
 STATUTORY INSTRUMENTS

1983 No. 118

SOCIAL SECURITY

The National Insurance (Non-participation—Transfer of Functions) (Transitional) Regulations 1983

<i>Made</i>	- - - -	<i>7th February 1983</i>
<i>Laid before Parliament</i>		<i>17th February 1983</i>
<i>Coming into Operation</i>		<i>10th March 1983</i>

The Secretary of State for Social Services, in exercise of the powers conferred on him by section 2 of and paragraphs 7 and 9 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(a) and of all other powers enabling him in that behalf, and after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it (b), hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the National Insurance (Non-participation—Transfer of Functions) (Transitional) Regulations 1983 and shall come into operation on 10th March 1983.

Transfer of the Adjudicator's functions to the Occupational Pensions Board

2. For the purposes of facilitating the winding up of the system of insurance contained in the former principal Act (c) and the disposal of matters connected with that system the provisions of regulations 3, 4, 5 and 6 of these regulations shall have effect for transferring to the Occupational Pensions Board the functions (determination of references and appeals on questions relating to non-participating employments) dischargeable before the coming into operation of these regulations by an Adjudicator appointed in accordance with section 74(3) of the National Insurance Act 1965 for the purposes of Part III of that Act.

Amendment of the National Insurance (Non-participation—Transitional Provisions) (No. 2) Regulations 1974

3.—(1) The National Insurance (Non-participation—Transitional Provi-

(a) 1975 c. 18; paragraph 9(1)(b) was amended by the Social Security Pensions Act 1975 (c. 60), Schedule 4, paragraph 65.

(b) See section 10(2)(b) of the Social Security Act 1980 (c. 30).

(c) The National Insurance Act 1965 (c. 51), the relevant provisions of which were repealed by the Social Security Act 1973 (c. 38), Schedule 28 but continued in force by S.I. 1974/2057 and 2058; see also 1975 c. 18, section 3(3).

sions) (No. 2) Regulations 1974(a) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3(1) of the said regulations the words “(1) and (2)” shall be inserted between the words “74” and “(determination”.

(3) There shall be added to regulation 3 of the said regulations the following paragraph:—

“(4) Sub-section (1) of section 74 shall continue in force in the modified form set out in the Schedule to these regulations.”

(4) There shall be added to the said regulations the following Schedule:—

Regulation 3(4)

“SCHEDULE

SECTION 74(1) OF THE NATIONAL INSURANCE ACT 1965 AS CONTINUED IN FORCE BY THESE REGULATIONS

74.—(1) Regulations under section 73(1) of this Act shall provide—

- (a) for the determination by an officer appointed by the Secretary of State (hereafter in this section referred to as “the registrar”) of any question whether an employment is to be treated as a non-participating employment, or as to the persons in relation to whom or the period for which it is to be so treated, and for the issue, variation and cancellation by the registrar of the certificates under section 56 of this Act specifying the employments which are to be so treated;
- (b) for enabling any such question, instead of being determined as aforesaid, to be referred to the Occupational Pensions Board, and for enabling appeals to be brought to the said Board from decisions of the registrar;
- (c) for enabling the functions of the registrar to be exercised by officers appointed to act as his deputies by the Secretary of State.”

Amendment of the National Insurance (Non-participation—Certificates) Regulations 1959

4. The National Insurance (Non-participation—Certificates) Regulations 1959(b) shall be amended as follows:—

- (a) in regulation 1(2) of those regulations there shall be substituted for the definition of “the Adjudicator” the following definition—
 - ““the Board” means the Occupational Pensions Board established under section 66 of the Social Security Act 1973(c);”, and
- (b) for every reference to the Adjudicator in the ensuing provisions of those regulations there shall be substituted a reference to the Board.

(a) S.I. 1974/2058.

(b) S.I. 1959/1860, to which there are amendments not relevant to these regulations.

(c) 1973 c. 38.

Amendment of the National Insurance (Non-participation—Appeals and References) Regulations 1959

5.—(1) The National Insurance (Non-participation—Appeals and References) Regulations 1959(a) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) of the said regulations there shall be substituted for the definition of “the Adjudicator” the following definition:—

““the Board” means the Occupational Pensions Board established under section 66 of the Social Security Act 1973;”.

