

1965. No. 246

[C]

TERMS AND CONDITIONS OF EMPLOYMENT**Redundancy Payments—Pensions**

REGULATIONS, DATED 19TH NOVEMBER, 1965, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTION 24 OF THE CONTRACTS OF EMPLOYMENT AND REDUNDANCY PAYMENTS ACT (NORTHERN IRELAND) 1965.

The Ministry of Health and Social Services in exercise of powers conferred by section 24 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(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 Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland) 1965 and shall come into operation on 6th December, 1965.

Interpretation

2. In these Regulations—

“the Act” means the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965;

“employee” has the meaning assigned to it by section 63(3) of the Act and includes any person in respect of whom the Act has effect as if he were an employee within the meaning of that section;

“employer” has the meaning assigned to it in section 63(3) of the Act and includes any person in respect of whom the Act has effect as if he were an employer within the meaning of that section;

“the Ministry” means the Ministry of Health and Social Services;

“pension” has the meaning assigned to it in Regulation 3 and includes any part of a pension;

“pensioned employee” means an employee who has a right or claim to a pension of a kind referred to in Regulation 4;

“tribunal” means a tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964(b);

“week” means a week ending with Saturday.

Meaning of “pension”

3.—(1) Subject to the provisions of this Regulation, in these Regulations “pension” means a periodical payment or lump sum by way of pension, gratuity or superannuation allowance as respects which the Ministry is satisfied that it is to be paid in accordance with any scheme or arrangement having for its object or one of its objects to make provision in respect of persons serving in particular employments for providing them with retirement benefits and (except in the case of such a lump sum which had been paid to the employee) that—

(a) the scheme or arrangement is established by Act of Parliament or of the Parliament of the United Kingdom, or other instrument having the force of law; or

(b) the benefits under the scheme or arrangement are secured by an irrevocable trust which is subject to the laws of Northern Ireland; or

- (c) the benefits under the scheme or arrangement are secured by a contract of assurance or an annuity contract which is made with—
- (i) an assurance company to which the Assurance Companies Acts (Northern Ireland) 1909 to 1947(a) apply; or
 - (ii) a registered friendly society; or
 - (iii) an industrial and provident society registered under the Industrial and Provident Societies Act 1893(b);

and that the provision made to enable benefits to be paid (taking into account any additional resources which could and would be provided by the employer, or any person connected with the employer, to meet any deficiency) is adequate to ensure payment in full of the benefits aforesaid.

(2) If in any case the Ministry is satisfied that benefits under the scheme or arrangement are wholly or mainly provided for the benefit of persons not resident in Northern Ireland it may if it thinks fit and subject to such conditions, if any, as it thinks proper, waive the requirement contained in paragraph (1)(b) in respect of a scheme or arrangement the benefits under which are secured by an irrevocable trust or the requirements of heads (i), (ii) or (iii) of paragraph (1)(c) in the case of a scheme or arrangement the benefits under which are secured by a contract of assurance or an annuity contract.

- (3) In these Regulations "pension" does not include—
- (a) a payment to an employee which consists solely of a return of his own contributions, with or without interest;
 - (b) that part of a payment to an employee which is attributable solely to additional voluntary contributions by that employee made in accordance with the scheme or arrangement;
 - (c) a periodical payment or lump sum, in so far as that payment or lump sum represents such compensation as is mentioned in section 53(1) of the Act (which relates to statutory compensation schemes) and is payable under a statutory provision, whether made or passed before, on or after the appointed day.

Application of Regulations

4.—(1) These Regulations apply in any case where an employee who is entitled, or but for these Regulations, would be entitled to a redundancy payment from an employer has a right or claim to a pension for himself which—

- (a) is to be paid by reference to the employee's last period of continuous employment with that employer;
- (b) (i) if it is a lump sum is to be paid, or
(ii) if it is a periodical payment is to begin to accrue,
at the time when the employee leaves the employment with that employer or within 90 weeks thereafter; and
- (c) in so far as it consists of periodical payments satisfies the conditions specified in paragraph (2).

(2) The conditions referred to in the preceding paragraph are that the Ministry is satisfied that the pension is payable for life and is not capable of being terminated or suspended except for—

- (a) the operation of any provision for the termination or suspension of the pension—
 - (i) upon the commutation thereof; or

(a) 9 Edw. 7. c. 49; 14 & 15 Geo. 5. c. 20 (N.I.) and 1947. c. 1.

(b) 56 & 57 Vict. c. 39.

- (ii) upon assignment, charge or other alienation (whether by operation of law or otherwise), or any attempt thereat; or
- (iii) in case of mental disorder or inability to act (if there is provision enabling the pension in either of these circumstances to be paid or applied at discretion for the maintenance or support of the pensioner's spouse or of other persons dependent on him);
- (b) the operation of any provision for the suspension of the pension during imprisonment or detention in legal custody or upon resumption of employment with the employer or of any other provision for the suspension of the pension during employment, being a provision contained in or made under any of the enactments specified in Schedule 2 to the National Insurance Act (Northern Ireland 1959(a), or in section 11(7) of that Act (which relate to certain statutory superannuation schemes) or a provision of the Superannuation Acts (Northern Ireland) 1921 to 1958, and any Act amending those Acts, as applied by any enactment or other instrument having the force of law;
- (c) the operation of section 2 of the Forfeiture Act 1870(b), (which provides, in certain cases of persons convicted of treason or felony, for the termination of a pension or superannuation allowance payable by the public or out of any public fund).

