1990 No. 384

SOCIAL SECURITY

The Occupational Pension Schemes (Independent Trustee) Regulations (Northern Ireland) 1990

Made . . . . . *26th October 1990*

Coming into operation . . *12th November 1990*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 63C(3)(*c*), 63D(9) and (10) of the Social Security Pensions (Northern Ireland) Order 1975(**a**) and Article 22(3) of the Social Security (Northern Ireland) Order 1990(**b**) 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 (Independent Trustee) Regulations (Northern Ireland) 1990 and shall come into operation on 12th November 1990.

(2) In these regulations any reference to a numbered Article or Schedule is to the Article of or, as the case may be, the Schedule to, the Social Security Pensions (Northern Ireland) Order 1975 bearing that number.

Additional requirement for "independent trustee"

2.—(1) For the purposes of Article 63C(2), a person is "independent" only if he satisfies the requirements of paragraphs (2) and (3) of this regulation as well as the requirements of Article 63C(3)(*a*) and (*b*).

(2) This paragraph requires that the person has not provided services to the trustees or managers of the scheme, or the employer, in relation to the scheme. This requirement is, however, satisfied if the last occasion on which the person provided services was more than 3 years before Article 63C started to apply in relation to the scheme.

(3) This paragraph requires that the person is neither connected with, nor an associate of—

(*a*) a person who has an interest in the assets of the employer or of the scheme, otherwise than as trustee of the scheme; or

(*b*) a person to whom paragraph (2) applies.

(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. Articles 63C and 63D were inserted by paragraph 1 of Schedule 4 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))

(b) S.I. 1990/1511 (N.I. 15)

Centralised schemes

3.—(1) Articles 63C and 63D are modified as described in this regulation in their application to any occupational pension scheme which applies to earners in employments under different employers (''centralised schemes'').

(2) Article 63C applies in relation to a centralised scheme only if an insolvency practitioner, or the official receiver, commences to act in relation to any employer of persons in the description or category of employment to which the scheme relates and—

(*a*) the employer concerned has power to appoint or remove any trustee of the scheme; or

(*b*) the employer concerned is a trustee of the scheme.

(3) Where Article 63C applies in relation to a centralised scheme, references to ''the employer'' in that Article and in Article 63D are to be treated as references to the employer in relation to whom the practitioner or official receiver is acting.

(4) Where Article 63C applies in relation to a centralised scheme, it shall not cease to do so by virtue of Article 63C(7)(*a*) unless the power to appoint or remove any trustee of the scheme is transferred to the person other than the employer concerned, or to any person who is ''independent'' for the purposes of Article 63C(2).

Paid-up schemes

4.—(1) Articles 63C and 63D are modified as described in this regulation in their application to any occupational pension scheme of which there are no members who are in pensionable service under the scheme, as defined in paragraph 3 of Schedule 3 (''paid-up schemes'').

(2) Article 63C applies in relation to a paid-up scheme only if—

(*a*) the employer has power to appoint or remove any trustee of the scheme; or

(*b*) the employer is a trustee of the scheme.

Schemes to which Articles 63C and 63D do not apply

5.—(1) Articles 63C and 63D shall not apply in relation to occupational pension schemes of a description prescribed by this regulation.

(2) Articles 63C and 63D do not apply to a scheme of which each member is a trustee. For this purpose, ''member'' means any employee or former employee of the employer who has rights under the scheme arising from that employment.

(3) Articles 63C and 63D do not apply to schemes under which all the benefits that may be provided are—

(*a*) money purchase benefits(**a**); or

(*b*) benefits payable only on an earner's death while employed in employment to which the scheme applies.

(**a**) The definition of ''money purchase benefits'' was inserted in Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975 by paragraph 2(*b*) of Schedule 2 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))