

1988 No. 108

SOCIAL SECURITY

**The Contracting-out (Miscellaneous Amendments) Regulations
(Northern Ireland) 1988**

Made 25th March 1988

Coming into operation 6th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 33(4), 37(8), 40(1) and (1A), 43C(7), 45(4), 46(2), 47(1), 52 and 53 of, and paragraph 6 of Schedule 2 to, the Social Security Pensions (Northern Ireland) Order 1975(a) and Article 16 of the Social Security (Northern Ireland) Order 1986(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 Contracting-out (Miscellaneous Amendments) Regulations (Northern Ireland) 1988 and shall come into operation on 6th April 1988.

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985

2.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985(c) shall be amended in accordance with paragraphs (2) to (13).

(2) In regulation 1(2) in sub-paragraph (b)(i) of the definition of “responsible paying authority” for “satisfies the conditions specified in

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- (a) S.I. 1975/1503 (N.I. 15); Article 37(8) was amended by paragraph 8(a) of Schedule 3 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)); Article 40(1) was substituted by paragraph 9 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and Article 40(1A) was inserted by Article 13(1) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); Article 43C(7) was inserted by Schedule 4 to the Health and Social Security (Northern Ireland) Order 1984; Article 45(4) was amended by paragraph 17(1)(b)(i) and (2) of Schedule 5 to the Social Security (Northern Ireland) Order 1985; Article 46(2) was amended by paragraph 19 of Schedule 5 to the Social Security (Northern Ireland) Order 1985 and paragraph 14(3) of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and is extended by Article 11(6) of the Social Security (Northern Ireland) Order 1986; Article 47(1) is amended by Article 18(7) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), paragraph 17(1)(c) of Schedule 5 to the Social Security (Northern Ireland) Order 1985 and paragraph 7(1)(h) of Schedule 2 to the Social Security (Northern Ireland) Order 1986; Article 52 is amended by paragraph 7(1)(i) of Schedule 2 to the Social Security (Northern Ireland) Order 1986 and paragraph 6 of Schedule 2 was amended by Article 4(11) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)). *See also* Article 2(3)
- (b) S.I. 1986/1888 (N.I. 18)
- (c) S.R. 1985 No. 259; relevant amending regulations are S.R. 1985 Nos. 355 and 357, S.R. 1986 Nos. 57 and 342 and S.R. 1987 Nos. 292 and 295

regulation 36" there shall be substituted "is an appropriate policy of insurance or an appropriate annuity contract for the purposes of Article 53C(a)".

(3) In regulation 2 for paragraph (2) there shall be substituted the following paragraph—

"(2) The employer of the earners in an employment who are members of a scheme may elect that that employment shall be contracted-out by reference to that scheme in relation to all those earners with or without the exception of those mentioned in either or both of sub-paragraphs (a) and (b)—

(a) where a scheme makes provision whereby an earner in an employment to which the scheme relates may opt in writing not to join or, as the case may be, not to remain as a member of a section of the scheme whose members' employment will be contracted-out by reference to the scheme (whether or not the provision imposes any restriction on the number of times such an option may be exercised), any earner who so opts; and

(b) in a case where it is possible for one or more earners to be unable to complete 5 years' service in that employment as members of that scheme before reaching the normal pension age of that scheme, the earner or earners whose length of service (consisting of service in that employment as a member of that scheme, or linked qualifying service in relation to such service, or both) falls short of a minimum length of service (not exceeding 5 years) specified in the rules of the scheme and who cannot (so far as is known when the contracting-out certificate is issued, or if later in the case of a particular earner, when he enters the employment) complete such a minimum length of service before reaching the normal pension age of the scheme."

(4) In regulation 17—

(a) in paragraph (3) for "£5" there shall be substituted "£16"; and

(b) in paragraph (4)(a) for "the subject of a certificate issued by the Department under Article 18(9) of the 1977 Order and still in force" there shall be substituted "appropriately secured within the meaning of Article 53C".

(5) In regulation 18(1) for sub-paragraph (e) there shall be substituted the following sub-paragraph—

"(e) cases where an earner's accrued rights to guaranteed minimum pensions are appropriately secured within the meaning of Article 53C,".

(6) In regulation 21(3) at the beginning there shall be inserted "Subject to paragraph (3A)," and after paragraph (3) there shall be inserted the following paragraph—

"(3A) In a case where an earner's employment in contracted-out employment by reference to the scheme terminates on or after 6th April 1988 paragraph (3) shall have effect as if for the reference to 8½ per cent.

(a) Article 53C was inserted by paragraph 2 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 and amended by paragraph 17 of Schedule 9 to the Social Security (Northern Ireland) Order 1986

compound there were a reference to 7½ per cent. compound; but if there has been transferred to the scheme the earner's accrued rights to guaranteed minimum pension arising from contracted-out employment which terminated before that date and in relation to another scheme, this paragraph does not apply to those rights."

(7) In regulation 21(4) at the end there shall be added "or for members whose guaranteed minimum pensions are, or are to be, appropriately secured within the meaning of Article 53C(4)".

