

1983 No. 55

SOCIAL SECURITY

**The Contracted-out Employment (Miscellaneous Provisions)
Regulations (Northern Ireland) 1983**

Made 22nd March 1983

Coming into operation 5th April 1983

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 43(1A), 46(2), 47(1), 52A(12) and 71(4) of, and paragraphs 5, 6 and 9 of Schedule 2 to, the Social Security Pensions (Northern Ireland) Order 1975(a) and Articles 17(1) and (2) and 18(13) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(b), 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 Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1983 and shall come into operation on 5th April 1983.

Sufficiency of the resources of occupational pension schemes

2. In a case where the Occupational Pensions Board are unable to be satisfied, for the purposes of paragraph (1) of Article 43 of the Social Security Pensions (Northern Ireland) Order 1975, that the resources of an occupational pension scheme are sufficient for meeting the requirements specified in that paragraph but they are satisfied (subject to such conditions as they may impose or otherwise) that the resources of the scheme are sufficient for meeting the requirements specified in sub-paragraph (a) (claims in respect of guaranteed minimum pensions) and sub-paragraph (c) (liabilities and expenses on winding up) of the said paragraph (1), that paragraph shall have effect as if sub-paragraph (b) thereof (payments in respect of state scheme premiums) were omitted.

Amendment of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976

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

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

“Liability for payment of state scheme premiums

3.—(1) For the purposes of Article 46(2) of the Order (payment of accrued rights premiums and pensioner’s rights premiums) the prescribed person is—

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- (a) S.I. 1975/1503 (N.I. 15); paragraph (1A) was inserted in Article 43 by Article 4(5) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), paragraph 6 of Schedule 2 was amended by Article 4(11) of that Order, Article 47(1) was amended by Article 18(7) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)) and Article 52A was inserted by Article 33 of the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16))
- (b) S.I. 1977/610 (N.I. 11); Article 17(1) was amended by Article 4(3) of the Social Security (Northern Ireland) Order 1980, and Article 18(13) was amended by Article 15(1) of, and paragraph 9 of Schedule 3 to, that Order and repealed in part by Article 16 of, and Part I of Schedule 4 to, that Order
- (c) S.R. 1976 No. 101; the relevant amending regulations are S.R. 1978 No. 74 and S.R. 1981 No. 32

- (a) the trustees of the scheme; or
 - (b) in the case of a person to whom sub-paragraphs (a), (b) and (d)(ii) of regulation 8(5) apply and for the purpose only of enabling payment of the premium, that person.
- (2) For the purposes of Articles 44 to 47 of the Order the person to be treated as the employer of an employed earner is—
- (a) subject to sub-paragraphs (b) to (f), in the case of an employed earner, including an employed earner such as is mentioned in paragraph 6(2) of Schedule 2 to the Order, any person, government department, public authority or body of persons who, under Part I of the Social Security (Northern Ireland) Act 1975(a), is, or is to be treated as, the secondary Class 1 contributor in respect of that earner;
 - (b) in a case where the employer (within the meaning of sub-paragraph (a)) of an employed earner in contracted-out employment is insolvent, the trustees of the scheme by reference to which the earner's employment is contracted-out employment, so however that except in the case of a premium under Article 44(3) of the Order the trustees of the scheme shall be liable by virtue of this sub-paragraph only for so much of any state scheme premium as is not recovered from the insolvent employer as a priority debt by virtue of the provisions of paragraph 3 of Schedule 4 to the Order;
 - (c) in a case where a scheme ceases to be contracted-out, and by virtue of arrangements approved by the Board under Article 46(1) of the Order a limited revaluation premium is payable under Article 47(1) of the Order, the trustees of that scheme;
 - (d) in a case where an employed earner's employer (within the meaning of sub-paragraph (a)) dies or otherwise ceases to be his employer and the business is taken over by a new employer and the earner's employment in contracted-out employment is to be treated as continuing under the new employer by virtue of regulation 9(5) of the Contracting-out regulations, that new employer;
 - (e) in a case where a holding company within the meaning of section 148 of the Companies Act (Northern Ireland) 1960(b) or a company which is treated by the Board under regulation 13(1)(b)(ii) of the Occupational Pension Schemes (Certification of Employments) Regulations (Northern Ireland) 1976(c) as a holding company, has made an election to contract out in respect of earners employed by one or more subsidiary companies of that company, that holding company or, as the case may be, that company which is treated as a holding company; and
 - (f) in a case where Article 47(1) of the Order as modified by regulation 8B(e) applies, the employer of the earner in the employment by reference to the scheme from which the earner's accrued rights to requisite benefits have been transferred.
- (3) Where the amount of a state scheme premium payable under the Order does not exceed £5 the person who would otherwise be liable to pay that premium shall not be so liable, but may nevertheless choose to pay it; and if any such premium is not paid, then for the purpose of extinguishing the earner's entitlement to the guaranteed minimum pension to which the premium relates the premium shall be treated as if it had been paid.

