1988 No. 109

SOCIAL SECURITY

The Occupational Pension Schemes (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 53C(4) and (5)(*c*), 58A and 58E(1), (3) and (4) of, paragraphs 14 and 20 of Schedule 1A to, and paragraph 9(2) and (3) of Schedule 3 to, the Social Security Pensions (Northern Ireland) Order 1975(**a**) and Article 7 of the Social Security (Northern Ireland) Order 1985(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1.—(1) These regulations may be cited as the Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1988 and, subject to paragraph (2), shall come into operation on 6th April 1988.

(2) Regulation 3(2) shall come into operation on 6th April 1988 immediately after the coming into operation of the Personal and Occupational Pension Schemes (Consequential Provisions) Regulations (Northern Ireland) 1987(**c**).

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984

2.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984(**d**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 12(1)(*a*)—

(*a*) for "a benefit smaller than that" there shall be substituted "a benefit or benefits smaller than that or those";

(**a**) S.I. 1975/1503 (N.I. 15); Article 53C was inserted by paragraph 2 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and amended by paragraph 17 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); Articles 58A and 58E were inserted by Schedule 2 to the Social Security (Northern Ireland) Order 1985; Schedule 1A was inserted by paragraph 3 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 and paragraph 14 of Schedule 1A is amended by paragraph 24(*d*) of Schedule 9 to the Social Security (Northern Ireland) Order 1986; paragraph 9 of Schedule 3 was amended by paragraph 26 of Schedule 5 to the Social Security (Northern Ireland) Order 1985. *See also* Article 2(3)

(**b**) S.I. 1985/1209 (N.I. 16); Article 7 was amended by paragraph 77 of Schedule 9 to the Social Security (Northern Ireland) Order 1986

(**c**) S.R. 1987 No. 292

(**d**) S.R. 1984 No. 332; relevant amending regulations are S.R 1985 No. 353, S.R. 1986 No. 362 and S.R. 1987 No. 284

(*b*) for "becoming payable" there shall be substituted "being or including a benefit which becomes payable to the member"; and

(*c*) after "normal pension age" there shall be inserted ", whether or not it or they also include a benefit or benefits as an alternative to short service benefit which is prospectively payable to the widow, widower or dependant of the member,".

(3) In regulation 12(1)(*b*)—

(*a*) for "a benefit larger than that" there shall be substituted "a benefit or benefits larger than that or those";

(*b*) for "becoming payable" there shall be substituted "being or including a benefit which becomes payable to the member"; and

(*c*) after "normal pension age" there shall be inserted ", whether or not it or they also include a benefit or benefits as an alternative to short service benefit which is prospectively payable to the widow, widower or dependant of the member,".

(4) In regulation 12(5) for "when the alternative" there shall be substituted "when the benefit to which the member is entitled".

(5) In regulation 12(9) for "(5) to (7)" there shall be substituted "(6) and (7)".

(6) In regulation 19 for paragraph (2) there shall be substituted the following paragraph—

"(2) In a case where a scheme is being wound up regulation 12(1)(*c*), (*d*) and (*e*)(i) and (ii) shall not apply and the member's consent shall not be required—

(*a*) in the case of a member who at the time of winding up is employed in employment to which the scheme relates, to the transfer of his accrued rights to another scheme relating to the same employment or another employment with the same employer or his successor, with a view to the acquisition for him of transfer credits under that other scheme; and

(*b*) in the case of a member who at the time of winding up is not so employed, to the transfer of the liabilities of the scheme in respect of short service benefit or, as the case may be, payment of pension to another scheme which, if he were so employed, would satisfy the provisions of sub-paragraph (*a*).".

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985

3.—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985(**a**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 3(3)(*a*) "which is or was formerly a money purchase contracted-out scheme" shall be omitted.

(3) In regulation 4—

(a) S.R. 1985 No. 358; relevant amending regulations are S.R. 1987 No. 292

(*a*) in paragraph (1) for the words from the beginning to "discretion" there shall be substituted "Where it is the established custom for additional benefits to be awarded from the scheme at the discretion of the trustees or the employer"; and

(*b*) after paragraph (5) there shall be inserted the following paragraphs—

"(5A) In a case where a contributions equivalent premium or an accrued rights premium has been paid in respect of a member in accordance with Article 44(**a**) or, as the case may be, Article 46(**b**), the cash equivalent referred to in paragraph 12(1) of Schedule 1A shall be reduced (to nil if need be) to the extent that it represents the member's accrued rights to a guaranteed minimum pension under the scheme.

(5B) Where a member of a scheme has had provided to or in respect of him an alternative to short service benefit such as is mentioned in regulation 12(1)(*e*) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984 (benefit provided under an insurance policy or annuity contract), and that alternative was provided—

(*a*) in accordance with sub-paragraph (*a*) of paragraph (4) of that regulation and the conditions specified in sub-paragraphs (*c*) to (*f*) of paragraph (4A)(**c**) of it are satisfied; or

(*b*) in accordance with sub-paragraph (*aa*)(**d**) of paragraph (4) of that regulation,

and the trustees of the scheme are in consequence discharged from their liability to provide short service benefit by virtue of Article 53C, the cash equivalent in respect of that member shall be reduced to nil.".