(8) In regulation 21(7) at the beginning there shall be inserted "Subject to paragraph (7A)," and after paragraph (7) there shall be inserted the following paragraph—

"(7A) In a case where an earner's employment in contracted-out employment by reference to the scheme terminates on or after 6th April 1988 paragraph (7) shall have effect as if for the reference to 8½ per cent. compound there were a reference to 7½ per cent. compound; but if there has been transferred to the scheme the earner's accrued rights to guaranteed minimum pension arising from contracted-out employment which terminated before that date and in relation to another scheme, this paragraph does not apply to those rights."

(9) In regulation 22—

(a) in paragraph (5)(b)(ii) for "£5" in both places where it occurs there shall be substituted "£16"; and

(b) in paragraph (7)—

(i) in sub-paragraph (a) for "the conditions prescribed in regulation 36" there shall be substituted "is an appropriate policy of insurance or an appropriate annuity contract for the purposes of Article 53C", and

(ii) "or" at the end of sub-paragraph (b)(i) and sub-paragraph (b)(ii) shall be omitted.

(10) In regulation 23(8)—

(a) in sub-paragraph (a) "44(2)," shall be omitted; and

(b) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

"(aa) where it was paid under Article 44(2)(a) and the person in respect of whom it was paid has died, without leaving a widow, on or before the day 7 months after the date of termination of contracted-out employment in respect of which the premium is payable;"

(11) In regulation 30A for "are appropriately secured" there shall be substituted "are, or are to be, appropriately secured".

(12) In regulation 35(1) for sub-paragraph (d) there shall be substituted the following sub-paragraph—

"(d) any person who is, or who in the opinion of the Department is likely to become, the responsible paying authority."

(a) Article 44(2) was amended by paragraph 17(1)(a)(ii) of Schedule 5 to the Social Security (Northern Ireland) Order 1985

(13) In regulation 40—

- (a) in paragraph (1) for “£5” there shall be substituted “£16”;
- (b) in paragraph (4A) at the beginning there shall be inserted “Except in a case to which paragraph (4B) applies,”; and
- (c) after paragraph (4A) there shall be inserted the following paragraph—
 “(4B) Where the member is a married woman or widow, and effect has been given to her protected rights at a time when an election is operative that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate, paragraph (4A) shall not apply.”.

Amendment of the Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984

3.—(1) The Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984(a) shall be amended in accordance with paragraph (2).

(2) In each of paragraphs (1) and (2) of regulation 6 for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) a rate which is directly related to the earner’s salary; and
- (b) some other rate which is not directly related to his salary.”.

Amendment of the Contracting-out (Transfer) Regulations (Northern Ireland) 1985

4.—(1) The Contracting-out (Transfer) Regulations (Northern Ireland) 1985(b) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph 1 of Schedule 1 for the words after “entered employment” there shall be substituted “with an employer who is, or in the case of a transfer to an Article 50(c) salary-related scheme, is or was, a contributor to the receiving scheme”.

(3) In paragraph 2 of Schedule 1—

- (a) there shall be omitted “The rights allowed in the receiving scheme to the earner or person concerned are, in the opinion of the trustees of the transferring scheme, at least equal in value to the rights transferred and”; and
- (b) in each of sub-paragraphs (a) and (b) for “the 2 schemes” there shall be substituted “the transferring scheme and the receiving scheme”.

Sealed with the Official Seal of the Department of Health and Social Services on 25th March 1988.

(L.S.)

A. N. Burns

Assistant Secretary

(a) S.R. 1984 No. 444; relevant amending regulations are S.R. 1987 No. 292

(b) S.R. 1985 No. 243; relevant amending regulations are S.R. 1987 No. 277

(c) Article 50 is extended by Article 11(6) of, and amended by paragraph 10 of Schedule 2 to, paragraph 15 of Schedule 9 to, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make miscellaneous amendments to regulations about occupational pension schemes which are contracted-out of the earnings-related part of the state pension scheme.

The main changes are to the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985 ("the Contracting-out Regulations") and provide—

for an employer to be able to exclude from an election to contract-out any employee who requests or agrees in writing that he should be excluded (regulation 2(3));

for an increase, from £5 to £16, in the amount of a state scheme premium below which it need not be paid (regulation 2(4)(a), (9)(a) and (13)(a));

for a reduction, from 8½ per cent. to 7½ per cent. compound, in the fixed rate of revaluation of guaranteed minimum pensions in cases where contracted-out employment ends after 5th April 1988 (regulation 2(6) and (8));

for schemes to be able to provide for fixed or limited rate revaluation of guaranteed minimum pensions when a member's accrued rights are to be bought out (regulation 2(7) and (11));

for contributions equivalent premium to be refundable in the period of 7 months after the end of the contracted-out employment in respect of which it was payable where the person in respect of whom it was paid has died without leaving a widow (regulation 2(10));

for the Department to be able to supply information about guaranteed minimum pensions to any person who is likely to become the responsible paying authority for that pension (regulation 2(12)); and

for schemes to be relieved of the obligation to inform the Department when effect has been given to the protected rights of married women and widows who pay reduced rate national insurance contributions (regulation 2(13)(b) and (c)).

The remainder of the regulations make amendments to the Contracting-out Regulations, the Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984 and the Contracting-out (Transfer) Regulations (Northern Ireland) 1985 which are consequential on repeals and amendments effected by the Social Security (Northern Ireland) Orders 1985 and 1986.