STATUTORY RULES OF NORTHERN IRELAND

1998 No. 208

PENSIONS

The Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998

Made - - - -	*9th June 1998*
Coming into operation	*6th July 1998*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 176(4) of, and paragraph 5(3C)(*c*) of Schedule 1 to, the Pension Schemes (Northern Ireland) Act 1993(**1**) 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 Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998 and shall come into operation on 6th July 1998.

(2) In these Regulations—

"the Act" means the Pension Schemes (Northern Ireland) Act 1993;

"additional pension" means the additional pension in a Category A retirement pension or in any other benefit under Part II of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) which is payable by virtue of section 44(3)(*b*) of that Act;

"earner" means—

(a) in the case of a surviving spouse member, the deceased spouse from whose employment that member's rights under the scheme are derived, and

(b) in any other case, the member;

"effective date" means the date on which the Department determines, for the purposes of paragraph 5(3A) to (3E) of Schedule 1 to the Act(**3**), the extent to which the resources of the

(**1**) 1993 c. 49; paragraph 5(3C) of Schedule 1 was inserted by Article 138(2)(*b*) of the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22))

(**2**) 1992 c. 7

(**3**) Paragraph 5(3A) to (3E) was inserted by Article 138(2)(*b*) of the Pensions (Northern Ireland) Order 1995

scheme are insufficient to meet the liability for the cash equivalent of the member's rights under the scheme;

"the Order" means the Pensions (Northern Ireland) Order 1995(**4**);

"pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 2 to the Order;

"relevant employment" means any employment of the earner to which any of his section 5(2B) rights, rights to a guaranteed minimum pension or protected rights under the scheme are directly or indirectly attributable;

"relevant tax year" means the tax year in which the effective date falls;

"section 5(2B) rights" has the same meaning as in regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**5**);

"scheme" means an occupational pension scheme referred to in regulation 2;

"surviving spouse member" means a person who has a right to the payment of a widow's or widower's pension under the scheme.

(3) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to a Measure of the Assembly.

Determination of the amount required for restoring State scheme rights

2. For the purposes of paragraph 5(3A) to (3E) of Schedule 1 to the Act, the amount required for restoring State scheme rights in relation to a member of a contracted-out occupational pension scheme which is being wound up shall be—

(a) in a case where the prescribed person may elect under section 51(2) of the Act(**7**) to pay a contributions equivalent premium, the amount of that premium calculated in accordance with section 54(4) of the Act, and

(b) in any other case, the amount calculated in accordance with regulation 3.

Method of calculation where no election to pay a contributions equivalent premium may be made

3.—(1) In a case to which regulation 2(*b*) applies, the amount required for restoring a member's State scheme rights shall be—

(a) in the case of a man (other than a surviving spouse member) who has not attained pensionable age on the effective date—

$$X \times \text{Factor A} \times 52 \times \text{market level indicator}$$
$$\text{plus}$$
$$(y_1 \times \text{Factor B1} + y_2 \times \text{Factor B2}) \times 52 \times \text{market level indicator}$$
$$\text{plus}$$
$$(z_1 \times \text{Factor C1} + z_2 \times \text{Factor C2}) \times 52 \times \text{market level indicator};$$

(b) in the case of a woman (other than a surviving spouse member) who has not attained pensionable age on the effective date—

(**4**) S.I. 1995/3213 (N.I. 22)
(**5**) S.R. 1996 No. 493; regulation 1(2) was amended by paragraph 5(2) of the Schedule to S.R. 1997 No. 160
(**6**) 1954 c. 33 (N.I.)
(**7**) Section 51(2) was substituted by Article 138(1) of the Pensions (Northern Ireland) Order 1995

$X \times$ Factor D $\times$ 52 $\times$ market level indicator
plus
$(y_1 \times$ Factor E1 $+ y_2 \times$ Factor E2) $\times$ 52 $\times$ market level indicator
plus
$(z_1 \times$ Factor F1 $+ z_2 \times$ Factor F2) $\times$ 52 $\times$ market level indicator;

(c) in the case of a man (other than a surviving spouse member) who has attained pensionable age on the effective date—

$X \times$ Factor G $\times$ 52 $\times$ market level indicator
plus
$(y_1 + y_2) \times$ Factor H $\times$ 52 $\times$ market level indicator
plus
$(z_1 + z_2) \times$ Factor I $\times$ 52 $\times$ market level indicator;

(d) in the case of a woman (other than a surviving spouse member) who has attained pensionable age on the effective date—

$X \times$ Factor J $\times$ 52 $\times$ market level indicator
plus
$(y_1 + y_2) \times$ Factor K $\times$ 52 $\times$ market level indicator
plus
$(z_1 + z_2) \times$ Factor L $\times$ 52 $\times$ market level indicator;

(e) in the case of a man who is a surviving spouse member—

$X \times$ Factor M $\times$ 52 $\times$ market level indicator
plus
$(z_1 + z_2) \times$ Factor N $\times$ 52 $\times$ market level indicator;

(f) in the case of a woman who is a surviving spouse member—

$X \times$ Factor O $\times$ 52 $\times$ market level indicator
plus
$(y_1 + y_2) \times$ Factor P $\times$ 52 $\times$ market level indicator
plus
$(z_1 + z_2) \times$ Factor Q $\times$ 52 $\times$ market level indicator;

where—

X is the relevant weekly amount relating to any relevant employment after 5th April 1997;

y_1 is the relevant weekly amount relating to any relevant employment before 6th April 1988 in a case where limited revaluation applies;

y_2 is the relevant weekly amount relating to any relevant employment before 6th April 1988 in a case where full or fixed revaluation applies;

z_1 is the relevant weekly amount relating to any relevant employment after 5th April 1988 and before 6th April 1997 in a case where limited revaluation applies;

z_2 is the relevant weekly amount relating to any relevant employment after 5th April 1988 and before 6th April 1997 in a case where full or fixed revaluation applies.