Exclusion or reduction of redundancy payments

5.—(1) an employer of a pensioned employee may, by notice in writing to that employee, claim to—

- (a) exclude the right of the employee to the redundancy payment to which he would otherwise be entitled; or
- (b) reduce the amount thereof,

in accordance with or to the extent permitted by Schedule 1 and in such a case the employee shall not be entitled to a redundancy payment or, as the case may be, shall be entitled only to the reduced amount thereof.

(2) The notice in writing referred to in paragraph (1) shall contain a statement explaining how the right of the pensioned employee to the redundancy payment has been excluded or, as the case may be, how the amount of the redundancy payment has been reduced by reason of the pension and specifying the amount of any redundancy payment so reduced.

(3) The provisions of this Regulation are without prejudice to the right of an employee to apply to a tribunal to determine any question as to his right to a redundancy payment or as to the amount of such payment.

Employees paid by person other than employer

6.—(1) This Regulation applies to any employee whose remuneration is, by virtue of any statutory provision, payable to him by a person (except a Government department) other than his employer.

(2) For the purposes of the operation, in relation to employees to whom this Regulation applies, of the provisions of these Regulations specified in the first column of Schedule 2, any reference to the employer which is specified in the second column of that Schedule shall be construed as a reference to the person responsible for paying the remuneration.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 19th day of November, 1965.

(L.S.)

W. Slinger,
Assistant Secretary.

SCHEDULE 1

**Exclusion of or Reduction in the amount of a Redundancy Payment
by reason of a Pension**

1.—(1) An employer of a pensioned employee may exclude the right of that employee to the redundancy payment to which he would otherwise be entitled under the Act by reason of his employment with the employer if the pension to which he has a right or claim by reference to that employment amounts in the annual value thereof to at least one-third of the employee's annual pay and is one as respects which—

(a) in so far as it consists of periodical payments the employee has a right or claim for the payments to begin to accrue, and

(b) in so far as it consists of a lump sum the employee has a right or claim for it to be paid,

immediately the employee ceases to be employed by the employer.

(2) An employer of a pensioned employee may reduce by an amount, not exceeding the appropriate proportion, the amount of the redundancy payment to which that employee would otherwise be entitled under the Act by reason of his employment with the employer if the pension to which he has a right or claim by reference to that employment is one as respects which—

(a) in so far as it consists of periodical payments the employee has a right or claim for the payments to begin to accrue, and

(b) in so far as it consists of a lump sum the employee has a right or claim for it to be paid,

immediately the employee ceases to be employed by the employer.

2. In a case in which paragraph 1 does not apply but in which a pensioned employee has a right or claim to a pension as respects which—

(a) in so far as it consists of periodical payments the employee has a right or claim for the payments to begin to accrue, and

(b) in so far as it consists of a lump sum the employee has a right or claim for it to be paid,

at some time (not exceeding 90 weeks) later than the time when the pensioned employee ceases to be employed by him, an employer of that employee may reduce the amount of the redundancy payment by an amount not exceeding the appropriate proportion:

Provided that to the reduced payment so ascertained there shall be added the weekly value of the pension for each week that is to elapse between the cessation of the pensioned employee's employment with the employer and the time when the pensioned employee has a right or claim for the pension to begin to accrue or, as the case may be, to be paid; so however that, the total payment due to the pensioned employee under this paragraph shall not exceed the amount of the redundancy payment to which he would be entitled apart from these Regulations.

3. For the purposes of this Schedule—

“appropriate proportion” means the proportion which the annual value of the pension to the employee bears to one-third of that employee's annual pay;

“annual pay” means the amount of a week's pay of the employee, calculated in accordance with paragraph 5 of Schedule 3 to the Act, multiplied by 52, any fraction of a pound in the product being disregarded;

“annual value of the pension” means—

(a) in the case of a pension to which the employee has a right or claim which consists of periodical payments—

(i) where the pension is payable at intervals of seven days the amount of the first payment multiplied by 52, any fraction of a pound in the product being disregarded if the pension consists wholly of periodical payments;

- (ii) where the pension is payable at other than intervals of seven days the amount which would accrue during the 12 calendar months beginning with the day on which the pension begins to accrue and assuming that the value of the pension does not change, any fraction of a pound being disregarded if the pension consists wholly of periodical payments;
- (b) in the case of a pension to which the employee has a right or claim which consists of a lump sum, one-tenth of the amount of such lump sum, any fraction of a pound being disregarded if the pension consists wholly of a lump sum;
- (c) in the case of a pension to which the employee has a right or claim which consists partly of periodical payments and partly of a lump sum, the total annual value ascertained in accordance with sub-paragraph (a) and sub-paragraph (b) of this paragraph, any fraction of a pound in that total being disregarded;
- “weekly value of the pension” means the amount, not exceeding one-third of one week’s pay of the employee (calculated in accordance with paragraph 5 of Schedule 3 to the Act), obtained by dividing the annual value of the pension by 52.

SCHEDULE 2

Regulation 6

Provisions of Regulations

Reference to be construed as reference to the person responsible for paying the remuneration

Regulation 3(1).	The references to “employer”.
Regulation 4(1).	The first reference to “employer”.
Regulation 5(1).	The reference to “employer”.
Schedule 1, paragraph 1(1).	The first reference to “employer”.
Schedule 1, paragraph 1(2).	The first reference to “employer”.
Schedule 1, paragraph 2.	The first reference to “employer”.

EXPLANATORY NOTE

(This Note is not part of the Regulations but is intended to indicate their general purport.)

These Regulations allow employers of certain pensioned employees who become redundant to exclude or reduce their liability to make redundancy payments.

1965. No. 247

This Order has been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading ROADS.