1988 No. 108

SOCIAL SECURITY

The Contracting-out (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 33(4), 37(8), 40(1) and (1A), 43C(7), 45(4), 46(2), 47(1), 52 and 53 of, and paragraph 6 of Schedule 2 to, the Social Security Pensions (Northern Ireland) Order 1975(**a**) and Article 16 of the Social Security (Northern Ireland) Order 1986(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Contracting-out (Miscellaneous Amendments) Regulations (Northern Ireland) 1988 and shall come into operation on 6th April 1988.

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985

2.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985(**c**) shall be amended in accordance with paragraphs (2) to (13).

(2) In regulation 1(2) in sub-paragraph (*b*)(i) of the definition of "responsible paying authority" for "satisfies the conditions specified in

(a) S.I. 1975/1503 (N.I. 15); Article 37(8) was amended by paragraph 8(*a*) of Schedule 3 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)); Article 40(1) was substituted by paragraph 9 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and Article 40(1A) was inserted by Article 13(1) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I.8)); Article 43C(7) was inserted by Schedule 4 to the Health and Social Security (Northern Ireland) Order 1984; Article 45(4) was amended by paragraph 17(1)(*b*)(i) and (2) of Schedule 5 to the Social Security (Northern Ireland) Order 1985; Article 46(2) was amended by paragraph 19 of Schedule 5 to the Social Security (Northern Ireland) Order 1985 and paragraph 14(3) of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and is extended by Article 11(6) of the Social Security (Northern Ireland) Order 1986; Article 47(1) is amended by Article 18(7) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), paragraph 17(1)(*c*) of Schedule 5 to the Social Security (Northern Ireland) Order 1985 and paragraph 7(1)(*h*) of Schedule 2 to the Social Security (Northern Ireland) Order 1986; Article 52 is amended by paragraph 7(1)(i) of Schedule 2 to the Social Security (Northern Ireland) Order 1986 and paragraph 6 of Schedule 2 was amended by Article 4(11) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I.8)). *See also* Article 2(3)

(b) S.I. 1986/1888 (N.I. 18)

(c) S.R. 1985 No. 259; relevant amending regulations are S.R. 1985 Nos. 355 and 357, S.R. 1986 Nos. 57 and 342 and S.R. 1987 Nos. 292 and 295

regulation 36" there shall be substituted "is an appropriate policy of insurance or an appropriate annuity contract for the purposes of Article 53C(a)".

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

"(2) The employer of the earners in an employment who are members of a scheme may elect that that employment shall be contracted-out by reference to that scheme in relation to all those earners with or without the exception of those mentioned in either or both of sub-paragraphs (*a*) and (*b*)—

(*a*) where a scheme makes provision whereby an earner in an employment to which the scheme relates may opt in writing not to join or, as the case may be, not to remain as a member of a section of the scheme whose members' employment will be contracted-out by reference to the scheme (whether or not the provision imposes any restriction on the number of times such an option may be exercised), any earner who so opts; and

(*b*) in a case where it is possible for one or more earners to be unable to complete 5 years' service in that employment as members of that scheme before reaching the normal pension age of that scheme, the earner or earners whose length of service (consisting of service in that employment as a member of that scheme, or linked qualifying service in relation to such service, or both) falls short of a minimum length of service (not exceeding 5 years) specified in the rules of the scheme and who cannot (so far as is known when the contracting-out certificate is issued, or if later in the case of a particular earner, when he enters the employment) complete such a minimum length of service before reaching the normal pension age of the scheme.".

(4) In regulation 17—

(*a*) in paragraph (3) for "£5" there shall be substituted "£16"; and

(*b*) in paragraph (4)(*a*) for "the subject of a certificate issued by the Department under Article 18(9) of the 1977 Order and still in force" there shall be substituted "appropriately secured within the meaning of Article 53C".

(5) In regulation 18(1) for sub-paragraph (*e*) there shall be substituted the following sub-paragraph—

"(*e*) cases where an earner's accrued rights to guaranteed minimum pensions are appropriately secured within the meaning of Article 53C,".

(6) In regulation 21(3) at the beginning there shall be inserted "Subject to paragraph (3A)," and after paragraph (3) there shall be inserted the following paragraph—

"(3A) In a case where an earner's employment in contracted-out employment by reference to the scheme terminates on or after 6th April 1988 paragraph (3) shall have effect as if for the reference to 8½ per cent.

(a) Article 53C was inserted by paragraph 2 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 and amended by paragraph 17 of Schedule 9 to the Social Security (Northern Ireland) Order 1986