(a) 1975 c. 15

(b) 1960 c. 22 (N.I.)

(c) S.R. 1976 No. 5 to which there are amendments not relevant to the subject matter of these regulations

(4) For the purposes of Article 46 (accrued rights premiums and pensioner's rights premiums)(a) and Article 47 (limited revaluation premiums)(b) 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 pensioner'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 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.

(5) Any liability for the payment of a state scheme premium which is, by any provisions of these regulations, imposed on the trustees of a scheme shall be a liability to make that payment out of the resources of the scheme."

(3) For regulation 7 there shall be substituted the following regulation—

"Alternative to limited revaluation premium

7.—(1) For the purposes of Article 47(1)(b) of the Order (exclusion from liability to pay a limited revaluation premium), where a scheme provides, under Article 37(7) of the Order(c), for the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before he attains pensionable age to be determined without reference to any order that comes into force under Article 23 of the Order after the relevant year in which his service is terminated, then, subject to the following provisions of this regulation, there shall be no liability to pay a limited revaluation premium in respect of such an earner if the provisions made by the scheme under the said Article 37(7) conform with the following additional requirement, namely that the rate of increase specified by the scheme for the purposes of the said Article 37(7) is at least 8½ per cent. compound for each relevant year after the year in which the earner's service is terminated, notwithstanding that the amount by which an earnings factor for that year equal to that weekly equivalent would be increased by the last order that comes into force under the said Article 23 before the end of the final relevant year is less than the amount produced by that rate.

(2) Paragraph (1) applies only so as to permit the same such provision to be made for all members of the scheme, so however that separate provision may be made for members as regards their accrued rights transferred in accordance with Article 40(1) of the Order(d).

(a) Article 46(6) was substituted by Article 4(7) of the Social Security (Northern Ireland) Order 1980
 (b) Article 47(3) was substituted in part by Article 4(8) of the Social Security (Northern Ireland) Order 1980

(c) Article 37(7) was amended by Article 18(7) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 and by Article 16 of, and paragraph 19(b) of Schedule 3 to, the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

(d) Article 40(1) was amended by Article 4(4) of the Social Security (Northern Ireland) Order 1980

(3) In a case to which regulation 8B applies, where a scheme provides, under Article 37(7) of the Order, for earnings factors of an earner whose accrued rights to requisite benefits including such rights derived from linked qualifying service have been transferred under Article 40(1) of the Order from another scheme to be determined without reference to any order that comes into force under Article 23 of the Order after the relevant year in which his service in the contracted-out employment to which that other scheme related was terminated, there shall be no liability to pay a limited revaluation premium in respect of such an earner if the provisions made by the scheme under the said Article 37(7) conform with the following additional requirement, namely that the rate of increase specified by the scheme for the purposes of the said Article 37(7) is at least 8½ per cent. compound for each relevant year—

- (a) after the year in which that service was terminated, in any case where such earnings factors or weekly equivalent have previously fallen to be determined by reference to orders under the said Article 23, or
- (b) from and including the year in which that service was terminated, in any other case,

notwithstanding that the amount by which an earnings factor for any such relevant year equal to that weekly equivalent would be increased by the last order that comes into force under the said Article 23 before the end of the final relevant year is less than the amount produced by that rate.”

