

**2017 No. 57**

**PENSIONS**

**SOCIAL SECURITY**

**The Occupational Pension Schemes and Social Security  
(Schemes that were Contracted-out and Graduated Retirement  
Benefit) (Miscellaneous Amendments) Regulations  
(Northern Ireland) 2017**

*Made* - - - - *15th March 2017*

*Coming into operation* - *6th April 2017*

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 62(1)(a) and (c) and 171(3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and sections 12(3) and (4), 13(6), 16(1) and (3), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(b), and now vested in it(c).

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Occupational Pension Schemes and Social Security (Schemes that were Contracted-out and Graduated Retirement Benefit) (Miscellaneous Amendments) Regulations (Northern Ireland) 2017 and shall come into operation on 6th April 2017.

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Assembly.

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- (a) 1992 c. 7; section 62(1)(a) was amended by paragraph 7(a) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 16(a) of Schedule 9 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); section 62(1)(c) was inserted by paragraph 16(b) of Schedule 9 to the Pensions (Northern Ireland) Order 2005 and amended by paragraph 5 of the Schedule to S.R. 2005 No. 434
- (b) 1993 c. 49; section 12(3) was amended by paragraph 21(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995; section 13(6) was amended by paragraph 1(3) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and paragraph 5(f) of Schedule 1 to S.R. 2005 No. 433; section 16 was amended by paragraph 2 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, paragraph 7 of Schedule 1 to S.R. 2005 No. 433, Article 31(2) of S.R. 2012 No. 124 and paragraph 18 of Schedule 13 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)); section 178(1) was amended by Parts 3 and 4 of Schedule 5 to the Pensions (Northern Ireland) Order 1995
- (c) See Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
- (d) 1954 c. 33 (N.I.)

## **Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations**

2. In regulation 13B(1) of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(a) (modification of section 12: revaluation after transfer from another scheme) after “This regulation applies” insert “where an earner’s service in contracted-out employment ended on the second abolition date(b) and”.

## **Amendment of the Social Security (Graduated Retirement Benefit) Regulations**

3. In paragraphs 6(2), 10(2), 16(2) and 20(2) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 2005(c) (calculating lump sums for the purposes of increasing lump sums in relation to deferred graduated retirement benefit) in the definition of “accrual period” after “Claims and Payments Regulations” insert “or in accordance with regulation 22C(3) or (4)(d) of those Regulations”.

## **Amendment of the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations**

4.—(1) The Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016(e) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation) after the definition of “administrator” insert—

““bereavement support payment” means the benefit described in section 29 of the Pensions Act (Northern Ireland) 2015(f) (bereavement support payment);”.

(3) In regulation 12(1) (circumstances for the purposes of section 13(6) of the 1993 Act in which widower’s or surviving civil partner’s guaranteed minimum pension is payable)—

(a) in sub-paragraph (b)(iii) for “Northern Ireland, or” substitute “Northern Ireland;”;

(b) after sub-paragraph (c) add—

“(d) the widower or surviving civil partner is entitled to a bereavement support payment by virtue of the earner’s contributions, or

(e) the widower or surviving civil partner was entitled to a bereavement support payment by virtue of the earner’s contributions but that entitlement came to an end at a time after the widower or surviving civil partner attained the age of 45.”.

(4) In regulation 13 (period for the purposes of section 13(6) of the 1993 Act for which widower’s or surviving civil partner’s guaranteed minimum pension is payable)—

(a) after paragraph (3) insert—

“(3A) Where a pension is payable by virtue of regulation 12(1)(d) but not by virtue of regulation 12(1)(a), (b), (c) or (e), the scheme is to make provision for the pension to be payable for the period during which the circumstances described in regulation 12(1)(d) continue to exist.

(3B) Subject to paragraph (4A), where a pension is payable by virtue of regulation 12(1)(e) but not by virtue of regulation 12(1)(a), (b), (c) or (d), the scheme is to make provision for the pension to be payable for the remainder of the widower’s or surviving civil partner’s life.”;

(b) for paragraphs (4) and (5) substitute—

“(4) Subject to paragraph (5), there is excluded from the periods prescribed by paragraphs (2) and (3) any period—

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(a) S.R. 1996 No. 618; regulation 13B was inserted by regulation 22(4) of S.R. 2016 No. 107

(b) See section 3A of the Pension Schemes (Northern Ireland) Act 1993 as inserted by paragraph 6 of Schedule 13 to the Pensions Act (Northern Ireland) 2015

(c) S.R. 2005 No. 121; paragraphs 10 and 20 were amended by regulation 4(5) and (9) of S.R. 2005 No. 541

(d) Regulation 22C was inserted by regulation 2(5) of S.R. 2009 No. 409

(e) S.R. 2016 No. 107 to which there are amendments not relevant to these Regulations

(f) 2015 c. 5 (N.I.)

