1990 No. 423

SOCIAL SECURITY

The Occupational and Personal Pension Schemes (Levy) Regulations (Northern Ireland) 1990

Made . . . . . 30th November 1990

Coming into operation . . 1st January 1991

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 70ZA of 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 and Personal Pension Schemes (Levy) Regulations (Northern Ireland) 1990 and shall come into operation on 1st January 1991.

(2) In these regulations—

"active member" means—

(*a*) a member of a registrable scheme by or in respect of whom contributions are payable to the scheme; or

(*b*) in the case of a registrable scheme which is an occupational pension scheme, a member whose employment in the United Kingdom qualifies him for benefits under the scheme (whether or not contributions are currently payable to the scheme by or in respect of him) other than only benefits payable on his death while in that employment;

"address of the scheme" means the place in the United Kingdom, or if more than one, the principal place, at which the management of the registrable scheme is conducted;

"employment in the United Kingdom" means —

(*a*) the employment of members in the United Kingdom; or

(*b*) the employment of members elsewhere in circumstances where—

(i) they are liable to make primary Class 1 contributions within the meaning of section 1(2) of the Social Security Act 1975(**b**) or section 1(2) of the Social Security (Northern Ireland) Act 1975(**c**) (outline of contributory system); or

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(**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. Article 70ZA was inserted by paragraph 11 of Schedule 4 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))

(**b**) 1975 c. 14

(**c**) 1975 c. 15

(ii) would be so liable but for the fact that their income falls below the lower earnings limit within the meaning of section 4 of the Social Security Act 1975 or, as the case may be, section 4 of the Social Security (Northern Ireland) Act 1975 (incidence of Class 1 contributions);

"number of active members" means —

(*a*) in the case of a scheme which has been established for not less than one scheme year, the number of active members at the end of the scheme year immediately preceding the period in respect of which the levy in question is payable; and

(*b*) in any other case, the number of active members at the date at which the scheme was established;

"paid-up or frozen scheme" means a registrable scheme under which benefits continue to be payable to existing members and to which—

(*a*) no new members may be admitted;

(*b*) no further contributions are payable by or in respect of existing members; and

(*c*) no further benefits accrue to existing members although benefits which have already accrued to them may be increased;

"the Register Regulations" means the Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 1990(**a**);

"registrable scheme" means an occupational or personal pension scheme —

(*a*) which either—

(i) is established in the United Kingdom, or

(ii) has a place at which its management is conducted in the United Kingdom and has a representative appointed to carry out the functions of a trustee or manager in the United Kingdom;

(*b*) which either—

(i) is a scheme in respect of which a person has applied for, or received, the approval of the Board of Inland Revenue for the purposes of section 590 or section 591 (other than subsection (2)(g)) of the Income and Corporation Taxes Act 1988(**b**) (conditions for approval of retirement benefit schemes and discretionary approval), or for the purposes of Chapter IV of Part XIV of that Act (personal pensions schemes), or

(ii) is a scheme which is a public service pension scheme; and

(*c*) is not a scheme which—

(i) has fewer than 2 active members, or

(ii) only provides benefits on the death of a member while in employment;

"registrar" means the registrar of occupational and personal pension schemes appointed under regulation 2 of the Register of Occupational and Personal Pension Schemes Regulations 1990(**c**);

(a) S.R. 1990 No. 422
(b) 1988 c. 1
(c) S.I. 1990/2278

"registration year" means a period of 12 months beginning on and including 1st April;

"scheme year", in relation to a registrable scheme, means whichever of the following periods the trustees of the scheme select—

(*a*) a year specified for the purposes of the scheme—

(i) in any document comprising the scheme or which is included among the documents comprising it, or

(ii) in the rules of the scheme;

(*b*) a calendar year;

(*c*) the 12 months ending with 31st March;

(*d*) the 12 months ending with 5th April,

and also includes, in a case where the trustees have selected a period ("new scheme year") to replace a previously selected period ("old scheme year"), a period exceeding 12 months but not exceeding 24 months between the last old scheme year and the first new scheme year;

"trustees", in the case of a registrable scheme which is not set up under a trust or which is established outside the United Kingdom, means the person who is treated as the administrator of the scheme for the purposes of Chapter I or Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.

The levy on registrable schemes

2.—(1) Subject to regulation 5, for the purpose of meeting some or all of the expenditure under Article 63B, Part VA and Article 69J of the Social Security Pensions (Northern Ireland) Order 1975(**a**) the trustees of every registrable scheme other than a paid up or frozen scheme shall be liable to pay a levy to the Department.

(2) The levy shall be payable in respect of each registration year.

(3) Any person who is responsible for the funding or management of a registrable scheme may discharge any liability which is imposed on the trustees of that scheme under paragraph (1) by paying, in the manner and at the time required by these regulations, the amount for which those trustees are liable.

(4) If a registrable scheme—

(*a*) commences after the beginning of a period in respect of which the levy is payable; or

(*b*) is wound up or becomes a paid-up or frozen scheme during a period in respect of which the levy is payable;

the levy shall nevertheless be payable in full for that period.

(a) Article 63B was inserted by paragraph 10 of Schedule 4 to the Social Security (Northern Ireland) Order 1990; Part VA was inserted by Schedule 3 to that Order and Article 69J was inserted by Article 15(1) of that Order