(4) For regulation 8 there shall be substituted the following regulations—

“Miscellaneous provisions affecting state scheme premiums and guaranteed minimum pension rights

8.—(1) Subject to paragraphs (2) and (3), where—

- (a) an employer has elected to pay a contributions equivalent premium under Article 44(2) or (3) of the Order, or
- (b) an accrued rights premium or a pensioner’s rights premium is payable under Article 46(2) of the Order pursuant to certification by the Board to the Department under regulation 3(4),

the premium shall, for the purpose of extinguishing the earner’s accrued rights to or, as the case may be, pensioner’s rights to guaranteed minimum pensions under a scheme, be treated as having been paid, or paid in part in a case to which either paragraphs (5) and (6) or (7) apply, on the date on which the earner ceased to be in contracted-out employment by reference to that scheme or, where the premium is an accrued rights premium or a pensioner’s rights premium, on the date on which that scheme ceased to be contracted-out or on any date certified by the Board under regulation 3(4)(c) in relation to those rights, whichever is the later.

(2) Where a premium has been treated as paid under paragraph (1), the effect of that paragraph shall, except as provided in paragraph (4), be disregarded if—

- (a) the Board subsequently approve arrangements for the preservation or transfer of the earner’s accrued rights to or, as the case may be, pensioner’s rights to guaranteed minimum pensions, or
- (b) the person who is liable to pay that premium fails to do so within the period prescribed by regulation 5(1) or such longer period as the Department may allow under regulation 5(2).

(3) Where by virtue of the operation of paragraphs (1) and (2) in relation to a person entitled to a benefit specified in Article 31(1)(a) of the Order an amount of such benefit, as certified by the Department, was paid to that person which would not otherwise have been paid—

- (a) the Department shall be entitled to recover that amount from the scheme and any amount so recovered shall be paid into the National Insurance Fund, and
 - (b) the sums payable under the scheme to that person may be reduced by the amount so recovered by the Department.
- (4) Paragraph (2)(b) shall not apply where the Department is satisfied that the failure to pay was not with the consent or connivance of, or attributable to any negligence on the part of, the person in respect of whom the premium is payable, and—
- (a) where, subject to paragraphs (5) and (6), the scheme, being a scheme which is or has been contracted-out, is being or has been wound up; or
 - (b) where—
 - (i) a person, having elected to pay a contributions equivalent premium, has been sent a notice certifying that an increased amount of that premium is payable, and
 - (ii) the said increased amount either does not exceed £5 or, if it exceeds £5, remains unpaid to an extent not exceeding any such part of the increased amount as that person may be entitled to recover by virtue of Article 48 of the Order(a).
- (5) In the case of a person—
- (a) whose accrued rights to, or whose rights to receive, guaranteed minimum pension under a contracted-out scheme have been secured wholly or, to the extent of the scheme's resources, in part by an insurance policy or annuity contract which meets the approval of the Board or the conditions prescribed in regulation 2 of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977(b), and
 - (b) in respect of whom a state scheme premium has become payable by reason of—
 - (i) the withdrawal by the Board of their approval of, or their inability to give their approval to, arrangements for the preservation or transfer of that person's said rights in pursuance of Article 46 of the Order, or
 - (ii) the cancellation by the Department of its certificate under Article 18(10) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(c), and either
 - (c) whose said rights cannot be extinguished by payment of that premium for the reason that the resources of the said scheme, being a scheme which is being or has been wound-up, are insufficient to meet the cost of that premium, or
 - (d) to whom, or for whose benefit, the Policyholders Protection Board, under the provisions of the Policyholders Protection Act 1975(d), have, where the said scheme has been wound up—
 - (i) secured a substituted policy of insurance or annuity contract, or
 - (ii) paid a cash sum in lieu of the benefits previously secured as specified in sub-paragraph (a),

(a) Article 48(1) was amended by Article 18(14) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977

(b) S.R. 1977 No. 286 to which there are amendments not relevant to the subject matter of these regulations

(c) Article 18(10) was amended by Article 4(6) of the Social Security (Northern Ireland) Order 1980

(d) 1975 c. 75

the said premium shall be treated as paid under paragraph (1) only in accordance with the provisions of paragraph (6).

(6) In a case to which paragraph (5) applies, where the Department is satisfied that—

(a) the amount of benefit secured as in sub-paragraph (a) or (d)(i) of that paragraph is less than the amount of the guaranteed minimum pension to which the relevant person is, or will be, entitled, or

(b) the amount of the cash sum referred to in sub-paragraph (d)(ii) of that paragraph is less than the amount of the premium payable,

such part of the premium as represents, in the opinion of the Department, the difference in either case between the lesser and greater amounts shall be treated as having been paid.

