1988(e);
- (e) regulation 4(2)(a) of the Personal and Occupational Pension Schemes (Transfer to Self-employed Pension Arrangements) Regulations (Northern Ireland) 1988(f).

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

(L.S.)

A. N. Burns

Assistant Secretary

(a) S.R. 1988 No. 34, to which there are amendments not relevant to these regulations
(b) S.R. 1984 No. 444
(c) S.R. 1985 No. 357; relevant amending regulations are S.R. 1986 No. 114
(d) S.R. 1986 No. 114
(e) S.R. 1988 No. 107; relevant amending regulations are S.R. 1988 No. 214
(f) S.R. 1988 No. 214

(This note is not part of the Regulations.)

These regulations make miscellaneous amendments to regulations about personal and occupational pension schemes.

Regulation 2 amends regulation 3(2) of the Occupational Pensions Board (Contracting-out Certificates) Regulations (Northern Ireland) 1976 to allow the Occupational Pensions Board ("the Board") to cancel a contracting-out certificate with effect from its date of issue where it is discovered that the scheme did not satisfy the requirements for being a contracted-out scheme when the certificate was issued. It also widens the Board's powers to cancel a contracting-out certificate with retrospective effect where a scheme ceases to satisfy the requirements for being a contracted-out scheme.

Regulation 3 amends the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984. Regulation 7 of those regulations is amended to allow periods that are relevant to the calculation of certain credits, and the amount of certain deductions, to be rounded to the nearest, next highest or next lowest calendar month. Regulation 12 is amended to make it clear that a benefit payable earlier than at normal pension age is a prescribed alternative to short service benefit, even though it may be equal to or larger than short service benefit. Regulation 12(a) to (c) contains consequential revocations.

Regulation 4 amends the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985. Regulation 17A of those regulations is amended to prevent the payment of a transfer premium where the earner's accrued rights are transferred to a personal pension scheme that is an appropriate scheme. Regulation 31 is amended to clarify the circumstances in which an earner's accrued rights to guaranteed minimum pension may be commuted for a lump sum.

Regulation 5 replaces regulation 10 of the Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1985 to make it clear that revaluation only applies up to normal pension age, even where benefits are subsequently varied at state pension age.

Regulation 6 amends regulation 2A of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985. It makes clear the part of any benefits that have accrued to, or in respect of, a member of an occupational pension scheme as a result of pensionable service on which the member is entitled to a cash equivalent on "opting out" of the scheme.

Regulation 7 amends the Money Purchase Contracted-out Schemes Regulations (Northern Ireland) 1987 to bring them into line with the Friendly Societies (Long Term Insurance Business) Regulations 1987 and the Building Societies (Designation of Qualifying Bodies) Order 1988.

Regulation 8 amends regulation 3 of the Personal and Occupational Pension Schemes (Incentive Payments) Regulations (Northern Ireland) 1987. It creates an exception to the provision that prevents incentive payments under Article 9 of the Social Security (Northern Ireland) Order 1986 being made in respect of an earner whose employment has been contracted-out by reference to another scheme at some time during the period 1st January 1986 to 5th April 1993. The exception applies where the earner has moved from one scheme to another following a change in the identity of the employer and payments were being made to the first scheme before the earner moved.

Regulation 9 amends regulation 3 of the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations (Northern Ireland) 1987 to make it clear that a member's accrued rights can be transferred to a personal pension scheme or a self-employed pension arrangement, in return for rights under the scheme or arrangement. Regulation 12(d) and (e) contains consequential revocations.

Regulation 10 amends regulation 10 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1987 which sets out the manner in which a member's protected rights must be used if a member dies before effect is given to those rights. Until now, where a member of a personal pension scheme was survived by a qualifying widow or widower, the member's protected rights had to be used to provide a pension for that widow or widower. The amendment allows those rights to be paid as a lump sum where they are not sufficient to provide a pension of more than £104. This option is already available to occupational pension schemes.

Regulation 11 amends the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988 to bring them into line with the Friendly Societies (Long Term Insurance Business) Regulations 1987 and the Building Societies (Designation of Qualifying Bodies) Order 1988.