(4) In regulation 6—

(*a*) in paragraph (*b*) for "in the circumstances specified in paragraph 2 of Schedule 1 to those regulations," there shall be substituted "without his consent; or"; and

(*b*) after paragraph (*b*) there shall be inserted the following paragraphs—

"(*c*) the member's accrued rights under the transferring scheme have been transferred without his consent to the receiving scheme by virtue of regulation 19(2) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984; or

(*d*) the member's accrued rights, where they do not include any right to short service benefit, under the transferring scheme have been transferred without his consent to the receiving scheme,".

(**a**) Article 44 is amended by paragraph 17(1)(*a*) of Schedule 5 to the Social Security (Northern Ireland) Order 1985 and paragraph 7(1)(*e*) of Schedule 2 to, and paragraph 12 of Schedule 9 to, the Social Security (Northern Ireland) Order 1986

(**b**) Article 46 was amended by Article 4(7) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)); Article 13(2) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); paragraph 4 of Schedule 3 to, and paragraph 19 of Schedule 5 to, the Social Security (Northern Ireland) Order 1985 and paragraph 7(1)(*f*) of Schedule 2 to, paragraph 14 of Schedule 9 to, and extended by paragraphs (4)(*g*) and (6)(*a*) of Article 11 of, the Social Security (Northern Ireland) Order 1986

(**c**) Paragraph (4A) was inserted, as of 6th April 1988, by S.R. 1987 No. 284

(**d**) Sub-paragraph (*aa*) was inserted, as of 6th April 1988, by S.R. 1987 No. 284

(5) After regulation 6 there shall be inserted the following regulations—

"Application of transfer value requirement to schemes with an overseas element

7.—(1) This regulation applies to any scheme which has an overseas element within the meaning of regulation 21(1) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984.

(2) In the case of a scheme to which this regulation applies, Schedule 1A(**a**) shall be so modified that the provisions of that Schedule relating to transfer values apply to that scheme only to the extent that the preservation requirements apply to it by virtue of regulation 21 of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984.

Termination of pensionable service

8.—(1) Subject to paragraph (3), where the pensionable service of a member of a scheme terminates in the circumstances set out in paragraph (2), Part II of Schedule 1A shall have effect as if that pensionable service had not terminated.

(2) The circumstances referred to in paragraph (1) are that—

(*a*) the pensionable service which has terminated is a period of such service which is one, other than the last one, of a series of such periods in employment to which the scheme relates; and

(*b*) there is between successive periods of pensionable service—

(i) no interval,

(ii) an interval not exceeding 1 month,

(iii) an interval of any length if it is between 2 periods of pensionable service the second of which results from the exercise of a right to return to work under Article 28(1) of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(**b**) (right to return to work following pregnancy or confinement), or

(iv) an interval of any length if it is between 2 periods of pensionable service the second of which results from a return to work by the member following a period of absence arising in consequence of a trade dispute within the meaning of section 19(2)(*b*) of the principal Act.

(3) This regulation shall not have effect where the trustees or managers of a scheme have, during any interval such as is set out in paragraph (2)(*b*)(ii) to (iv), done what is needed to carry out what a member requires in exercising an option available to him under paragraph 13 of Schedule 1A.".

(**a**) Schedule 1A is amended by paragraphs 23, 24 and 60 of Schedule 9 to the Social Security (Northern Ireland) Order 1986

(**b**) S.I. 1976/2147 (N.I. 28)

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985

4.—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985(**a**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 4(*b*) the word "and" at the end of sub-paragraph (iii) shall be omitted and at the end (but not as part of that sub-paragraph) there shall be inserted "and in each case mentioned in sub-paragraphs (i) to (iii) that any increase of guaranteed minimum pension under Article 39A(**b**) results in a similar increase in the annuity; and".

(3) In regulation 5(*b*)(ii) after "12(4)(*a*)" there shall be inserted "(and the conditions specified in regulation 12(4A)(*c*) to (*f*) are satisfied)".

Amendment of the Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1985

5.—(1) The Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1985(**c**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) in the definition of "normal pension age" etc. for "regulation 3" there shall be substituted "regulations 3 and 10 to 12".

(3) After regulation 9 there shall be inserted the following regulations—

"Retirement benefits varied at state pension age

10. In a case where a scheme contains a provision that the pension or other retirement benefit payable to a member under it at normal pension age falls to be varied at state pension age (that is age 60 years for a woman or age 65 years for a man), Schedule 1A to the Pensions Order shall have effect as if—

(*a*) on the date on which the member attains normal pension age, D in the formula set out in paragraph 2(2) was the amount of the pension or other retirement benefit payable at normal pension age; and

(*b*) on the member attaining state pension age the appropriate amount fell to be recalculated on the basis that state pension age was normal pension age for that member except that for the purposes of the calculation any increase in the member's pension or other retirement benefit between his actual normal pension age and state pension age was to be disregarded.

Refunds in respect of service prior to 6th April 1975

11. Where a member's pensionable service includes a period before 6th April 1975 and in respect of which payment of a lump sum (whether or not being or including a payment by way of a refund of contributions) has been made to him, Schedule 1A to the Pensions Order shall have effect as if—

(**a**) S.R. 1985 No. 356; relevant amending regulations are S.R. 1986 No. 362 and S.R. 1987 Nos. 284 and 292

(**b**) Article 39A is inserted by Article 11(7) of the Social Security (Northern Ireland) Order 1986

(**c**) S.R. 1985 No. 357; relevant amending regulations are S.R. 1986 No. 114