(7) Where a person in respect of whom a premium is payable is a person to whom regulation 3(1)(b) applies and that person pays part only of that premium, such part of the said premium shall be treated as having been paid under paragraph (1).

(8) Where part of the premium falls to be treated as having been paid under paragraph (1)—

(a) Articles 45(7) and 46(9) of the Order shall be modified so as to have effect as if there were inserted, in each case, at the end thereof “and payment of part of a premium in either case or of a premium calculated in accordance with Article 46(5)(a) or (b) as modified by regulation 8(8)(b)(iii) or (iv) respectively of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976 shall operate to extinguish such part of those rights or, as the case may be, accrued rights to guaranteed minimum pension as corresponds, in the opinion of the Department, to such part of the premium or such premium”; and

(b) in a case to which sub-paragraphs (a), (b) and (c) of paragraph (5) apply, Article 46 of the Order shall be modified so as to have effect as if—

(i) in paragraphs (1)(a) and (1)(b) of that Article there were inserted, in each case, after “guaranteed minimum pensions” the words “or part thereof”,

(ii) in paragraphs (2)(a) and (2)(b) of that Article there were inserted, in each case, after “are not” the words “or are in part only”,

(iii) in paragraph (5)(a) of that Article there were inserted after “the scheme” the words “to the extent that such rights are not subject to approved arrangements”, and

(iv) in paragraph (5)(b) of that Article there were inserted after “his widow” the words “to the extent that such pension is not provided under approved arrangements”.

(9) For the purposes of paragraphs (4) and (5)(c) 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.

Re-allocation and refund of state scheme premiums

8A.—(1) Where a state scheme premium is wrongly paid, or paid as to the wrong amount, the Department may treat all or part of that premium as paid (wholly or in part) in discharge of a liability for another premium or (where the premium was paid by the employer within the meaning of regulation 3(2)(a)) for contributions under Part I of the Social Security (Northern Ireland) Act 1975.

(2) Where a state scheme premium has been paid in connection with an earner's accrued rights to guaranteed minimum pension derived from a period of service in contracted-out employment and another such premium subsequently becomes payable in connection with such rights of his derived from the same period or a period inclusive of it, the Department may treat all or part of the first premium as paid (wholly or in part) in discharge of a liability for the second premium.

(3) Subject to paragraphs (1), (2) and (4) the Department shall refund a state scheme premium if—

- (a) that premium was paid in error; or
- (b) it is satisfied that the employment to which the premium relates will be linked with another employment in the circumstances set out in regulation 9(2) and (3) of the Contracting-out regulations or in the circumstances set out in regulation 2(1) of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1978(a); or
- (c) it is satisfied that the earner in respect of whom the premium was paid has entered into employment which is contracted-out employment by reference to the same contracted-out scheme as that by which the employment to which the premium relates was contracted-out employment, and that for the purpose of calculating the earner's accrued rights under the scheme the 2 employments will be linked; or
- (d) it is satisfied that a transfer of the earner's accrued rights will be made in accordance with Article 40 of the Order, except in the case of a limited revaluation premium where those accrued rights are being or will be revalued under the provisions of Article 37(7) of the Order as modified by regulation 8B(b) by the scheme to which they have been or are to be transferred; 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,

and where a premium is refunded under the provisions of this paragraph the earner's accrued rights under the scheme, which were extinguished by payment of the premium, shall be restored.

(4) Where a state scheme premium being a limited revaluation premium has been paid and a transfer under Article 40(1) of the Order of the accrued rights of the earner in respect of whom that premium was paid is made thereafter in circumstances conforming with those specified in regulation 8C(f), the Department shall repay the amount of the premium so paid to the trustees of the contracted-out scheme to which those accrued rights have been transferred.

(5) A refund under paragraph (3) or a repayment under paragraph (4) shall be made only if an application is made in writing, in such form as the Department may reasonably require for the purpose.

(6) In paragraph (3) "error" means, and means only, an error which—

- (a) is made at the time of the payment, and
- (b) relates to some present or past matter.

