

1978 No. 74

SOCIAL SECURITY

**The Contracted-out Employment (Miscellaneous Provisions)
Regulations (Northern Ireland) 1978**

Made 15th March 1978

Coming into operation 6th April 1978

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 42(3), 45(4), 46(3) and 47(1) and (2) of, and paragraphs 1 and 6 of Schedule 2 to, 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, commencement and interpretation

1.—(1) These regulations may be cited as the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1978 and shall come into operation on 6th April 1978.

(2) In these regulations—

“the Order” means the Social Security Pensions (Northern Ireland) Order 1975;

“the Contracting-out Regulations” means the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976(b).

Termination of contracted-out employment in certain cases

2.—(1) Where, within 6 months (or such longer period as the Department may allow) of the happening of one of the following events, namely—

(a) the expiry or termination of an earner's contract of service in contracted-out employment with an employer; or

(b) in the absence of a contract of service, the ending of service in such employment,

the earner is employed by another employer in employment which is contracted-out by reference to the same scheme as the first employment, the earner's service in the first employment shall, notwithstanding the provisions of regulation 9 of the Contracting-out Regulations, be treated, for the purposes of Articles 37(7) (exclusion of guaranteed minimum pension from revaluation under Article 23 of the Order) and 44(1) (premium on termination of contracted-out employment) of the Order, as not having terminated:

Provided that this paragraph shall not apply—

(i) unless the scheme is one for which there is a common fund;

(ii) where a state scheme premium has been paid in respect of the first employment and has not been refunded.

(a) S.I. 1975/1503 (N.I. 15)

(b) S.R. 1976 No. 29 (I, p. 114)

(2) Where an earner ceases to be liable for Class 1 contributions under the Social Security (Northern Ireland) Act 1975(c) in respect of any contracted-out employment because he is employed outside Northern Ireland and where, and for so long as, service in the employment outside Northern Ireland continues to qualify him for benefits under the scheme by reference to which his employment was contracted-out employment, the earner's service in that employment shall, notwithstanding the provisions of regulation 9 of the Contracting-out Regulations, be treated, for the purposes of Articles 37(7) and 44(1) of the Order, as not having terminated.

(3) In this regulation the expression "common fund" means a fund into which all contributions, however derived, are paid, and to the whole of which recourse may be had to meet any liabilities of the scheme for the payment of benefit.

(4) The total period of contracted-out employment where there is a series of employments to which paragraph (1) applies shall not include any intervals between employments in the series.

Amendments of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations

3.—(1) The Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976(d) shall be amended in accordance with the provisions of this regulation.

(2) For regulation 3(4) there shall be substituted the following—

"(4) For the purposes of Article 46 (accrued rights premiums and pensioner's rights premiums) and Article 47 (limited revaluation premiums) of the Order the Board shall certify to the Department—

(a) in the event of a contracted-out scheme ceasing to be contracted-out, whether or not an earner's accrued rights to or a person's rights to guaranteed minimum pension (not being a pension which is the subject of a certificate issued by the Department under Article 18(9) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(e) and still in force) are subject to approved arrangements as mentioned in the said Article 46;

(b) in the event of a contracted-out scheme ceasing to be contracted-out and in the event thereafter of the withdrawal of such a certificate issued by the Department as aforesaid, whether or not the accrued rights or rights to the guaranteed minimum pension which was the subject of the certificate are subject to approved arrangements as mentioned in the said Article 46; and

(c) in the event of rights which are subject to approved arrangements as mentioned in the said Article 46 ceasing to be so subject, the date on which those rights ceased to be so subject."

(3) In regulation 4(1)(e) after "earner" there shall be inserted "is under the age of 26 or".

(4) In regulation 4(2)(b) "and" shall be omitted.

(5) In regulation 4(2)(c) "or 47(3)" shall be omitted.