(3) For regulation 2 of the said regulations there shall be substituted the following regulation:—

“Clerk to the Board

2. The Secretary of the Board, or such other person as the Board may from time to time appoint for the purpose, shall act as Clerk to the Board for the performance of such duties in connection with appeals and references from the Registrar under Part III of the National Insurance Act 1965 as may be required for the purposes of these regulations.”.

(4) Subject to the provisions of paragraphs (2) and (3) of this regulation, for every reference to the Adjudicator in the said regulations there shall be substituted a reference to the Board.

(5) In regulation 4(9) of the said regulations for the word “him” there shall be substituted the words “the member who presided, or failing him any 2 other members who participated, when the Board determined the appeal or reference in question”.

(6) Paragraph (8) of regulation 4 of the said regulations is hereby revoked.

Modification of the provisions of section 86 of the Social Security Act 1973

6. Section 86 of the Social Security Act 1973(b) (references and appeals from the Board to the courts on questions of law) shall be modified so as to have effect as if—

(a) questions of law arising in connection with any matters falling to be determined by the Board by virtue of the provisions of these regulations were included in the questions which the Board may refer to the court under subsection (1) of that section, and

(b) the rights of appeal to the court conferred by subsection (4) of that section upon persons aggrieved included the right to appeal on a question of law against any decision of the Board on any matter falling to be determined by them by virtue of the provisions of these regulations, and

(c) the other provisions of that section applied, as the case may require, to

(a) S.I. 1959/2119.

(b) 1973 c. 38; section 86 was amended by the Social Security Pensions Act 1975, Schedule 4, paragraph 29 and Schedule 5, and by the Administration of Justice Act 1977 (c. 38), Schedule 5, Part IV.

references and appeals to which subsections (1) and (4) apply by virtue of the provisions of these regulations.

Amendment of the National Insurance (Non-participation—Transitional Provisions) Regulations 1974

7. In regulation 2(4) of the National Insurance (Non-participation—Transitional Provisions) Regulations 1974(a) there shall be substituted for the words “1983” the words “1985”.

Norman Fowler,
Secretary of State for Social Services.

7th February 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations provide for the functions previously discharged by an Adjudicator appointed in accordance with section 74(3) of the National Insurance Act 1965 (“the 1965 Act”) in relation to references by and appeals from the Registrar of Non-participating Employments (“the Registrar”) to be dischargeable by the Occupational Pensions Board (“the Board”).

Regulation 2 is a general declaratory provision as to the transfer from the Adjudicator to the Board of the determination of appeals and references from the Registrar. Regulation 3 amends the National Insurance (Non-participation—Transitional Provisions) (No. 2) Regulations 1974 so as to continue in force section 74(1) and (2) of the 1965 Act. Subsection (1) (power to provide by regulations for the method of determination of certain questions as to non-participating employments under Part III of the Act (“Part III questions”)) is continued in force in modified form: subsection (2) (power to provide by regulations for incidental matters affecting the Registrar and employers) is continued in force unaltered. Subsection (3) (appointment of an Adjudicator) is no longer continued in force. Regulation 4 further amends the National Insurance (Non-participation—Certificates) Regulations 1959 so as to substitute the Board for the Adjudicator as the recipient of references by and appeals from the Registrar on Part III questions. Regulation 5 amends the National Insurance (Non-participation—Appeals and References) Regulations 1959, which relate to the procedure to be followed on references by and appeals from the Registrar on Part III questions, so as to make them apply with minor alterations to the Board instead of to the Adjudicator. Regulation 6 extends the provisions of section 86, as amended, of the Social Security Act 1973 so as to enable the existing provision for appeals and references to the courts on questions of law arising on determinations by the Board to apply also to their determinations on Part III questions. Regulation 7 amends the National Insurance (Non-participation—Transitional Provisions) Regulations 1974 so as to postpone for an additional two years the terminal date of any possible extension of the settlement period in connection with non-participating employments.

(a) S.I. 1974/2057.

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