(7) Where an earner has been employed concurrently in 2 or more contracted-out employments, on the termination of one or more of which one or more contributions equivalent premiums are paid the amount, or the aggregate amount, of which has the effect that the National Insurance Fund has gained in all, by reference to the employment or employments in respect of which the premium or premiums have been paid, a greater amount than it would have gained from Class 1 contributions under the Social Security (Northern Ireland) Act 1975 if the employment or employments had not been contracted-out, there shall be paid out of the National Insurance Fund to the earner (or his estate) an amount equal to that amount which bears the same proportion to the amount of the excess as the reduction, under paragraph (2) of Article 29 of the Order, in the normal percentage of primary Class 1 contributions bears to the total reduction under that paragraph in the total normal percentage of Class 1 contributions.

Modification of Articles 37(5), (7) and (8), 46 and 47 of the Order where regulation 8C applies

8B. In such a case as is specified in regulation 8C—

- (a) Article 37(5) of the Order shall be modified so as to have effect as if there were inserted at the end thereof “or, in respect of the earner’s earnings factor or the weekly equivalent mentioned in paragraph (2) for any relevant year in a period of linked qualifying service, alternatively shall be taken to be that factor or weekly equivalent as increased in accordance with the provisions of the scheme under regulations made under Article 47(1)”, and
- (b) paragraph (7) of Article 37 of the Order shall be modified so as to have effect as if, where earnings factors of an earner whose accrued rights to requisite benefits, including such rights derived from linked qualifying service, have been transferred under Article 40(1) of the Order to another contracted-out scheme, the said paragraph (7) permitted that scheme to provide for those earnings factors to be determined for the purposes of paragraph (2) of the said Article 37 without reference to any order coming into force under Article 23 of the Order—
- (i) after the relevant year in which his service in the contracted-out employment, by reference to the scheme from which those rights were transferred, was terminated where such earnings factors have previously fallen to be determined by reference to orders under the said Article 23, or
- (ii) in and after the relevant year in which that service was terminated in any other case,
- and sub-paragraphs (a) and (b) of the said paragraph (7) had effect accordingly, save, in a case to which head (ii) applies, for treating the reference to the amount of the increase in the said sub-paragraph (b) as a reference to the amount by which the earnings factors relevant to the weekly equivalent would be increased, and
- (c) Article 37(8) of the Order shall be modified so as to have effect as if there were added at the end thereof “, so however that separate provision may be made for members as regards their accrued rights transferred in accordance with Article 40(1)”, and

(a) Article 37(5) was amended by Article 16 of, and paragraph 19(a) of Schedule 3 to, the Social Security (Northern Ireland) Order 1979.

- (d) Article 46(6)(a) of the Order(a) shall be modified so as to have effect as if the requirement to disregard certain orders made under Article 23 of the Order applied only to earnings factors arising from the earner's service in the employment by reference to which the scheme ceasing to be contracted-out was contracted-out, including linked qualifying service the earnings factors relating to which are being increased by reference to orders made under the said Article 23, and
- (e) Article 47 of the Order shall be modified so as to have effect as if—
- (i) the application of paragraph (1) of that Article were extended to include cases where an earner's accrued rights to requisite benefits have been transferred under Article 40(1) of the Order to another contracted-out scheme, and
 - (ii) in such cases the requirement that the earner's employer shall pay a limited revaluation premium in respect of the earner were a requirement that the said premium shall be paid by the employer of the earner in the employment by reference to the scheme from which such a transfer of accrued rights as is referred to in head (i) has been made unless, pursuant to arrangements made by that employer, the said premium is paid by the trustees of the scheme to which the said accrued rights have been transferred, and
 - (iii) the application of paragraph (3) of that Article were extended to include the cases specified in head (i), and
 - (iv) in paragraph (3)(a) of that Article the requirement to disregard certain orders made under Article 23 of the Order applied only to earnings factors arising from the earner's service in the employment by reference to which the scheme ceasing to be contracted-out was contracted-out, including linked qualifying service the earnings factors relating to which are being increased by reference to orders made under the said Article 23.