(6) After regulation 4(2)(c) there shall be added the following—
"and

(c) 1975 c. 15
(d) S.R. 1976 No. 101 (I, p. 432)

(e) S.I. 1977/610 (N.I. 11)

- (d) in the case of an election under Article 47(3) of the Order, within a period ending 6 months after the date on which the Board certify to the Department that the earner's accrued rights to guaranteed minimum pension are subject to approved arrangements.”.
- (7) In regulation 5(3) “which” where it first occurs shall be omitted.
- (8) After regulation 5(3), there shall be inserted the following paragraph—
 “(4) In cases where a state scheme premium has become payable by reason of the fact that a contracted-out scheme has ceased to be contracted-out and an earner's rights to guaranteed minimum pension are the subject of approved arrangements under Article 46 of the Order, references in paragraph (1)(a) to the date of termination of contracted-out employment shall be read as references to the date on which the Board certify under regulation 3(4) that the earner's rights are subject to such approved arrangements.”.
- (9) In regulation 7(1), for “the scheme's normal pension age” there shall be substituted “pensionable age”.
- (10) After regulation 8(1), there shall be inserted the following paragraph—
 “(1A) For the purposes of paragraph (1) a scheme shall be treated as if it is being wound up at any time when there is in force an order of the Board under Article 50(6) of the Order requiring or directing that the scheme be wound up.”.
- (11) In regulation 8(3)(b) after “Contracting-out regulations” there shall be inserted “or in the circumstances set out in regulation 2(1) of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1978(f)”.
- (12) After regulation 8(3)(d), there shall be added the following—
 “or
 (e) the premium being a contributions equivalent premium, the scheme is one under which a member may qualify for benefits either by virtue of service in employed earner's employment or as a self-employed earner for the purposes of the Social Security (Northern Ireland) Act 1975 or both, and it is satisfied that the earner in respect of whom the premium was paid has completed a period of membership of the scheme as a self-employed earner which, when aggregated with his service in employed earner's employment, amounts to not less than 5 years.”.

Amendment of the Contracting-out Regulations

4. In regulation 9(1)(e) of the Contracting-out Regulations for all the words following “the Department may allow in a particular case,” there shall be substituted—

“he again comes within the description of earners in relation to which the said contracting-out certificate applies or he becomes a member in contracted-out employment of another contracted-out scheme under the same employer to which his accrued rights to requisite benefits are transferred”.

Amendment of the Occupational Pension Schemes (Certification of Employments) Regulations

5. In regulation 1(2)(g) of the Occupational Pension Schemes (Certification of Employments) Regulations (Northern Ireland) 1976(h) immediately after "the Order" in the definition of trade union recognised to any extent, there shall be added "or under section 31(9) of the Social Security Pensions Act 1975(i)".

Amendment of the Contracted-out Employment (Miscellaneous Provisions) Regulations

6. In regulation 6 of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977(j) (priorities on winding-up of a scheme)—

(a) "only" shall be omitted;

(b) the following paragraph shall be added—

"(2) An occupational pension scheme (not being a public service pension scheme) which contains provision for the payment of pensions or other benefits to dependants of members shall be exempt from the requirements of Article 42(3) of the Pensions Order (as amended by Article 18(8) of the 1977 Order) (priorities on winding-up) to the following extent, namely that it shall not be required to accord priority on a winding-up to the liabilities specified in paragraphs (a) to (d) of the said Article 42(3) over liabilities of the scheme in respect of pensions and other benefits to which any dependant of a deceased member will be entitled under the scheme on the death of the widow or widower or other dependant of such member."

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 15th March 1978.

(L.S.)

C. G. Oakes
Senior Assistant Secretary

(g) The relevant amending regulation is S.R. 1976 No. 256 (II, p. 1282)
(h) S.R. 1976 No. 5 (I, p. 20)
(i) 1975 c. 60
(j) S.R. 1977 No. 286

EXPLANATORY NOTE

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

These regulations make miscellaneous provisions in connection with the contracting-out of occupational pension schemes.

They provide that, in particular cases and for the purposes only of Articles 37(7) (exclusion of guaranteed minimum pension from revaluation under Article 23) and 44(1) (premium on termination of contracted-out employment) of the Social Security Pensions (Northern Ireland) Order 1975 (hereafter called "the Order"), contracted-out employment is to be treated as not having terminated.

They amend the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976, the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976, and the Occupational Pension Schemes (Certification of Employments) Regulations (Northern Ireland) 1976 to take account of the passing of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 and to make minor corrections.

They also amend the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977 so as to provide that schemes other than public service pension schemes which provide for the payment of pensions or other benefits to dependants of members shall be exempt from the requirements of Article 42(3) of the Order (as amended by Article 18(8) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977) (priorities on winding-up) to the extent that they need not give priority to the liabilities specified in Article 42(3) over liabilities in respect of pensions or other benefits payable under the scheme to dependants of a deceased member on the death of the widow or widower or other dependant of that member.