1991 No. 38

SOCIAL SECURITY

The Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1991

Made . . . . . 11th February 1991

Coming into operation . . . 28th February 1991

The Department of Health and Social Services, in exercise of the powers conferred on it by paragraphs 5(4) and 20 of Schedule 1A 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 Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1991 and shall come into operation on 28th February 1991.

(2) In these regulations—

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

"Schedule 1A" means Schedule 1A to the Pensions Order (revaluation of pensions and transfer values);

"short service benefit" means the same as in Schedule 3 to the Pensions Order (requirements as to preservation of benefit under occupational pension schemes).

(3) Any reference in these regulations to a numbered paragraph is to the paragraph of Schedule 1A bearing that number.

Benefits payable later than normal pension age

2.—(1) This regulation applies where the member's normal pension age is earlier than 60.

(2) The references to "normal pension age" in paragraphs 1(2)(*a*) and 2(2)(*a*) are to be treated as references to the age at which short service benefit is made payable to the member under the rules of the scheme. Paragraphs 1(2)(*a*) and 2(2)(*a*) are modified accordingly.

(**a**) S.I. 1975/1503 (N.I. 15); by virtue of Article 2(3), definitions in Schedule 17 to the Social Security (Northern Ireland) Act 1975 (c. 15) apply to the exercise of certain powers conferred under this Order. Schedule 1A was inserted by paragraph 3 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16))

Hybrid benefits

3.—(1) This regulation applies to hybrid benefits.

(2) In this regulation, "hybrid benefit" means a benefit the rate or amount of which is calculated by reference to the greatest, or smallest, of two or more of the following—

(*a*) an average salary benefit;

(*b*) a flat rate benefit;

(*c*) a money purchase benefit; and

(*d*) some other benefit to which paragraph 2(**a**) applies.

(3) Schedule 1A is modified so as to require that—

(*a*) before deciding which benefit is the greatest or smallest, each benefit must be revalued in accordance with whichever of paragraphs 2 to 5(**b**) applies to it; and

(*b*) the rate or amount of the hybrid benefit must be calculated by reference to the greatest, or smallest, of those benefits as revalued.

Benefits consisting of two or more components

4.—(1) This regulation applies to any benefit consisting partly of a component to which paragraph 2 applies (whether directly or by virtue of paragraph 3(3)(*b*) or 4(3)(*b*)) and partly of a component to which that paragraph does not apply.

(2) Schedule 1A is modified so that, for the purpose of revaluing the component to which paragraph 2 applies, B, C and D in the formula set out in paragraph 2(2) are to be calculated by reference only to the component to which that paragraph applies and the pensionable service which qualified the member for that component.

Administrative expenses in relation to money purchase benefits

5.—(1) This regulation applies in relation to money purchase benefits that are revalued in accordance with paragraph 5.

(2) The trustees or managers of the scheme may deduct from any pension or other retirement benefit that is revalued in accordance with paragraph 5 an amount in respect of the administrative expenses incurred by them in carrying that paragraph into effect. The amount deducted must not exceed an amount equal to the smaller of—

(*a*) the administrative expenses incurred; and

(*b*) the administrative expenses that would have been incurred in providing the corresponding benefit if the member's pensionable service had not terminated before normal pension age.

(**a**) Paragraph 2 was amended by paragraph 4(1) of Schedule 4 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)) and is further amended by paragraph 12(4) of that Schedule with effect from 28th February 1991

(**b**) Paragraph 3 was amended by paragraph 4(2) and (3) of Schedule 4 to the Social Security (Northern Ireland) Order 1990. Paragraph 5 was amended by paragraph 23 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

Benefits other than short service benefit

6.—(1) This regulation applies where a scheme provides so that a member becomes entitled to benefit when his pensionable service terminates before normal pension age, even if the member does not become entitled to short service benefit.

(2) For the purposes of paragraph 7(**a**), any provision contained in the scheme that would be a protected provision in relation to short service benefit is to be treated as a protected provision in relation to any benefit to which a member becomes entitled as described in paragraph (1) of this regulation. Paragraph 7 is modified accordingly.

Commutation, forfeiture and surrender

7.—(1) Paragraph 9 is modified so that it does not apply in the cases specified in this regulation.

(2) Paragraph 9 does not apply to commutation of a benefit where the lump sum to which the whole or part of the pension is commuted is, itself, revalued in accordance with Schedule 1A.

(3) Paragraph 9 does not apply to forfeiture of the whole or part of a pension where the forfeiture applies only after the pension has been revalued in accordance with Schedule 1A.

(4) Paragraph 9 does not apply to surrender of the whole or part of a pension where it is to provide benefit for the widow or widower or a dependant of the member and the scheme provides for that benefit to be revalued in accordance with Schedule 1A.

Retirement benefits varied at pensionable age

8.—(1) This regulation applies where—

(*a*) a scheme provides that the pension or other retirement benefit payable under the scheme to a member at normal pension age is to be varied at pensionable age; and

(*b*) that benefit is subject to revaluation by the method specified in paragraph 2.

(2) Paragraph 2 is modified so that, when the pension or other retirement benefit payable under the scheme is varied, there is a corresponding variation in the appropriate amount to be added to the benefit.

Rounding

9.—(1) This regulation applies where paragraph 2 applies to a benefit under the scheme and the scheme provides that, in calculating the amount of that benefit, a member's pensionable service is to be calculated in whole months.

(2) Schedule 1A is modified so that the scheme may provide for both B and C in the formula set out in paragraph 2(2) to be calculated to the nearest, next highest or next lowest whole month. Where a scheme provides for

(**a**) Paragraph 7 was amended by paragraph 8(3) of Schedule 4 to, and Schedule 7 to, the Social Security (Northern Ireland) Order 1990