Circumstances in which the modifications to the Order set out in regulation 8B apply

8C. The case referred to in regulation 8B is where following the termination of an earner's service in contracted-out employment by reference to a scheme the following conditions are satisfied, namely—

- (a) a transfer under Article 40(1) of the Order of the earner's accrued rights to requisite benefits under that scheme (hereafter in this regulation called "the transferring scheme") to another contracted-out scheme (hereafter in this regulation called "the receiving scheme") is made, or if already begun is completed, on or after 5th April 1983, and
- (b) the said earner commences or has commenced employment which is contracted-out by reference to the receiving scheme, and
- (c) by virtue of Article 40(2) of the Order the calculation, under the provisions of the receiving scheme, of the earner's guaranteed minimum pension for the purposes of Article 37(2) of the Order falls to include earnings factors, or the weekly equivalent derived therefrom, arising out of contracted-out employment in any period of linked qualifying service which was contracted-out employment by reference to the transferring scheme, and either
- (d) the receiving scheme provides for the said earnings factors or weekly equivalent derived therefrom to be increased at the rate by which they, or it, fell to be increased under the provisions of the transferring scheme or

(a) Article 46(6) was substituted by Article 4(7) of the Social Security (Northern Ireland) Order 1980

- would have fallen to be increased under the provisions of that scheme relating to an earner whose service in contracted-out employment by reference to the scheme is terminated before he attains pensionable age, or
- (e) if the provisions of the transferring scheme referred to in paragraph (d) provided for the said earnings factors to be increased by reference to orders under Article 23 of the Order, the receiving scheme provides for those earnings factors or weekly equivalent derived therefrom to be increased in accordance with the provisions of Article 37(7) of, or of regulations made under Article 47(1) of, the Order, or
 - (f) if the transferring scheme provided for the said earnings factors or weekly equivalent derived therefrom to be increased in accordance with the provisions of Article 37(7) of, or of regulations made under Article 47(1) of, the Order, the receiving scheme includes provision for the said earnings factors to be increased by reference to orders under Article 23 of the Order from the date of termination of the earner's service in the period of contracted-out employment from which such earnings factors arose, or
 - (g) if a transfer of the earner's accrued rights to the receiving scheme is not one to which paragraph (f) applies and those rights were previously being increased at a rate calculated by reference to orders under Article 23 of the Order, the receiving scheme includes provision for the said earnings factors or weekly equivalent derived therefrom to be increased at a rate calculated otherwise than by reference to orders under the said Article 23."

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976

4. In regulation 9 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976(a) (termination of periods of contracted-out employment) for sub-paragraph (a) of paragraph (3) there shall be substituted the following sub-paragraph—

- "(a) where all the employments are with the same employer and, in respect of the employment first mentioned in paragraph (2)—
- (i) no state scheme premium has been paid or any that has been paid has been refunded,
 - (ii) the calculation of the earner's guaranteed minimum pension arising out of his service in that employment is not subject to any provision of the scheme prescribed by regulations made under Article 47(1)(b) of the Order, and
 - (iii) the earner's accrued rights to the requisite benefits under the scheme arising out of his service in that employment, have not been transferred in accordance with the provisions of the scheme under Article 40(1) of the Order,

and any interval between one employment in the series and the next is no longer than 6 months or such longer period as the Department may allow in a particular case; and"

Amendment of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977

5.—(1) The Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977(b) shall be amended in accordance with the following provisions.

(a) S.R. 1976 No. 29; the relevant amending regulation is S.R. 1977 No. 23

(b) S.R. 1977 No. 286 to which there are amendments not relevant to the subject matter of these regulations

(2) At the beginning of regulation 3 (modification of Article 46(6) of the Pensions Order) there shall be inserted "Subject to the provisions of regulation 4A,".

(3) At the beginning of regulation 4 (modification of Article 17(1) of the 1977 Order) there shall be inserted "Subject to the provisions of regulation 4A,".

(4) After regulation 4 there shall be inserted the following regulation—

"Additional modifications relating to increases of earnings factors by 12 per cent.

4A.—(1) Subject to the provisions of paragraph (2), so far as relates to any case where an earner's accrued rights to requisite benefits are or have been transferred under Article 40(1) of the Pensions Order to another contracted-out scheme, references in regulations 3 and 4(b) to an increase of 12 per cent. of an earner's earnings factor for any year shall be construed as references only to the increase of earnings factors arising from the earner's service in the employment by reference to which the scheme ceasing to be contracted-out was contracted-out.

(2) For the purposes of paragraph (1) any service of the earner which is linked qualifying service shall only be included in that service where the earnings factors to which it relates are being increased by reference to orders under Article 23 of the Pensions Order."