- (a) after the time of any—
  - (i) marriage, or
  - (ii) formation of a civil partnership,
 by the widower or surviving civil partner whilst under pensionable age and which takes place after the earner's death;
- (b) during which the widower or surviving civil partner is under pensionable age and—
  - (i) he or, as the case may be, she and a person of the opposite sex are living together as husband and wife, or
  - (ii) he or, as the case may be, she and a person of the same sex are living together as if they were civil partners;
- (c) after the widower has attained pensionable age if immediately before he attained that age—
  - (i) he and a woman to whom he was not married were living together as husband and wife, or
  - (ii) he and a man were living together as if they were civil partners, or
- (d) after the civil partner has attained pensionable age if immediately before he or she attained that age—
  - (i) he or she and a person of the opposite sex to whom he or she was not married were living together as husband and wife, or
  - (ii) he or she and a person of the same sex were living together as if they were civil partners.

(4A) Subject to paragraph (5), there is excluded from the period prescribed by paragraph (3B) any period—

- (a) after the time of any—
  - (i) marriage, or
  - (ii) formation of a civil partnership,
 by the widower or surviving civil partner which takes place after the earner's death, or
- (b) during which—
  - (i) the widower or surviving civil partner and a person of the opposite sex are living together as husband and wife, or
  - (ii) the widower or surviving civil partner and a person of the same sex are living together as if they were civil partners.

(5) The following provisions do not apply where a man became a widower before 5th December 2005—

- (a) paragraph (4)(a)(ii), (b)(ii), (c)(ii) and (d)(ii), and
- (b) paragraph (4A)(a)(ii) and (b)(ii)."

(5) In regulation 15 (fixed rate revaluation of guaranteed minimum pensions for early leavers) for paragraph (2) substitute—

"(2) Subject to paragraph (3), in a case to which this regulation applies, the scheme is to provide for the weekly equivalent mentioned in section 10(2) of the 1993 Act to be increased, in relation to the period of service in respect of which accrued rights to a guaranteed minimum pension have been acquired under, or transferred to, the scheme, by at least—

- (a) 4.75 per cent. compound, where the period of pensionable service under the scheme terminates on or after 6th April 2016 but before 6th April 2017;

- (b) 3.5 per cent. compound, where the period of pensionable service under the scheme terminates on or after 6th April 2017.”.

Sealed with the Official Seal of the Department for Communities on 15th March 2017

(L.S.)

*Thomas O'Reilly*  
A senior officer of the Department for Communities

## EXPLANATORY NOTE

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

These Regulations make amendments to subordinate legislation relating to the abolition of contracting-out of the additional State Pension for salary related pension schemes, and the calculation of a lump sum payment to an individual who deferred receipt of their Graduated Retirement Benefit. The Regulations also make amendments to secondary legislation to provide a new fixed rate of revaluation of guaranteed minimum pensions for those leaving pensionable service after 5th April 2017.

Regulation 2 makes amendments to the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996 to state that those Regulations apply to salary related pension schemes that ceased to contract out on the second abolition date.

Regulation 3 makes amendments to the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 2005 in order to provide for the calculation of entitlement, under the old State Pension, to a lump-sum Graduated Retirement Benefit. It inserts a cross-reference to regulation 22C of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987. The cross-reference sets the day on which a period starts for the purposes of calculating the amount of a lump sum of Graduated Retirement Benefit.

Regulation 4 makes amendments to the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations (Northern Ireland) 2016 to provide that a guaranteed minimum pension can also be paid to an earner's survivor where such a person is entitled to bereavement support payment and defines the period for which the guaranteed minimum pension can be paid in this situation. It also provides a new fixed rate of revaluation of guaranteed minimum pensions for those leaving pensionable service after 5 April 2017.

As these Regulations, in so far as they are made under the Social Security Contributions and Benefits (Northern Ireland) Act 1992, make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, they are accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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