

## 1990 No. 384

## SOCIAL SECURITY

**The Occupational Pension Schemes (Independent Trustee) Regulations (Northern Ireland) 1990**

*Made* . . . . . 26th October 1990

*Coming into operation* . . . . . 12th November 1990

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 63C(3)(c), 63D(9) and (10) of the Social Security Pensions (Northern Ireland) Order 1975(a) and Article 22(3) of the Social Security (Northern Ireland) Order 1990(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 Occupational Pension Schemes (Independent Trustee) Regulations (Northern Ireland) 1990 and shall come into operation on 12th November 1990.

(2) In these regulations any reference to a numbered Article or Schedule is to the Article of or, as the case may be, the Schedule to, the Social Security Pensions (Northern Ireland) Order 1975 bearing that number.

*Additional requirement for ‘independent trustee’*

2.—(1) For the purposes of Article 63C(2), a person is ‘independent’ only if he satisfies the requirements of paragraphs (2) and (3) of this regulation as well as the requirements of Article 63C(3)(a) and (b).

(2) This paragraph requires that the person has not provided services to the trustees or managers of the scheme, or the employer, in relation to the scheme. This requirement is, however, satisfied if the last occasion on which the person provided services was more than 3 years before Article 63C started to apply in relation to the scheme.

(3) This paragraph requires that the person is neither connected with, nor an associate of—

- (a) a person who has an interest in the assets of the employer or of the scheme, otherwise than as trustee of the scheme; or
- (b) a person to whom paragraph (2) applies.

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(a) S.I. 1975/1503 (N.I. 15); by virtue of Article 2(3) definitions in Schedule 17 to the Social Security (Northern Ireland) Act 1975 (c. 15) apply to the exercise of certain powers conferred under this Order. Articles 63C and 63D were inserted by paragraph 1 of Schedule 4 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))

(b) S.I. 1990/1511 (N.I. 15)

*Centralised schemes*

3.—(1) Articles 63C and 63D are modified as described in this regulation in their application to any occupational pension scheme which applies to earners in employments under different employers (“centralised schemes”).

(2) Article 63C applies in relation to a centralised scheme only if an insolvency practitioner, or the official receiver, commences to act in relation to any employer of persons in the description or category of employment to which the scheme relates and—

(a) the employer concerned has power to appoint or remove any trustee of the scheme; or

(b) the employer concerned is a trustee of the scheme.

(3) Where Article 63C applies in relation to a centralised scheme, references to “the employer” in that Article and in Article 63D are to be treated as references to the employer in relation to whom the practitioner or official receiver is acting.

(4) Where Article 63C applies in relation to a centralised scheme, it shall not cease to do so by virtue of Article 63C(7)(a) unless the power to appoint or remove any trustee of the scheme is transferred to the person other than the employer concerned, or to any person who is “independent” for the purposes of Article 63C(2).

*Paid-up schemes*

4.—(1) Articles 63C and 63D are modified as described in this regulation in their application to any occupational pension scheme of which there are no members who are in pensionable service under the scheme, as defined in paragraph 3 of Schedule 3 (“paid-up schemes”).

(2) Article 63C applies in relation to a paid-up scheme only if—

(a) the employer has power to appoint or remove any trustee of the scheme; or

(b) the employer is a trustee of the scheme.

*Schemes to which Articles 63C and 63D do not apply*

5.—(1) Articles 63C and 63D shall not apply in relation to occupational pension schemes of a description prescribed by this regulation.

(2) Articles 63C and 63D do not apply to a scheme of which each member is a trustee. For this purpose, “member” means any employee or former employee of the employer who has rights under the scheme arising from that employment.

(3) Articles 63C and 63D do not apply to schemes under which all the benefits that may be provided are—

(a) money purchase benefits(a); or

(b) benefits payable only on an earner’s death while employed in employment to which the scheme applies.

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(a) The definition of “money purchase benefits” was inserted in Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975 by paragraph 2(b) of Schedule 2 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(4) Articles 63C and 63D do not apply to any scheme under which all the benefits to be provided are secured by means of insurance policies that are specifically allocated to the provision of benefits for, or in respect of, particular members.

*Transitional provision and saving*

6.—(1) This regulation is made in connection with the coming into operation of paragraph 1 of Schedule 4 to the Social Security (Northern Ireland) Order 1990 (which inserted Articles 63C and 63D).

(2) Articles 63C and 63D do not apply where an insolvency practitioner or the official receiver started to act in relation to the employer before 12th November 1990(a).

Sealed with the Official Seal of the Department of Health and Social Services on 26th October 1990.

(L.S.)

*A. N. Burns*

Assistant Secretary

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations are made under Articles 63C and 63D of the Social Security Pensions (Northern Ireland) Order 1975 (“the Pensions Order”) and Article 22(3) of the Social Security (Northern Ireland) Order 1990 (“the 1990 Order”). Articles 63C and 63D of the Pensions Order, which were inserted by paragraph 1 of Schedule 4 to the 1990 Order, come into operation on 22nd October 1990 for the purpose of making regulations and on 12th November 1990 for all other purposes by virtue of Article 2(c) and (d) of the Social Security (1990 Order) (Commencement No. 2) Order (Northern Ireland) 1990 (S.R. 1990 No. 351 (C. 14)). Article 22(3) of the 1990 Order came into operation on 14th August 1990 by virtue of Article 1(4) of that Order.

Article 63C of the Pensions Order requires that, when an insolvency practitioner or the official receiver is acting in relation to an employer, the practitioner or official receiver must ensure that there is an independent trustee of any occupational pension scheme of which the employer’s employees are members.

Regulation 2 adds to the requirements that must be satisfied by a person before that person can be regarded as “independent”.

Regulations 3 and 4 modify Articles 63C and 63D of the Pensions Order in their application to “centralised schemes” and “paid-up schemes” respectively.

Regulation 5 describes those occupational pension schemes to which Articles 63C and 63D of the Pensions Order are not to apply.

Regulation 6 says that Articles 63C and 63D of the Pensions Order do not apply where an insolvency practitioner or the official receiver started to act in relation to the employer before 12th November 1990 (the date on which those Articles came into operation).

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This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.