(5) In regulation 5 (miscellaneous provisions affecting Article 17 of the 1977 Order)—

(a) at the end of paragraph (3) there shall be added "and the same employer is the earner's employer in relation to both the first and second schemes or the employers in relation to those schemes are connected employers";

(b) after paragraph (3) there shall be added the following paragraph—

"(4) In paragraph (3) "connected employers" means employers who would fall within any of the cases prescribed by the Occupational Pension Schemes (Connected Employers) Regulations (Northern Ireland) 1982(a) as cases in which employers are to be treated as connected for the purposes of Article 52A of the Pensions Order, disregarding the provisions of those regulations as to the times at which employers are to be so treated."

Amendment of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1978

6. In regulation 2 of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1978(b) (termination of contracted-out employment in certain cases) after sub-paragraph (ii) of the proviso to paragraph (1) there shall be inserted the following sub-paragraphs—

"(iii) where and for so long as provisions made by the scheme in conformity with the requirement specified in regulation 7(1) of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976 (alternative to limited revaluation premium)(c) apply to the calculation of the earner's guaranteed minimum pension arising out of his service in the first employment; or

(iv) where the earner's accrued rights to the requisite benefits under the scheme arising out of his service in the first employment, have been transferred in accordance with the provisions of the scheme under Article 40(1) of the Order."

(a) S.R. 1982 No. 262

(b) S.R. 1978 No. 74

(c) S.R. 1976 No. 101

Amendment of the Occupational Pension Schemes (Connected Employers) Regulations (Northern Ireland) 1982

7. In regulation 1(2) of the Occupational Pension Schemes (Connected Employers) Regulations (Northern Ireland) 1982 (meaning of the expression "company") for the words from "registered under" to the end there shall be substituted "within the meaning of section 399(1) of the Companies Act (Northern Ireland) 1960(a) (hereinafter referred to as "the 1960 Act") or a body corporate to which, by virtue of section 383 of that Act, any provision of that Act applies."

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 22nd March 1983.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make miscellaneous provisions in connection with contracted-out occupational pension schemes ("schemes") particularly by way of relaxation of existing provisions of the Social Security Pensions (Northern Ireland) Order 1975 ("the Order") concerning schemes' resources and the revaluation of earners' accrued pension rights arising on the transfer of those rights to another such scheme.

Regulation 2 enables the Occupational Pensions Board to allow a scheme to be or continue to be contracted-out where it does not fulfil one of the three requirements as to adequacy of resources laid down by Article 43(1) of the Order, namely the ability to meet the total contingent liability for state scheme premiums ("premiums"). Regulation 3 further amends the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976 by substituting expanded and altered regulations 3, 7, 8, 8A, 8B and 8C, the last four of which together replace the existing regulation 8. The substituted regulations extend the circumstances in which premiums are to be treated as paid and enable the Department to recover from schemes overpayments of additional components of state retirement pension resulting from failure to pay such premiums after they have been treated as paid in such cases. They modify the provisions of Articles 37(5), (7) and (8), 46(6) and 47 of the Order relating to the calculation and revaluation of earners' guaranteed minimum pensions. They also enable a contracted-out scheme to which an earner's accrued rights to benefit are transferred under the provisions of Article 40 of the Order from another such scheme to choose, within the limits prescribed, which of the three possible methods of revaluation (under Article 23 of the Order, limited rate under Article 37(7) of the Order or fixed rate of at least 8½ per cent.) to apply.

Regulation 4 amends regulation 9 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976 so as to further restrict the circumstances in which one of a series of employments is excepted from being treated, under that regulation, as having ceased to be contracted-out. Regulation 5 makes amendments to the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977 consequential on other amendments introduced by these regulations; in particular so as to permit, except in certain special cases, the substitution of 12 per cent. increases in relation to earnings factors where arrangements approved by the Occupational Pensions Board on cessation of contracting-out consist of the transfer of an earner's accrued rights to guaranteed minimum pensions to another contracted-out scheme. Regulation 6 amends regulation 2 of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1978 to make provision, parallel to that made by regulation 4 of these regulations, in relation to schemes for which there is a common fund.

Regulation 7 makes a minor amendment to the definition of "company" in the Occupational Pension Schemes (Connected Employers) Regulations (Northern Ireland) 1982.