(2) For the purposes of paragraph (1)—

(a) the amount of each factor (that is Factor A, B1, B2 and so on) shall be—

(i) in the case of a man (other than a surviving spouse member) who has not attained pensionable age on the effective date, the amount derived from Table 1 in Schedule 1, being the amount shown in the column below the relevant factor, in relation to the age attained by the member in the relevant tax year as specified in the first column of that Table;

(ii) in the case of a woman (other than a surviving spouse member) who has a pensionable age of 65 and has not attained that age on the effective date, the amount derived from Table 2 in Schedule 1, being the amount shown in the column below the relevant factor, in relation to the age attained by the member in the relevant tax year as specified in the first column of that Table;

(iii) in the case of a woman (other than a surviving spouse member) who has a pensionable age of 60 and has not attained that age on the effective date, the amount derived from Table 3 in Schedule 1, being the amount shown in the column below the relevant factor, in relation to the age attained by the member in the relevant tax year as specified in the first column of that Table;

(iv) in the case of a woman (other than a surviving spouse member) who has a pensionable age of between 60 and 65 and has not attained that age on the effective date, the amount derived from Table 4 in Schedule 1, being the amount shown for the relevant factor in the column below the relevant tax year, in relation to the tax year in which the member was born, as specified in the first column of that Table;

(v) in the case of an individual (other than a surviving spouse member) who has attained pensionable age on the effective date, the amount derived from Table 5 in Schedule 1, being the amount shown in the column below the relevant factor, in relation to the age attained by the member in the relevant tax year as specified in the first column of that Table;

(vi) in the case of a surviving spouse member, the amount derived from Table 6 in Schedule 1, being the amount shown in the column below the relevant factor, in relation to the age attained by the member in the relevant tax year as specified in the first column of that Table;

(b) "the relevant weekly amount" is the weekly amount, determined by the Department, representing—

(i) as regards any relevant employment after 5th April 1997, the weekly amount of additional pension to which the member would be entitled, or would have become entitled at pensionable age, in respect of that employment, if the scheme had not been a contracted-out scheme (whether by virtue of his own contributions or, in the case of a surviving spouse member, by virtue of the earner's contributions), and

(ii) as regards any relevant employment before 6th April 1997, the member's guaranteed minimum pension or any guaranteed minimum pension to which the member is, or would on attaining pensionable age be, treated as entitled by virtue of section 44 of the Act(**8**) (reduced benefits where minimum payments or minimum contributions paid) in respect of that employment,

(**8**) Section 44 was amended by paragraph 56 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and by Article 137(2) of the Pensions (Northern Ireland) Order 1995. *See also* Article 137(3) of that Order and Article 10 of S.R. 1997 No. 192 (C. 10)

and, for the purpose of determining those weekly amounts, except where such provision made by the scheme as is mentioned in section 12(2) of the Act (revaluation of earning factors: early leavers) applies, the earner's earnings factors shall be taken to have been increased by reference to the last order under section 130 of the Social Security Administration (Northern Ireland) Act 1992(**9**) to come into operation before the end of the tax year preceding the relevant tax year;

(c) full revaluation applies where, for the purposes of determining the relevant weekly amount, the earner's earnings factors are taken to have been increased in accordance with sub-paragraph (*b*);

(d) limited revaluation applies where the relevant weekly amount has been determined in accordance with any provision made by the scheme under subsection (3) of section 12 of the Act(**10**) (as in operation immediately before 6th April 1997) not conforming with the additional requirements referred to in that subsection;

(e) fixed revaluation applies where the relevant weekly amount has been determined in accordance with such provision as is mentioned in that subsection as in operation immediately after 5th April 1997, and

(f) the market level indicator is the amount calculated in accordance with regulation 4.

Market Level Indicator

4. For the purposes of regulation 3 the market level indicator is—

(a) in the case of a member who has attained pensionable age or who attains that age in the relevant tax year or who is a surviving spouse member, the index number shown in the second column of the Table in Schedule 2 opposite the range of yields shown in the first column of that Table in which falls the gross redemption yield compiled, on the effective date, by the Financial Times and the Faculty of Actuaries and Institute of Actuaries, applicable to 15-year British Government Stocks with medium coupons;

(b) in the case of a member (other than a surviving spouse member) who attains an age in the relevant tax year which is 10 or more years below pensionable age, 3·5 per cent. divided by x per cent. where x per cent. is the net dividend yield, applicable on the effective date, to the All Share Index compiled by the Financial Times and the Faculty of Actuaries and Institute of Actuaries;

(c) in the case of a member (other than a surviving spouse member) who attains an age in the relevant tax year which is less than 10 years below pensionable age, an average of the numbers derived from paragraphs (*a*) and (*b*) respectively, weighted according to the number of whole years remaining before the member attains that age, so that, for example —

(i) where the age attained in the relevant tax year is 5 years less than pensionable age, the market level indicator is the sum of one half of the number derived from paragraph (*a*) and one half of the number derived from paragraph (*b*), and

(ii) where the age attained in that tax year is one year less than pensionable age, the market level indicator is the sum of nine tenths of the number derived from paragraph (*a*) and one tenth of the number derived from paragraph (*b*).

(**9**) 1992 c. 8; section 130 was amended by paragraph 40 of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 and by Article 125(3) of the Pensions (Northern Ireland) Order 1995 subject to paragraphs (4) to (6) of that Article

(**10**) Section 12(3) was amended by paragraph 21(*a*) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 but is saved for transitional purposes by Article 3 of S.R. 1997 No. 192 (C. 10)